AGENCY DRESS CODES POLICY

I. PURPOSE:

The purpose of this policy is to communicate basic principles regarding written standards of dress and to establish appropriate guidelines appointing authorities should consider when regulating the dress standards of its employees. This policy does not require the approval of the Division of Personnel prior to the establishment of a dress policy by any department, division or governmental sub-unit under the jurisdiction of the Division of Personnel; however, it does require that a copy of agency dress code policies be filed with the Division of Personnel. In addition, technical assistance, advice and guidance is available from the Employee Relations Section of the West Virginia Division of Personnel.

II. POLICY

A. Generally, dress standards should address issues regarding clothing, grooming, personal hygiene, safety, public image, productivity and be job-related. Written standards established by any department or division head should be clear, unambiguous, consistently enforced, non-discriminatory (sex, race, or religion) and must be reasonably related to a legitimate business need such as interference with job performance, the disruption of the workplace, or workplace safety. Restrictions on dress and grooming that cannot be shown as having a direct effect on production, safety considerations, or relationships with the public, generally will not be upheld. The rationale for establishing standards of dress should not be based on an arbitrary desire to control the dress of employees; nor should it be intended to impede an individual's right to self-expression through mode of dress. Rather, it should be based on the legitimate business necessity and obligation of maintaining a professional and safe working environment. In general, the government may regulate the appearance of its employees provided that the regulation is rationally related to a governmental purpose and is not arbitrary.

1. Personal grooming practices are oftentimes defended by employees on racial, cultural, or religious reasons, so it is essential for any standards to be attuned to current morality, attitudes and legal precedent and thus are to be considered on particular facts and circumstances, which may change.

2. In the absence of a formal policy which mandates specific requirements, it shall be within the discretion of the appointing authority to determine the standards to be applied.

3. Business attire in an urban (central) location may be more restrictive than in a rural (regional) area; however, caution should be exercised that no discriminatory practice is established in this regard, and differences/variances allowed or based on this premise must be defended based on business necessity.

4. Several religions prohibit shaving and a number of African-Americans suffers from pseudo folliculitis barbae (a skin condition that makes shaving painful). However, employees who may be required to wear protective masks to keep out poisonous fumes may be prohibited from growing a beard because of the obvious threat a beard would pose to an employee's health and safety.

5. Restrictions on hairstyles or length of hair could be perceived as racial or religious discrimination, except when related to workplace safety (see Section E.6.).

6. Restricting the wearing of clothing that contains a message and/or advocates illegal drugs, alcohol, tobacco or illegal activities may be proper in order to maintain order and to reflect an agency's public image.

7. Uniformed personnel, and field personnel who have duties unrelated to a business office, could have different regulations or guidelines.

8. Generally, interference with an employee's dress or grooming for no reason other than to effect conformity to one individual's personal preference may result in an adverse decision when legally challenged.

B. What constitutes acceptable dress and grooming will be dependent on many factors: safety, nature of the business, or requirements of a position. Additionally, what constitutes acceptable dress and grooming for an employer may be different from those of an employee.

1. Thus, a degree of flexibility and tolerance should be reflected and written into any policy on required dress or grooming standards and the requirements would be expected to meet an implied test of reasonableness.

2. When deciding whether a formal dress policy is necessary or even desirable, both consideration and attention should be given to the following:

a. Employees involved in construction work or hazardous positions could reasonably be required to observe safety standards (e.g., hard hats v. baseball caps, hard-toe shoes v. sneakers).

b. Employees involved in work requiring a high degree of sanitation could reasonably be asked to wear protective clothing (e.g., smocks, uniforms, rubber gloves).

c. Employees whose position requires high visibility or identification could reasonably be asked to wear uniforms (e.g., security guards, firefighters, conservation officers, service personnel).

d. Employees who may serve as role models for an agency with a high degree of public contact could reasonably be asked to wear clothing that reflects a professional image (e.g., blouses v. halters or see-through tops, shoes v. thongs, slacks v. jeans).

C. The impression employees make on others is often a visual one and personal appearance should reflect an appropriate concern for an employer's image; however, any written policy conveying specific restrictions should not infringe on the constitutional rights of employees when ". . . no disruptive or distracting effects occur which are detrimental to the . . . process." (*Webb v. Mason County Board of Education*.) An employer's image is reflected by the appearance or impression employees make through their daily contacts. Therefore, employees could reasonably be expected to dress in a clean and neat manner.

D. When a decision is made that employees shall work in uniform, it is always prudent to consider the following questions:

1. Does the employee have a choice of accessories? What limits?
2. May the uniform be worn to and from work? In other public places?
3. What, if any, penalties are necessary if employees come to work out of uniform?
4. Does the employee receive an allowance for cost of purchase and maintenance?
5. If the agency provides uniforms, should they be purchased or rented?
6. What badges or insignia are employees required or permitted to wear while in uniform? Any prohibitions?
7. Will employees have a choice in the design or selection of their uniforms?
8. How frequently should style changes be made?
9. Who owns uniform upon selection?

E. Some generic dress code standards that should apply to most workplace situations which may be worthy of consideration include:

1. Clothing should be clean and reflect a high standard of personal hygiene.
2. Clothing which is of such snug fit or design as to reveal anatomic details of the body is prohibited.
3. Clothing that states or alludes to an obscenity, violence, sex, or advertise alcohol, tobacco, or illegal substances are prohibited.
4. Clothing shall not cause a disruption in the workplace, and such garments as short shorts; strapless, halter, or tank tops; muscle shirts; and see-through articles are prohibited.
5. Jeans may be appropriate attire for the employee's work site and job functions as determined by the appointing authority or designee. If jeans are determined appropriate for the work site and job function, they may be worn so long as they are clean, in good repair and comport with the other provisions of this policy.
6. Hair length and facial hair shall not interfere with the performance of job functions, nor the wearing of any protective gear or devices.
7. Any employee engaged in any type of hazardous or specialized duty may be required to wear clothing and footwear appropriate to the hazardous or specialized duty as determined by the appointing authority or designee.

8. Employees are expected to use good judgement in determining what attire is appropriate and must consider their levels of customer and public contact and the types of meetings they are scheduled to attend.

9. The appointing authority or designee reserves the right to address all situations which are not specifically outlined in this (the agency's) policy in a manner consistent with the stated purpose of the policy and delegates this authority to all management/supervisory staff.

10. All uniformed personnel shall appear in complete uniform as defined in this (the agency's) policy. The uniform shall be worn only when on official duty, or when it is reasonable to expect recall to duty. All uniforms shall be clean, neat and in good repair and no alterations shall be made to an issued item. Items of the uniform having the official logo, badge, or other identifying marks shall not be worn in conjunction with civilian attire.

F. Efforts to restrict or limit other forms of personal expression, which are commonly considered along with dress and grooming (e.g., body piercing, tattooing, etc.) must also be job-related and based on concerns for productivity, safety or public image.

G. To ensure fair and consistent application of these guidelines, a department or division adopting a formal dress code shall submit the policy to the Division of Personnel sixty (60) days prior to the effective date for review. Such a policy should have the procedures to follow, the "why and by whom" defined, and the resulting actions to be taken when there is nonconformity.

H. Any formal dress policy adopted by an agency shall be disseminated through normal agency notification channels and posted at employee work sites, and it shall be the responsibility of the immediate supervisor to inform and counsel employees regarding what constitutes appropriate dress.

III. REFERENCES

A. *Kelly v. Johnson*, 425 U.S. 238, 96 S.Ct. 1440.

B. *Webb v. Mason County Board of Education*, Kanawha County Civil Action No. 89-AA-107, October 24, 1989.

C. M. Todd Jenkins, et al v. DHHR/Mildred Mitchell-Bateman Hospital, Docket No. 00-HHR-334 (Apr. 13, 2001).

D. Burdette v. W. Va. Public Serv. Comm., Docket No. 93-PSC-132 (Nov. 16, 1993).

IV. EFFECTIVE DATE: November 1, 1991.

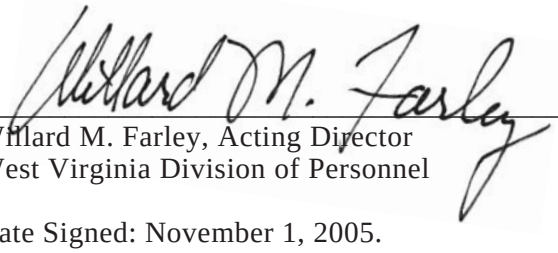
V. REVISIONS

A. Previous Revision: January 16, 2003.

B. Latest Revision: November 1, 2005.

VI. POLICY NUMBER: DOP-P3.

Approved and Issued By:



Willard M. Farley, Acting Director
West Virginia Division of Personnel

Date Signed: November 1, 2005.