

FREQUENTLY ASKED QUESTIONS

IMPLEMENTATION OF HOUSE BILLS 2008, 2009, & 2013 (EFFECTIVE JULY 1, 2025) AND HOUSE BILLS 4025 & 5441 (EFFECTIVE JULY 1, 2026).

During the 2025 and 2026 Regular Sessions of the legislature, Governor Morrissey identified state civil service reform as a top administrative priority. In response, the Legislature enacted several measures—*see* 87th W. Va. Reg. Leg. Sess. H.B. 2008, 2009, & 2013 (eff. July 1, 2025), and 87th W. Va. Reg. Leg. Sess. H.B. 4025 & 5441 (effective July 1, 2026) which significantly modified state employment configuration, processes, and the applicability of Division of Personnel (DOP) law, rule, and policy.

This reform is designed to facilitate a more streamlined, efficient, and accountable state government in which state employees are held to high standards, merit can be meaningfully rewarded, and the state is better positioned to compete with the private sector for talent.

Effective July 1, 2025, and July 1, 2026, most newly hired employees, as well as current employees who voluntarily transfer or accept new positions, enter employment in positions in the classified-exempt service that are statutorily excluded from the DOP classified system (formerly Civil Service).

This guidance is provided to assist state employees and agencies in responding to these reforms and is limited to the applicability of DOP law, rule, and policy. Agencies should continue to consult their legal counsel and human resources offices for additional requirements or agency-specific considerations.

1. What agencies are impacted by the legislation?

Effective July 1, 2025: The Department of Administration, Bureau of Senior Services, Department of Commerce, Department of Environmental Protection, Department of Revenue, Department of Tourism, and the Department of Veterans' Assistance.

Effective July 1, 2026: The Department of Health, Department of Health Facilities, Department of Human Services, and Department of Transportation.

2. What does the legislation change?

Upon the respective effective dates, newly hired individuals and current DOP-covered classified employees who voluntarily change positions within the identified agencies, departments, boards, and commissions shall enter into employment within the classified-exempt service and shall be exempt from the state grievance procedures.

Notwithstanding, the Commissioner of the Bureau of Senior Services and the Secretary of each department identified above may designate certain positions for inclusion in the classified service system, as well as for eligibility to participate in the State grievance procedures, when such designation is necessary to comply with federal law, federal regulations, or the requirement for the

receipt of federal funding or assistance.

3. What does “classified-exempt” mean?

Classified-exempt positions are those that are categorized in the DOP system by job title, knowledge, skill, abilities, experience, or description, but are not covered under the DOP merit system standards and serve at the will and pleasure of the employer. Although the DOP determines the job category, there is no DOP-prescribed compensation plan or minimum qualifications for positions in the classified-exempt service. In consultation with the appointing authorities, the DOP may assist departments in creating job categories and general job descriptions, and in determining appropriate salary levels based on current market data for positions in the classified-exempt system.

Classified-exempt positions serve at the will and pleasure of the employer.

4. Does being employed in a classified-exempt impact a position's eligibility for overtime under federal and state law?

Exemption from classified system coverage is often confused with the exemption from overtime regulations. Being classified-exempt under DOP law, rule, and policy has no bearing on overtime eligibility under state or federal maximum hours and overtime provisions.

5. What does “voluntarily change positions” mean for employees currently in a classified position (i.e., covered by the DOP merit system)?

A classified employee is considered to have voluntarily changed positions upon the acceptance of a classified-exempt position. Reallocation, reclassification, demotion with prejudice, involuntary transfer, or exercising bumping rights during layoff does not constitute a voluntary change in position.

6. Do I have to meet minimum qualifications to apply for a classified-exempt position?

Classified-exempt positions are not covered under the DOP merit system; therefore, they are not subject to DOP established minimum qualification requirements. Instead, any standards for a classified-exempt position are determined by the hiring department or agency.

7. Must classified-exempt positions be posted?

Classified-exempt positions do not need to be posted internally or externally via Public Service Announcements (PSA).

However, regardless of an agency's affiliation with the DOP or the position's status being in the classified-exempt service, an agency may request that the DOP post a vacancy through the DOP's statewide applicant-tracking system, currently with NEOGOV.

PSAs are advertised on the DOP website, promoted by recruiters at career fairs, and sent to local colleges. Advertising positions through the DOP may assist agencies with gaining a larger applicant pool. It also makes it easier for applicants to have a central location to search for state government jobs.

Agencies that post positions through the NEOGOV system can either collect their own applications or have the DOP collect them on their behalf. If an agency collects their own applications, interested candidates would apply directly to the contact individual listed on the PSA. If an agency requests the DOP collect applications, candidates would apply through the government jobs website. <https://www.governmentjobs.com/careers/wv>.

8. How do applicants apply for a classified-exempt position?

Agencies are not required to post classified-exempt vacancies. However, if an agency elects to post a classified-exempt vacancy, it may post it on the agency's website, on a third-party website such as Indeed, or through the DOP's job posting website:

<https://www.governmentjobs.com/careers/wv>

Applicants applying to positions posted on the DOP website may be asked to complete the Application for Employment or submit a resume to the DOP or directly to the contact (person or agency) listed on the job posting before the closing date. If the job posting identifies an agency contact, do not mail or submit your application/resume to the DOP.

9. I am an agency human resources (HR) representative. Must a Position Description (PD) form be submitted for classified-exempt positions?

Since positions are categorized by the DOP, the form prescribed for classified-exempt positions must be completed. These should be completed when positions are created or when there is a significant change in the duties of a position. DOP is currently working internally and with partner agencies to simplify its forms and streamline this categorization process.

10. Are employee performance appraisals (EPAs) required for classified-exempt positions?

Agencies are strongly encouraged to conduct regular performance evaluations for classified-exempt employees, as performance evaluations and other recorded performance indicators should be considered when making decisions pertaining to salary advancements, position changes, and retention.

While there is no requirement to conduct annual EPAs for classified-exempt employees, agencies may elect to use the NEOGOV Perform EPA system for their classified-exempt employees by contacting the DOP's Staffing and Recruitment section.

NOTE: Classified-exempt supervisors and managers must be added to the NEOGOV Perform EPA system in order to complete the required EPAs for their subordinate employees.

11. What DOP policies apply to classified-exempt positions?

Certain provisions within the DOPs *Administrative Rule* (143CSR1) apply only to employment in the classified service of the DOP merit system and are not applicable to those positions that are not covered under the merit system standards. Policies and Rules governing the appointment, compensation, discipline, dismissal, layoff, promotion, political activity, and transfers generally do not apply to classified-exempt positions. But other laws outside of DOP's purview provide protections for all employees (regardless of classification) from discrimination, workplace harassment, and retaliation. The reforms initiated in 2025 and 2026 also do not exempt affected departments from existing laws prohibiting nepotism, favoritism, discrimination, or unethical practices related to the promotion, transfer, layoff, removal, discipline, and compensation of state employees.

Certain benefits, policies, and Rule requirements also pertain to State employees regardless of the type of position held. Benefits afforded by the DOP *Administrative Rule* extended to eligible classified-exempt employees include, but are not limited to: accrual of paid annual and sick leave, paid holiday observance, Annual Increment eligibility, and tenure for State service. Other DOP legislative rules that apply include the following: *Leave Donation Program* (143CSR2); *Workers' Compensation Temporary Total Disability* (143CSR3); *Paid Leave for Organ Donation* (143CSR5); *Reimbursement of Compensation Paid to State Employees for Training, Education and Professional Development Rule* (143CSR8).

DOP policies applicable to classified-exempt positions include Annual Increment, Drug- and Alcohol-Free Workplace, Emergency Situations/Inclement Weather, Fair Labor Standards Act Interpretive Bulletin, Prohibited Workplace Harassment, Smoking Restrictions in the Workplace, Supervisor/Manager Training Program, Temporary Transition, Whistle-Blower Interpretive Bulletin, Witness/Jury Service, Workers' Compensation/Sick Leave, and Workplace Security.

12. Are classified-exempt supervisors and managers required to complete training established in the DOP Supervisor/Manager Training Program policy (DOP-P18)?

Yes. In accordance with the DOP-P18 policy, classified-exempt supervisors and managers are required to attend the DOP training program, as many DOP policies (see item #11 above) still apply to their position. Further, it is likely that they will supervise classified employees to whom all DOP laws, rules and policies apply. Of equal importance, leadership development offerings foster higher competency in critical managerial functions, ensuring that State government supervisors and managers are able to competently organize, direct, monitor, and evaluate the personnel and programs for which they are responsible.

13. Are Classified-exempt employees eligible for health insurance and retirement benefits?

An employee's status within the classified, or classified-exempt service is not a factor when

determining an employee's eligibility for health insurance or retirement benefits. Questions regarding eligibility should be directed to the agency's human resources office, the Public Employees Insurance Agency, or the Consolidated Public Retirement Board accordingly.

For additional assistance, contact the DOP Employee Relations section by phone at 304-414-1853 or by email to dopemprrelations@wv.gov.