

## ADMINISTRATIVE RULE SUMMARY OF AMENDMENTS

---

The following is a summary of substantive amendments to the Administrative Rule of the West Virginia Division of Personnel (143CSR1) which were authorized by the Legislature in its 2007 regular session. Reference is made to the sections, subsections, subdivisions, etc. of the Rule which have been amended. The reference number reflects the new section, subsection, subdivision, etc. number, unless otherwise specified. These amendments are effective July 1, 2007.

<u>REFERENCE</u>	<u>SUMMARY</u>
2.	Clarified the criteria which are excluded from consideration in the merit system.
3.	Deleted eight definitions and added two, primarily to address changes regarding temporary employment, which is now defined under one term. This also required renumbering. The referenced changes are listed with their new numbers, unless otherwise specified. <b>NOTE: The proposed amendment for temporary employment providing up to 1,000 hours worked in a 12-month period was amended in the Legislative process to a <u>limit of 720 hours worked in a 12-month period.</u></b>
3.44.	Deleted incorrect word "step-siblings" and replaced with appropriate terms of "step-brother" and "step-sister;" added foster children and individuals in loco parentis relationships.
3.57.	Added "Occupational Group" definition, which is referenced later in the Rule but not previously defined.
3.65.	Amended the term "allowance" to reflect the more accurate "rate of pay."
3.66.	Clarified the definition of "Permanent Employee" with regard to both classified and classified-exempt employees.
3.85.	Added the definition for "Seasonal Employment."
5.4. (d)	Amended language for consistency with current practices regarding Implementation Plan, Additional Pay and added monetary incentives.

- 5.5. (b) 2. Amended language to clarify the provision regarding promotions following demotions and make it consistent with current practices regarding Exceptions to Pay on Promotions.
9. Changes in this section have required renumbering. The referenced changes are listed with the new number, unless otherwise specified.
- 9.2. (b) Amended language to clarify the intent of the law regarding Original Appointments. Appointing authorities are required to provide written verification that the merit system provisions for making Original Appointments have been followed.
- 9.4. and 9.5. (old) Deleted these sections for consistency with new temporary employment provisions. **NOTE: The proposed amendment for temporary employment providing up to 1,000 hours worked in a 12-month period was amended in the Legislative process to a limit of 720 hours worked in a 12-month period.**
- 9.4. Amended language for consistency and to reflect changes regarding new temporary employment provisions. Replaced the term "Limited Term" with "Temporary." Specified that temporary employees are exempt from the classified service.
- 9.5. Amended language to allow for the posting of job vacancies using electronic or other media to satisfy the posting requirements.
- 9.5. (a) Added language to clarify that posting requirements also apply to positions being filled by reallocation, and allowing for the limitation of these types of postings to the organizational unit in which the duties exist.
- 9.5. (h) Added language to exclude the posting requirements for employees exercising bumping rights.
- 10.3. Added language requiring approval from the Director of Personnel (essentially, an additional review measure) for demotions during probation.
- 11.4. Amended language to define the procedure to demote employees for consistency with current practices.

- 12.2. (d) Added section requiring that when providing employment verifications and references of dismissed employees, appointing authorities must disclose that the employee was dismissed and did not leave in good standing, and must also provide a copy of the document to the employee. This was added to prevent negligent referrals and to comply with West Virginia Code § 55-7-18a.
- 12.6. (b) and (c) Amended language for consistency and to clarify standards of the Uniformed Services Employment and Reemployment Rights Act (USERRA).
14. Several changes have occurred within this section which required renumbering. The referenced changes are listed with their new numbers, unless otherwise specified.
- 14.1. Amended language to comply with statutory changes regarding President's Day and to delete "Special Elections."
- 14.1. (d) Amended language to clarify eligibility for pay on holidays.
- 14.1. (e) Amended the term "Agencies" to "Appointing authorities" for accuracy.
- 14.1. (f) Added section to define provisions regarding employees who are required to work on election days.
- 14.2. Amended language to clarify that agencies are authorized to use flexible scheduling.
- 14.3. (a) and (b) Amended language to comply with recent Supreme Court decision (Canfield, et al v. WV Division of Corrections, No. 32287).
- 14.3. (d) 1., 2. 3., and 4. Amended language to clarify annual leave accrual and eligibility.
- 14.4. (a) Amended language to comply with recent Supreme Court decision (Canfield, et al v. WV Division of Corrections, No. 32287).
- 14.4. (b) 1., 2., and 3. Amended language to clarify sick leave accrual and eligibility.

- 14.4. (d) Added clarifying language of "with or without accommodation"with regarding to granting additional sick leave.
- 14.4. (e) Amended the term "recalled" to "re-employed" with regard to restoration of sick leave to employees who have been laid off, allowing them to regain their accrued sick leave whether they are recalled to work or re-employed by other qualifying appointment.
- 14.4. (g) 2. Amended language to clarify when a physician's statement is required and must be provided.
- 14.4. (g) 3. Added language to state that sick leave can be charged for the duration of an absence supported by a physician's statement, and that additional time off will be charged to annual leave if any is available.
- 14.4. (h) 1. (old) Deleted statement regarding denial of request requiring approval of the Director of Personnel.
- 14.4. (h) 1. Amended language to clarify the provisions for returning to work at less than full duty, and defines an initial time period of up to thirty days, with provisions to request extensions.
- 14.4. (h) 2. Amended language to allow appointing authorities to deny requests to return to less than full duty, but requiring the appointing authorities to receive approval for denial from the Director of Personnel.
- 14.4. (h) 2. (a), (b), (c), and (d) Amended language to clarify the conditions under which a request to return to less than full duty may be denied.
- 14.4. (h) 3. Amended language to allow appointing authorities to require additional information before making a determination on a request to return to less than full duty.
- 14.5. Amended language from "Leave Abuse" to "Misuse of Leave" and clarifies conditions under which restrictions may be imposed.
- 14.7. Amended language to clarify applicable legislation regarding overtime and holiday work.

- 14.10. (a) Amended language to clarify provisions of Court, Jury, and Hearing Leave.
- 14.12. Added section to address paid Disaster Service Leave for employees who are certified disaster service volunteers with the American Red Cross.
- 14.15. Amended language to clarify maintenance of and access to employee leave records, including, where practical, the use of electronic leave systems.
- 19.2 Amended (during the Legislative process) to clarify that the provision regarding confidentiality of personnel records does not interfere with the statutory and/or common law right of the Legislature's access to state agencies' records.
- 21.1. Amended language to reflect that the Director of Personnel must certify any settlement agreements to insure compliance with State code and/or any court order.