

SUMMARY OF AMENDMENTS

The following is a summary of proposed amendments to the *Administrative Rule* of the West Virginia Division of Personnel (143CSR1). This summary does not include technical amendments which merely correct errors in spelling, grammar, punctuation, and/or other such corrections. There are also many minor revisions reflecting the Division of Personnel's commitment to implementing more efficient means of communicating with applicants (i.e., electronically). Reference is made to the sections of the Rule which have been amended. The reference number reflects the current proposed number, unless otherwise specified.

REFERENCE

SUMMARY

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| 3. | Deleted four definitions and added one, primarily due to the defined terms not being used in the Rule. This also required renumbering. The referenced changes are listed with their new numbers, unless otherwise specified. |
| 3.13. | Added "Business Necessity" definition to avoid unnecessary verbiage throughout the Rule. |
| 3.25. (old) | Amended the definition "Date of Separation" to incorporate time of separation. Also added language regarding the determination of disability constituting the date and time of separation. |
| 3.29. (old) | Amended the definition "Disability" to make consistent with W. Va. Code §5-11-1, The West Virginia Human Rights Act. |
| 3.31. (old) | Amended the definition "Dismissal" to clarify the involuntary nature and necessity for cause. |
| 3.32. (old) | Deleted the term "Division" to avoid duplication of the term "Division of Personnel". |
| 3.41. (old) | Deleted the term "Grievance" since the term will not be found in the Rule. |
| 3.48. (old) | Deleted the term "Irregular Part-Time Employment" since the term is not used in the Rule. |
| 3.53. (old) | Amended the definition "Layoff" to clarify the involuntary nature and add "business necessity" pursuant to 3.13. referenced above. |
| 3.71. (old) | Deleted the term "Postmarked" since the term will not be used in the Rule. |
| 3.78. (old) | Deleted the term "Regular Part-Time Employment" since the term is not used in the Rule. |
| 4.1. | Amended language to reflect revision of existing plan previously adopted. |
| 4.4. (b) | Amended language to make consistent with classification practices. |
| 4.5. (e) | Added language regarding certification of accuracy and completeness of position descriptions submitted by appointing authorities. |

- 4.7. Changed the term “substantial” to “significant” to make the terminology consistent with other relevant sections of the Rule. Extended the timeframe for requesting reconsideration of allocation consistent with current practices and in response to public comment..
- 4.9 (e) Extended the timeframe for requesting reconsideration of classification determination consistent with current practices and in response to public comment.
- 5.4. (f) 4. Amended language for consistency with current practices regarding approval and establishment of pay differentials.
- 6.1. (a) and (c) Amended language to remove repetitive verbiage.
- 6.3. (a) Deleted language pertaining to mailing applications as the Division of Personnel is pursuing electronic submission and notices to the extent possible.
- 6.4. (a) 10., 11., and 15. Amended language clarifying disqualification from employment consistent with current practices.
- 6.4. (a) 5. Added language authorizing disqualification of an applicant who resigns while in the process of being dismissed for cause.
- 6.4. (b) Added language pertaining to reemployment of employees dismissed or who resigned in lieu of dismissal for failure to return from medical leave of absence, maintain required licensure, or meet probationary performance expectations.
- 6.4. (d) Amended language clarifying disqualification from examination and/or employment consistent with current practices.
- 6.4. (g) Added language permitting an appointing authority to request reinstatement of an applicant to the register consistent with current practices.
- 6.5. (a) Deleted vague and ambiguous language pertaining to testing places.
- 6.7. Deleted antiquated and unnecessary verbiage pertaining to evaluation of training and experience.
- 6.8. Deleted antiquated and ambiguous language pertaining to political activity.
- 6.9. Deleted antiquated language consistent with current practices as an applicant’s position on a register may change on a day-to-day and geographical basis.
- 7.2. (a) Deleted obsolete language pertaining to the life of scores on a register consistent with current practices.
- 8.2. (a), (b), (d) and (e) Deleted repetitive language and amended language pertaining to removal from certifications consistent with current practices.
- 9.1. (c) and (d) Amended language pertaining to qualifying examinations of persons employed in positions added to the classified service consistent with current practices.

- 9.1. (f) Added language clarifying the process for assignment of classification of persons employed in positions added to the classified service consistent with current practices.
- 9.2. (c) Amended language pertaining to the declining of an appointment consistent with current practices.
- 9.3. (a) Deleted obsolete language pertaining to continuation of a provisional appointment consistent with current practices.
- 9.5. (a) Deleted language pertaining to posting of positions to be filled by reallocation.
- 9.5. (c) Amended language clarifying receipt of applications and closing dates of postings consistent with current practices.
- 9.5. (f) Deleted language pertaining to the grievance procedure as it is not within the purview of the Division of Personnel.
- 9.5. (h) (old) Amended language clarifying timeframe for reposting of positions.
- 10.1. (d) Added language pertaining to probationary periods for part-time employees.
- 11.6. Amended language to provide more precise and easily understood terminology pertaining to transfers being treated as resignation.
- 12.1. Amended language to provide more precise and easily understood terminology and to incorporate language pertaining to resignation in lieu of dismissal and reemployment eligibility.
- 12.2. (a) Amended language to establish a timeframe for providing written confirmation of dismissal and deleted unnecessary verbiage consistent with current practice.
- 12.2. (b) Amended language to clarify the cause is required for dismissal of a classified employee.
- 12.2. (c) Amended language to clarify job abandonment standards consistent with current practices for agencies operating on an around-the-clock schedule.
- 12.2. (d) Added language pertaining to resignation in lieu of dismissal.
- 12.3. Amended language to establish a timeframe for providing written confirmation of suspension consistent with current practice.
- 12.4. (a) Amended language consistent with incorporation of the proposed definition for the term “business necessity.”
- 12.4. (c) Added language clarifying that layoff may be accomplished through reduction in work schedule(s) consistent with current practices.
- 12.4. (f) 1. Deleted obsolete language pertaining to temporary appointments removed from the Rule in 2007.

- 12.4. (g) Amended language to provide more precise and easily understood terminology and to clarify that demotion as a result of bumping is without prejudice.
- 12.4. (i) Amended inconsistent language pertaining to recall and added language clarifying the affect of reemployment upon recall rights consistent with current practices.
- 12.6. (a) Added language clarifying those eligible for reinstatement consistent with current practices.
- 14.1. (a) Added language clarifying official holidays for state-wide elections.
- 14.1. (b) Amended language to provide more precise and easily understood terminology pertaining to employees required to work on official holidays.
- 14.1. (c) Added language pertaining to part-time employees' observation of holidays consistent with current practices.
- 14.1. (d) Amended language pertaining to eligibility for payment for a holiday.
- 14.3. (b) Amended language to provide more precise and easily understood terminology pertaining to eligibility for annual leave.
- 14.3. (g) Added language regarding leave information that must be reported when an employee changes employment from one agency to another.
- 14.3. (h) Added language pertaining to designation of annual leave as Family and Medical Leave Act (FMLA) leave consistent with current practices and policy.
- 14.4. (b) 4. Amended language to be consistent with other sections of the Rule.
- 14.4. (d) and (f) Amended language to provide more precise and easily understood terminology pertaining to eligibility for sick leave.
- 14.4. (e) and (f) Added language clarifying eligibility for sick leave upon separation and when unable to perform job duties, designation of sick leave as FMLA leave, and the necessity of requesting sick leave in advance for routine appointments..
- 14.4. (f) 2. Added language clarifying the necessity for a physician's statement in connection with sick leave taken for death in the immediate family consistent with current practices.
- 14.4. (f) 6. Added language to provide more precise and easily understood terminology pertaining to use of family sick leave consistent with current practices.
- 14.4. (f) 7. Added language pertaining to the submission of an election of option form and the designation of leave as FMLA for sick leave used for a work related illness or injury consistent with current practices.

- 14.4. (g) 2. Added language clarifying the necessity for a physician's statement for absences of more than three (3) days or scheduled shifts for agencies operating on an around-the-clock schedule consistent with current practices.
- 14.4. (h) 1. Added language clarifying eligibility for return to work at less than full duty consistent with current practices.
- 14.4. (i) Added language regarding leave information that must be reported when an employee changes employment from one agency to another.
- 14.7. Added language clarifying the use of leave in connection with additional hours worked consistent with current practices.
- 14.8. (c) 1. a. Amended language to provide more precise and easily understood terminology pertaining to eligibility for medical leave of absence without pay.
- 14.8. (c) 2. and 3. Added language pertaining to the notice requirement upon expiration of paid leave and the calculation method of entitlement relating to medical leave of absence without pay.
- 14.8. (d) 3. Added language pertaining to return from medical leave of absence without pay consistent with current practices.
- 14.9. Amended language to reflect the statutory changes in W. Va. Code §15-1F-1 (a) and (b) enacted in the 2011 regular session of the legislature.
- 14.10. (a) and (c) Added language to provide guidance pertaining to court, jury and hearing leave consistent with current practices and policy.
- 16.1. (e) 3. and (f) Amended language to reflect the statutory changes in W. Va. Code §29-6-20 as amended in the 2008 regular session of the legislature.
- 17.1. Added language pertaining to volunteer activity of classified employees consistent with current practices and policy.
- 17.1. Amended language to provide more precise and easily understood terminology pertaining to nepotism.
- 19.1. Added clarifying language pertaining to Division of Personnel and agency responsibilities pertaining to employee personnel files.
23. (old) Amended language and structure to provide more precise and easily understood terminology pertaining to training and development consistent with current practices.

**STATEMENT OF CIRCUMSTANCES REQUIRING
AMENDMENT TO THE ADMINISTRATIVE RULE
OF THE
WEST VIRGINIA DIVISION OF PERSONNEL**

The existing Rule is being amended to clarify certain sections of the rule, to improve the internal consistency of the rule, to include new statutory language regarding military leave, and, generally, to improve the rule.