

RULES & REGULATIONS



CIVIL SERVICE SYSTEM

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PREAMBLE

In order to promote an efficient and economical administration and in order to provide equal opportunity for all qualified persons to compete for positions in the departments and divisions of West Virginia state government operating under a civil service system, and in order to conform to the personnel standards of the agencies of the Federal government affiliated with those departments and divisions, and in conformity with Article Six, Chapter 29 of the Code of West Virginia, these rules and regulations have been adopted. Amendments to and additional rules and regulations for the administration of an effective civil service system consistent with the standards herein established may be adopted in the manner herein prescribed.

ARTICLE I - DEFINITIONS

1. Agency: An administrative division of West Virginia state government required by law or executive order to maintain personnel standards in accordance with laws pertaining to and rules and regulations of the West Virginia Civil Service System.
2. Appointing Authority: The officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to appoint employees.
3. Assembled Examination: An examination which shall consist of a written test and which may or may not include a rating on training, experience, an oral interview, and/or a performance test, depending on the requirements outlined in the class specification.
4. Availability: The willingness of an eligible to accept employment at the time his services are required by the agency.
5. Class: A group of positions sufficiently similar as to duties performed, degree of supervision exercised or required, minimum requirements of training, experience or skill and such other characteristics, that the same title, the same test of fitness, and the same schedule of compensation may be applied to each position in the group.
6. Commission: The Civil Service Commission as provided for in Article VI, Chapter 29 of the Code of West Virginia.
7. Classification Plan: The plan by which positions are allocated to classes, each of which is described by a specification.
8. Compensation Plan: A schedule showing salary ranges assigned to each class of position in the classification plan.

9. Demotion: A change in the status of an employee from a position in one class to a position in another class, of lower rank as measured by salary range, minimum qualifications, and duties in the same agency.
10. Dismissal: The termination of employment of an employee for cause.
11. Eligible: An applicant for a civil service examination who receives a final passing rating and whose name is listed on the register established for the class of position.
12. Emergency Appointment: An appointment required by a state of emergency for not more than 30 calendar days as described in Section 2, Article VI, Chapter 29.
13. Employee: Any person in the employ of an agency who is paid a wage or salary and who does not occupy an exempt position.
- 14-A. Exempt Positions: A position which is not in the classified service and, therefore, is excepted from the application of these rules. The exempt positions constitute the unclassified service.

(a) The classified service consists of all positions in the following departments and agencies except those here designated as exempt:

A. DEPARTMENT OF WELFARE

1. The Commissioner
2. Members of the State Advisory Board
3. Members of the Advisory Board of Orthopedic Surgeons
4. Members of the County Councils
5. State and local officials serving ex officio and performing incidental administrative duties or acting in an advisory capacity.
6. One confidential secretary to the Commissioner
7. Janitors
8. Automobile mechanics not to exceed two in number
9. Part-time professional personnel engaged in professional services without administrative duties
10. Positions in the Division of Commodity Distribution and the Food Stamp Projects without duties in other programs of the Department.
11. Two Medical Secretaries working on special project with Kanawha Medical Association not to exceed one year.

B. DEPARTMENT OF HEALTH & ITS AFFILIATED LOCAL HEALTH DEPARTMENT *

1. The State Director of Health
2. Members of the State Board of Health
3. State Committee of Barbers and Beauticians
4. Members of advisory committees
5. Members of local boards of health
6. State and local officials serving ex officio and performing incidental administrative duties or acting in an advisory capacity.
7. One confidential secretary to the State Director
8. Janitors
9. Part-time professional personnel engaged in professional services without administrative duties
10. Employees of local health departments who are paid on an hourly basis for intermittent or emergency work and who are not employed for more than a total of 90 days in any 12 month period

*All counties have a covered unit except: Wirt, Tucker, and Pendleton.

C. DEPARTMENT OF EMPLOYMENT SECURITY

1. The Director (Commissioner)
2. Secretary to the Director
3. Members of the Board of Review
4. Secretaries to the Board of Review
5. Members of advisory councils
6. State and local officials serving ex officio and performing incidental administrative duties or acting in an advisory capacity.
7. Attorneys serving as legal counsel
8. Janitors
9. Part-time professional personnel engaged in professional services without administrative duties.

D. DIVISION OF VOCATIONAL REHABILITATION

- *1. The Director
2. Members of advisory committees.
3. State and local officials serving ex officio and performing incidental administrative duties or acting in an advisory capacity.
4. Janitors and maids
5. Teachers and instructors
6. Cooks and assistant cooks
7. Rehabilitation externs
8. Dormitory counselors
9. Practical nurses, nursing aides, and therapy aides at the Rehabilitation Center
10. Supervisor of the Rehabilitation House for Men
11. Supervisor of the Rehabilitation House for Women
12. Director of the Technical Depressed Areas Project
13. Part-time stenographers in one-man local offices
14. Maintenance mechanic
15. Part-time professional personnel engaged in professional services without administrative duties.
16. Professional personnel engaged in conducting research or demonstration projects not more than three years in duration.

E. DEPARTMENT OF NATURAL RESOURCES

1. The Director
2. Members of advisory boards
3. One confidential secretary to the Director
4. Janitors
5. Resident caretakers not supervising employees of the classified service

F. CIVIL SERVICE SYSTEM

1. Members of the Civil Service Commission
2. Members of oral interviewing boards
3. Receptionists for oral interviewing boards
4. Monitors and janitors for examination centers
5. Part-time professional personnel engaged as consultants without administrative duties
6. Part-time help paid on an hourly basis for extra work directly connected with examination series.

* Approved by Civil Service Commission - 1-13-64
Effective - 10-1-63

G. DEPARTMENT OF MENTAL HEALTH

1. The Director
2. Members of advisory committees
3. State and local officials serving ex-officio and performing incidental administrative duties or acting in an advisory capacity.
4. One confidential secretary to the Director
5. Janitors
6. Graduates of medical schools serving residencies or internships
- *7. Prison guards, coal miners, prisoner help and patient help. Special guards employed on a part-time basis not to exceed four hours per day with a limit of four individuals at any one institution.
8. Part-time professional personnel engaged in professional services without administrative duties.

H. DEPARTMENT OF CIVIL AND DEFENSE MOBILIZATION AND CERTAIN LOCAL CIVIL DEFENSE AGENCIES*

1. The Director
2. Local civil defense directors
3. State and local civil defense boards
4. State and local officials serving ex-officio and performing incidental administrative duties or acting in an advisory capacity.
5. Janitors
6. Part-time professional personnel engaged in professional services without administrative duties
7. Coordinator I - Fire Service
8. Coordinator I - Police Service

(b) The classified service also includes positions in the following departments and agencies covered by Law, Executive Order or Commission action.

- A. TAX DEPARTMENT
- B. PUBLIC SERVICE COMMISSION
- C. STATE ROAD COMMISSION

15. Intra-Agency Transfer: A transfer within a single agency.
16. Inter-Agency Transfer: A transfer from one agency to another.
17. Civil Service System: That system of personnel administration administered by the commission, as provided for in the following articles of these rules.
18. Layoff: A reduction in the number of employees occasioned by a reduced work load or curtailment of funds.

*The local civil defense agencies to which these rules apply are the following: Berkeley, Cabell, Greenbrier, Jefferson, Mineral, Mingo, Ohio, Roane, Taylor, Upshur, Wood, Wyoming, and Kanawha Counties; and the City of Charleston and City of South Charleston, Harrison, Logan, Marion, Mercer, City of Huntington.

19. Minimum Qualifications: Requirements of training and experience for admission to the examination, and knowledges and abilities to be measured by it, as prescribed for a given class in an agency's classification plan.
20. Original Appointment: An appointment of an eligible to a position in an agency through selection from a register.
21. Permanent Employee: An employee whose retention has been approved at the completion of a probationary period.
22. Personnel Officer: That employee of each agency who is immediately responsible for the personnel administration of the agency.
23. Position: An office or employment in an agency (whether part-time or full-time, temporary or permanent, occupied or vacant) composed of specific duties.
24. Probationary Period: A trial work period of an employee selected from a register, designed to test his fitness for the position to which he has received an original appointment.
25. Promotion: A change in the status of an employee from a position in one class to a position in another class, of higher rank as measured by salary range, minimum qualifications and duties, in the same agency.
26. Provisional Appointment: An appointment to fill a position pending the administration of examination and the establishment of a register.
27. Register: An officially promulgated list of eligibles for a class of position ranked in the order of their final rating in a civil service examination.
28. Resignation: Termination of employment made at the request of the employee.
29. Salary Adjustment: A salary change resulting from a transfer, demotion, promotion, or an adjusted compensation plan.
30. Salary Advancement: A salary increase within the range prescribed for the class by the compensation plan.
31. Salary Range: The approved monthly and annual salary for a class of positions which states the minimum, maximum, and intervening steps at which the salary shall be paid.
32. Specification: A description of a class of position which defines the class, lists examples of work performed, and minimum qualifications required.
33. Director: The Director of Personnel as provided for in Article VI, Chapter 29 of the Code of West Virginia.

34. Suspension: The removal of a permanent employee from his office, duties and the payroll for disciplinary reasons, or pending an investigation, for a period not to exceed 30 calendar days in any one year. Provision is made in Section 13 of Article VI, Chapter 29 of the Code of West Virginia for an Appeal to the Commission if suspended for more than 30 days.
35. Temporary Appointment: Appointment from a register for a period not to exceed 6 months as described in Article VIII.
36. Transfer: A change in the status of an employee from one position to another position in the same class, or to a position in the same class in another agency having comparable minimum qualifications, salary range, and duties.
37. Transfer-Demotion: A change in the status of an employee from a position in one class to a position in another class of lower rank in another agency, as measured by salary range, minimum qualifications, and duties.
38. Transfer-Promotion: A change in the status of an employee from a position in one class to a position in another class of higher rank in another agency, as measured by salary range, minimum qualifications, and duties.
39. Unassembled Examination: An examination which shall consist of one or more of the elements of an assembled examination, except a written test.
40. Veteran: Any person who has served at least one year's honorable service in the army, naval, or air forces of the United States during World War I (April 6, 1917 - November 11, 1918), World War II (November 16, 1940 - May 31, 1947), or the Korean War (June 27, 1950 - January 31, 1955).

ARTICLE II - ORGANIZATION

Sec. 1. Civil Service Commission

1. A Civil Service Commission consisting of three members shall be appointed by the Governor by and with the advice and consent of the Senate. Members shall serve for a term of six years or until successors have been appointed. See Section 5, Article VI, Chapter 29.

2. Qualifications of Civil Service Commission

"The present merit system council shall be transformed into the civil service commission. The members of the commission shall be persons in sympathy with the application of merit principles to public employment. No member of the commission shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization or shall hold, or be a candidate for, any paid public office. Not more than two members of the same political party shall serve on the commission at the same time."

3. "Duties of the Commission"

"In addition to the duties expressly set forth elsewhere in this law, the commission shall:

1. Represent the public interest in the improvement of personnel administration in the state service.
 2. Advise the governor and the director on problems concerning personnel administration.
 3. Foster the interest of institutions of learning and of industrial, civic, professional and employee organizations in the improvement of personnel standards in the state service.
 4. Make any investigation which it may consider desirable concerning the administration of personnel in the state service, and make recommendations to the director with respect thereto.
 5. Make an annual report and special reports and recommendations to the governor.
 6. Approve the budget as prepared by the director for administration of this article before submission to the director of the budget."
4. "The Commission shall elect one of its members chairman. It shall meet at such time and place as shall be specified by call of the chairman or the directors. At least one meeting shall be held in each month. All meetings shall be open to the public. Notice of each meeting shall be given in writing to each member by the director at least three days in advance of the meeting. Two members shall constitute a quorum for the transaction of business."

ARTICLE II - ORGANIZATION-Cont'd.

5. "Members of the commission shall each be paid twenty-five dollars for each day devoted to the work of the commission, but not more than six hundred dollars in any one year. They shall be entitled to reimbursement for necessary traveling and other expenditures necessitated by their official duties."

Sec. 2. Director of Personnel

1. Upon recommendation of the Civil Service Commission, the Governor shall appoint a Director of Personnel.
2. In formulating its recommendations for a director, the commission shall observe the following:
 - a. Director shall be a person who has had training or experience in personnel administration or a related field.
 - b. He shall be one who has known sympathies with the merit principle of government service.
 - c. He shall be selected from a register established as a result of competitive examination in the same manner that other civil service employees are selected.
 - d. He shall not be a candidate for or hold any elective public office nor shall he be a member of any political committee, nor shall he serve as an election official, nor shall he engage in any political activity other than to vote in behalf of or in opposition to any candidate, political party or public issue involved in the election.
3. The salary and expenses of the Director and his staff shall be met out of any funds available for the purpose and shall be paid upon certification of the Director, in such manner as the expenses of other state employees are paid.
4. "The director, as executive head of the department, shall direct and supervise all its administrative and technical activities. In addition to the duties imposed upon him elsewhere in this law, it shall be his duty:
 1. To apply and carry out his law and the rules adopted thereunder.
 2. To attend meetings of the commission and to act as its secretary and keep minutes of its proceedings.
 3. To establish and maintain a roster of all employees in the state civil service, in which there shall be set forth, as to each employee, the class title, pay or status, and other pertinent data.
 4. To appoint such employees of the department and such experts and special assistants as may be necessary to carry out effectively the provisions of this law.
 5. To foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness, including training, safety, health, counseling and welfare.

ARTICLE II - ORGANIZATION-Cont'd.

6. To make available to the public information about vacancies in the classified service and to strive constantly to attract to the career service of this State people of the highest ability.
7. To investigate from time to time the operation and effect of this law and of the rules made thereunder and to report his findings and recommendations to the commission and to the governor.
8. To make an annual report regarding the work of the department, and such special reports as he may consider desirable, to the commission.
9. To prepare the annual budget for the department of personnel and when approved by the commission, submit it to the director of the budget.
10. To perform any other lawful acts which he may consider necessary or desirable to carry out the purposes and provisions of this law."
11. To furnish copies of the minutes of all regular meetings of the Commission to each participating agency.

"In the event of the absence of the director or his inability from any cause to discharge the powers and duties of his office, the commission may from time to time designate in writing an employee of the department to act for him. In such case, the powers and duties of the director shall devolve upon such employee designated by the commission."

"The director may designate appropriate persons, including officers and employees in the state service, to assist in the preparation and rating of tests. An Appointing Authority shall excuse any employee in his division from his regular duties for the time required for his work as an examiner. Such officers and employees shall not be entitled to extra pay for further services as examiners but shall be entitled to reimbursement for necessary traveling and other expenses."

Sec. 3. Agency Personnel Officer

Each state agency shall designate a staff employee to serve as Personnel Officer. It shall be his responsibility, with such clerical assistance as may be necessary, to assure compliance with the classification and compensation plans as established by the Commission; to maintain personnel records of all persons employed in the agency, and records of all personnel actions; to notify the director as far in advance as possible of vacancies which may occur in the agency; and to perform such other duties as are prescribed in this rule and as the appointing authority may direct.

ARTICLE III - CLASSIFICATION PLANS

Sec. 1. Preparation of Plans

The Commission, after conferring with the appointing authorities concerned, shall formally adopt and make effective a comprehensive classification plan for all positions. The plan shall be based on an investigation and analysis of the duties and responsibilities of each position, and each position shall be allocated by the Director of Personnel after consultation with the appointing authority concerned to its proper class in the classification plan. When complete, the classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, and the minimum requirements of training, experience, and other qualifications.

Sec. 2. Revision of Plans

Existing classes of positions may be abolished or changed, or new classes added, in the same manner as the classification plans were originally adopted.

Sec. 3. Incumbents of Reallocated Positions

When a position is reallocated to a different class, the incumbent shall not be deemed eligible to continue in the position unless he would have been eligible for original appointment, promotion, transfer, or demotion, to a position of the new class while serving in the position as previously allocated. If ineligible to continue in such position, he may be transferred, promoted, or demoted by appropriate action in accordance with such provision of this rule as the Director may deem to be applicable. In any case in which the incumbent is ineligible to continue in the position, and he is not transferred, promoted, or demoted, the provisions of the rule regarding separations shall apply.

ARTICLE IV - COMPENSATION PLANS

Sec. 1. Preparation of Plans

The director and members of the commission, after consultation with appointing authorities and state fiscal officers and after a public hearing shall prepare and submit to the Governor for his approval a comprehensive compensation plan for all classes of positions. The plan shall include salary schedules for the various classes with the salary of each class consistent with the functions outlined in the job specifications. Initial, intervening, and maximum rates of pay for each class shall be established to provide for steps in salary advancements without change of duty in recognition of meritorious service. In arriving at such schedules, consideration will be given to classifications and salary schedules already established by the Board of Public Works of West Virginia for comparable positions in other State Departments.

Sec. 2. Adoption of Plans

The plan shall become effective only after it has been approved by the Governor after submission to him by the Commission. Salary ranges for classes of positions shall be amended in the same manner as originally adopted.

Sec. 3. Administration of Plans

The approved compensation plan shall constitute the official schedules of salaries for all classes of positions in the classified service. No salary shall be approved by the Director of Personnel unless they conform to the approved compensation plan. The entrance salary for any employee shall be at the minimum salary for the class to which he is appointed, except certain classes of professional employees may be initially employed at a salary above the minimum for their respective classes in cases where it is shown that individual possesses qualifications, training, and experience above the minimum required for the class. For each step above the minimum, the individual must have at least six months of pertinent experience or 15 semester hours of pertinent training in excess of the minimum requirements.

Salary advancements shall not be automatic but shall be based upon quality and length of service, and the Commission shall adopt salary regulations which shall include provisions for the following:

- a. The necessary adjustment of salaries of employees at the time of adoption or amendment of the compensation plan;
- b. The procedure to be followed in adjusting employees' salaries at the time of promotion, demotion, or transfer;
- c. All salary advancements to be based on quality and length of service;
- d. Granting salary advancements to employees only upon completion of a sufficient period of time to evaluate performance;
- e. Limiting the number of advancements that an individual may receive during any one year;
- f. Establishing fixed intervals for consideration of granting advancements and fixed dates on which advancements will be made effective.

Such regulations shall be uniformly applicable insofar as possible, to all employees of the classified service.

ARTICLE V - APPLICATIONS AND EXAMINATIONS

Sec. 1. Character of Examinations

1. Examinations for entrance in the classified service will be conducted on an open competitive basis. Examinations shall be practical in nature, shall be constructed to reveal the capacity of the applicant for the particular position for which he is competing as well as his general background and related knowledges, and shall be rated objectively. A practical written test shall be included except when rendered impractical because of (a) exceptional qualifications of a scientific or a professional nature being required and (b) the need for ranking candidates being rendered unnecessary because of the absence of effective competition. In such exceptional cases an unassembled examination may be held upon recommendation of the Director and approval of the Commission.
2. Examinations shall also include:
 - a. A rating of training and experience for the more responsible professional, technical, supervisory and administrative positions;
 - b. An oral examination for positions requiring frequent contact with the public or which involve important supervisory or administrative duties. However, after consultation with the agency, the Director, with the approval of the Commission, may eliminate the oral examination for those classes of positions in which it is anticipated that the entire eligible register will be exhausted within a relatively short period.
3. The Director shall assign definite weights to each part of the examination prior to its public announcement. Qualified experts will work with the Director of Personnel in the preparation of examination material and in the rating of training and experience of applicants for professional positions. The Director of Personnel shall consult with each agency affected on general phases of examination procedure such as the determination of type of examination, and the choice of qualified experts from outside the agency.

Sec. 2. Notice of Examinations

1. The Director shall give public announcement of all entrance examinations for at least 15 days in advance of the closing date for receipt of applications. He shall make every reasonable effort to attract qualified persons to compete in these examinations. Notices of examinations shall be posted in important centers throughout the State and copies shall be sent to newspapers of State-wide circulation, radio stations, educational institutions, professional societies, public officials, and such other workers and individuals as the Director may determine expedient. Exceptions to the requirement that examination notices must be state-wide may be made where the purpose of giving an examination is to supplement already existing registers as provided for in Article VI, Section 2, Paragraph 2 and/or in order to conduct a continuous recruitment program as provided for in Article V, Section 3. In such cases, the notice and other publicity may be restricted to the places where additional eligibles are needed. Public announcement of examinations shall specify the title and salary range of the class of position, information as to the rates of pay at which appointments are expected to be made, the duties to be performed, the minimum qualifications required, the final date on which applications will be received, and all other conditions of competition, including the relative weights assigned

ARTICLE V - APPLICATIONS AND EXAMINATIONS-Cont'd.

Sec. 2. to the various parts in the examination and the fact that failure in one con'td. part of the examination will disqualify an applicant.

2. In order to be eligible to be admitted to examinations, applicants must be citizens of the United States and (a) have been born in West Virginia or (b) have been legal residents of or domiciled in West Virginia for at least one year prior to the date of examinations, or (c) have maintained a legal residence and domicile in West Virginia for at least 10 years of his life, provided change to another state was made no earlier than one year prior to the date of examinations. The commission, at its discretion, may waive citizenship and residence requirements.

Sec. 3. Filing Applications

1. All applications shall be made on form prescribed by the Director and approved by the Commission and must be filed with the Director on or prior to the closing date specified in the announcement or postmarked before midnight of that date. Such applications shall include a statement from the applicant of all pertinent information regarding his training, experience, and age, and, in addition, the Director may require a photograph of the applicant, a certificate of his physical fitness from one or more licensed physicians, and any other information which the Director may deem necessary. All applications shall be signed and sworn to (or affirmed) by the Applicant.
2. For classes of positions for which recruitment is difficult, the Director, with the approval of the Commission, may provide for continuous receipt of applications and for holding examinations as needed.

Sec. 4. Disqualification of Applicants

1. Under the supervision and direction of the Commission, the Director may refuse to examine an applicant, or after examination, may disqualify such applicant or remove his name from a register, or refuse to certify any eligible on a register if:
 - a. he is found to lack any of the preliminary requirements established for the examination for the class of position;
 - b. he is so disabled as to be rendered unfit for the performance of the duties of the class;
 - c. he is addicted to the use of narcotics or the habitual use of intoxicating liquors to excess;
 - d. he has been convicted of an infamous crime or other crime involving moral turpitude;
 - e. he has made a false statement of material fact in his application;
 - f. he has previously been dismissed from any public service for delinquency, misconduct, or other similar cause;
 - g. he has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;
 - h. he has directly or indirectly obtained information regarding examinations to which as an applicant he was not entitled;

ARTICLE V - APPLICATIONS AND EXAMINATIONS-Cont'd.

- Sec. 4. i. he has failed to submit his application correctly or within
cont'd. the prescribed time limits;
- j. he has taken part in the compilation, administration, or
correction of the examination;
- k. at least three former employers state that they would not
re-employ him, or otherwise indicate that his services as an
employee were unsatisfactory or that he is lacking in character
and fitness for the position he applied for;
- l. the register from which he is certified is for a class for which
an oral examination was not a part of the examination process,
and at least two agencies have interviewed him and report that
he is not considered to be suitable for a position in the class
he was interviewed for;
- m. he has otherwise violated provisions of this rule.
2. In order to be admitted to an open competitive examination, an appli-
cant must have satisfied all minimum qualifications of the position
for which he has requested an examination, except that he may be
admitted if he is qualified in all respects except for (1) a
deficiency of no more than six months of qualifying training and,
at the time of application, he is engaged in educational pursuits
that will qualify him; or (2) a deficiency of no more than six
months of qualifying experience and, at the time of application, he
is employed by an agency in work that will qualify him. An applicant
so admitted, and who passes the examination, may not be considered
available for employment until the minimum qualifications have been
satisfied. The applicant shall be responsible for furnishing
evidence of subsequently satisfying the minimum qualifications.
3. A disqualified applicant shall be promptly notified of such action,
and an applicant who is not admitted to an examination because of
failure to meet the preliminary requirements shall be notified by
letter to his last-known address sufficiently in advance of the
examination to allow for an appeal from rejection as provided in
Article XII, Section 1.

ARTICLE V - APPLICATIONS AND EXAMINATIONS - Cont'd.

Sec. 5. Conduct of Examinations

1. Written tests shall be conducted simultaneously in as many places as are necessary for the convenience of the applicants, and as are practicable for proper administration. The requirement for simultaneous conduct of examinations may be deviated from as may be found necessary by the Director to administer more effectively a continuous recruitment program as provided for in Article V, Section 3. The Director may designate such monitors as may be necessary to conduct examinations under instructions prescribed by him, and may also arrange for the use of public buildings in which to conduct the examinations. The Director shall provide for the compensation of monitors and assistants in accordance with the approved budget for the purpose.
2. The identity of persons taking competitive assembled examinations shall not be disclosed to the examiner. An identification number, which shall be used to identify all papers of each applicant, shall be assigned by the Director to each applicant. Any examination papers bearing the name of the applicant or identification other than an identification number shall be rejected. In cases of rejection the Director shall promptly notify the applicant.

Sec. 6. Rating Examinations

1. The Director shall determine a final score for each applicant's examination, computed in accordance with the weights for the several parts established by the Director as set forth in the announcement. Failure in any part of an examination shall disqualify the applicant in the entire examination and shall disqualify him from participation in subsequent parts of the examination. All applicants for the same position shall be accorded uniform and equal treatment in all phases of the examination procedure.
2. Any veteran (as defined in Article I, Definition 40 of this Rule) who claims veteran's preference and who has made a passing grade in an examination shall have five points added to his final earned score. An additional five points shall be added to the augmented earned score of veterans with a service-connected disability. Persons claiming preference or disability preference must submit satisfactory proof thereof to the Director of Personnel prior to admission to examinations.
3. The Director, with the approval of the Commission, shall utilize appropriate scientific techniques and procedures in rating the results of examinations and in determining the final scores of the competitors. In determining the system for rating results on the examination, the Director and the Commission shall give due regard to the number of candidates and to the number of vacancies which may reasonably be expected to occur in the life of the register.

Sec. 7. Rating Training and Experience

If training and experience form a part of the total examination, the Director, with the approval of the Commission, shall determine a procedure for the evaluation of the training and experience qualifications of the various applicants. The formula used in appraisal shall give due regard to recency and quality as well as quantity of experience and to the pertinency of the training. This procedure shall allow for the substitution of training for experience and experience for training, within the limits stated in the class specifications.

ARTICLE V - APPLICATIONS AND EXAMINATIONS - CONT'D.

Sec. 8. Investigations

Before rating training and experience or prior to certification from the register, the Director shall, to the extent practicable, investigate the applicant's training and experience to verify the statements contained in his application form and to adduce evidence regarding his character and fitness. If this investigation produces information affecting the rating of training or experience, the Director shall rate or re-rate the applicant's record accordingly, and make the necessary adjustments in the register. He shall also promptly notify the applicant of such re-rating.

Sec. 9. Oral Examinations

When an oral examination forms part of a total examination for a position, the Director shall, with the approval of the Commission, appoint one or more Oral Examination Boards as needed. An Oral Examination Board shall consist of two or more members, not more than one of whom shall be from any one agency, who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel and at least one of whom shall be technically familiar with the character of work in the position for which the applicant will be examined. Any person actively engaged in the work of any political organization, or any person holding political office, shall not serve as a member of any such board. If practicable, all applicants qualifying for the oral examination for the same class shall be rated by the same Oral Examination Board. A member of an Oral Examination Board shall disclose each instance in which, by knowing an applicant personally, he would be prejudiced either for or against the applicant, in which case he shall not rate such applicant.

Sec. 10. Notice of Examination Results

Each applicant passing all parts of the examination shall be notified by mail by the Director of his final rating as soon as the rating of the examination has been completed and the register established. An eligible, upon request and presentation of proper identification, shall be entitled to information concerning his relative position on a register. An applicant who fails any part of the examination or the total examination shall be notified of his failure.

Sec. 11. Special Examinations

No applicant shall be given a specially administered examination unless the Commission by formal and recorded action finds that the applicant's failure to take or complete an examination was due to an obvious error for which the Director or any of his assistants is responsible. A make-up examination, administered along with a subsequent examination series, may be allowed by the Commission provided the Director certifies that it is administratively practicable. The Commission's findings and recommendations shall be recorded in its minutes. No claim for a specially administered or make-up examination shall be allowed unless it is filed in writing with the Commission within 10 days after the date of the original examination. Any specially administered or make-up examination shall be constructed on a pattern similar to the original examination.

ARTICLE V - APPLICATIONS AND EXAMINATIONS - CONT'D.

Sec. 12. Physical Examination

Before appointment applicants may be required to pass a satisfactory physical examination.

Sec. 13. Examination Records

The Director shall be responsible for the maintenance of all records pertinent to the examination program. Applications and other necessary examination records shall be kept permanently, but examination records of other applicants, not appointed, may be destroyed 30 days after the register expires. All notices of changes of address shall be filed, by applicants and eligibles, with the Director.

ARTICLE VI - REGISTERS

Sec. 1. Establishment of Registers

After each examination, the Director shall prepare a register of persons with passing grades. The names of such persons shall be placed on the register in the order of their final ratings starting with the highest. If two or more eligibles have final ratings which are identical, their names shall be arranged on the register in the order of their ratings on the written part of the examination. If these are the same, their names shall be arranged on the register in the order in which their applications were received, and if that be the same, then alphabetically.

Sec. 2. Duration of Registers

1. The life of each register shall be not longer than three years from the date of its establishment, but this period may be reduced by the Director with the approval of the Commission. A register may be deemed by the Director to be exhausted if fewer than three available eligibles remain on the register. Upon the exhaustion of a register, or if the Director, with the approval of the Commission, reduces the life of a register, he shall notify each eligible remaining on such register to this effect by mail to his last-known address.
2. The Director may declare a register depleted even though not exhausted, if there are one or more areas in the state for which there are no available eligibles, or if the register is so near the point of exhaustion that renewed recruiting and examination appears to be required to prevent the register from becoming exhausted. In either of these events, the Commission may authorize a new examination for the class. Persons whose names are on the depleted register shall be given an option of taking the new examination or retaining their positions on the depleted register, but once the option is exercised, it shall be adhered to. In establishing the new register, the Director, with due regard to the three year limitation, shall combine or integrate the names of those remaining on the depleted register with the names of those who took the more recent examination.
3. It shall be the duty of the Personnel Officer to notify the Director as far in advance as possible of vacancies which may occur in the Agency. The Director shall be responsible for determining the adequacy of existing registers and for the establishment and maintenance of appropriate registers for all positions exclusive of exempt positions.

ARTICLE VI - REGISTERS - CONT'D.

Sec. 3. Removal of Names from Registers

1. Under the supervision and direction of the Commission, the Director may remove the name of an eligible from a register:
 - a. for any of the causes stipulated in Article V, Section 4.
 - b. on evidence that the eligible cannot be located by reasonable efforts through the various means of communications.
 - c. on receipt of a statement from the eligible declining an appointment and stating that he no longer desires consideration for an appointment.
 - d. if two offers of a probationary appointment to the class for which the register was established in a location for which he has declared himself available have been declined by the eligible.
2. The Director shall notify the eligible by mail to his last-known address of this action and the reasons therefor. An eligible's name shall be reinstated on the register upon showing of cause satisfactory to the Director or in accordance with a decision of the Commission upon appeal as provided in Article XII, Section 3.

ARTICLE VII - CERTIFICATION OF ELIGIBLES

Sec. 1. Request for Certification

If a vacancy occurs in any position in an agency or if new positions are established and new employees are needed, requisitions shall be submitted by the Personnel Officer to the Director upon a prescribed form. This requisition shall state the number of positions to be filled in each class, identifying each class title and all other pertinent information.

Sec. 2. Certification Methods

1. Upon receipt of a requisition, the Director shall certify and submit in writing to the Personnel Officer the names of available persons on the appropriate original register established as a result of open competitive examination for the class of position, except as provided for in Paragraph 6 of this section, and also, at the same time, from the appropriate promotional register, if such a register exists. The number to be certified and submitted will be governed by the following sub-paragraphs. Nothing in the following sub-paragraphs shall be construed as altering the exhaustion point of a register as described in Article VI, Section 2, Paragraph 1.
 - a. If only one position is involved, the Director shall certify and submit the names of the five highest available eligibles, except as provided for in sub-paragraph (b). The Director may certify more than five names at his discretion.
 - b. If more than one position is involved, the Director may, with Commission approval, certify the names of the highest available eligibles equal in number to eight times the number of positions to be filled divided by three.
 - c. If the original register established as a result of a civil service examination for a specific class of position is exhausted, the Director shall certify and submit names from the appropriate promotional register only, until it is exhausted. If both the original register and the appropriate promotional registers are exhausted, then the Director, with the approval of the Commission, shall certify and submit names from the register, or registers, most appropriate. If there is no register which the Director, with the approval of the Commission, deems appropriate, then the Director may certify and submit names from a register established as described in Article VI, Section 2.

ARTICLE VII - CERTIFICATION OF ELIGIBLES - Cont'd.

Sec. 2 Cont'd

2. If an eligible receives a probationary or permanent appointment, such appointment shall constitute, for its duration, a waiver of his right to certification from any other register on which his name appears for a class of position the salary of which is either equal to or lower than that salary covered by his appointment, unless at the time of such appointment he requests in writing that his name be retained for certification from such register or registers.
3. The name of each employee whose name appears on a register for a class of position with a higher salary range than the salary range of his present class of position shall be certified and submitted by the Director and given consideration by the Agency for the higher class of position if his name is reached.
4. If, in the exercise of his choice provided under Section 1 of Article VIII, the Appointing Authority passes over the name of an eligible on a register in connection with three separate appointments he has made from the register, written request may be made of the Director that the name of such eligible be omitted from any subsequent certification of the same Appointing Authority from the same register. The name of such eligible shall thereafter not be certified to him from that register for future vacancies in that class of position, or from subsequent registers established for that class of position. However, upon change of the person occupying the position of Appointing Authority, the Director shall reinstate the name of such person for certifying purposes and shall so inform the agency. If, subsequently, the eligible is interviewed by the agency and rejected once for the same position, his name shall not again be certified for that position to that agency during the tenure of the then incumbent Appointing Authority.
5. An eligible may be considered not available by the Director if he fails to reply to a written inquiry after five days or to telegraphic communication within 48 hours in addition to the time required for the transmission of the inquiry to his last-known address and reply thereto.
6. Selective Certification by sex shall be permissible if the request with a justification in writing is approved by the Director of Personnel. Justification must clearly show that only employees of the required sex can perform the duties.

ARTICLE VII - CERTIFICATION OF ELIGIBLES - Cont'd.

Sec. 3. Local Office Certification

Eligibles for positions in state and local offices shall be certified in the manner described in Section 2 of this article, except that in filling a position in a local office, the Personnel Officer may request the certification of eligibles who are residents of the area established by the Agency for such local office. Upon receipt of such a requisition, the Director shall certify and submit the names of eligibles as provided in Section 2 of this Article, except that the Director shall certify and submit the names of the highest available eligibles who are residents of the area established by the Agency for the local office in which the vacancy exists, in accordance with the following procedure:

- a. if, in certifying and submitting the names of such eligibles for a vacancy in a local office, the Director finds that there are fewer than five such eligibles who are residents of the local-office area, he shall certify and submit the names of such eligibles who are residents;
- b. if no appointment is made from these eligibles, or if there is no local eligible, then certification to the vacancy in the local office shall be made from a list of eligibles in the next larger administrative area of the agency;
- c. if there are then insufficient eligibles, certification shall be made on a State-wide basis.

ARTICLE VIII - APPOINTMENTS

Section 1. Appointees in Positions Added to the Classified Service

1. When additional state agencies or parts of State agencies are added to the classified service by executive order of the Governor with the consent of the Commission and the appointing authority concerned, and when additional county or municipal agencies are added to the classified service by agreement between the local government and the Director with the approval of the Commission, a date for the addition shall be fixed by agreement.
2. All appointments made on and after that date to the positions added to the classified service shall be made in accordance with these rules.
3. A person employed in such a position continuously for six months immediately preceding that date may take a qualifying examination administered by the Director and may be given a probationary or permanent appointment in the position if he passes the examination. If so recommended by the appointing authority, he may be admitted to such an examination regardless of the minimum qualifications for the class to which the position is allocated. Such qualifying examinations shall be held within six months after the date of addition of the position to the classified service. Such examinations shall include appropriate written and performance tests where such tests are included in open-competitive examinations for the class. An employee who fails to pass the qualifying examination shall be separated within thirty days after the examination unless there are no available eligibles on the register for the class, in which case his employment may be continued but he must be separated within thirty days after certification of available eligibles.
4. A person employed in such a position for less than six months preceding that date of affiliation shall be separated within thirty days after that date unless there are no available eligibles on the register for the class, in which case his employment may be continued but he must be separated within thirty days after certification of available eligibles; provided, however, that he may be given a probationary appointment if he has passed an open-competitive examination for the class and is within reach on the register for certification and original appointment.
5. In making the appointments provided for in Sections 3 and 4 of this Article, it shall be optional with the appointing authority whether to count employment in the agency immediately prior to such appointments as part or all of the probationary period required under Article IX of these rules. The appointing authority shall promptly report to the Director his decision on this matter for the records.

ARTICLE VIII - APPOINTMENTS - Cont'd.

Section 2. Original Appointments

1. All original appointments to positions exclusive of exempt positions shall be made in accordance with this rule. Selection shall be made for each position from the five highest available names on the register, as determined by Article VII, Section 2, VII-1, exclusive of the names of those who failed to answer or who declined appointment or of those names to whom the appointing authority offers an objection in writing based on Article V, Section 4, which objection is sustained by the Director with the approval of the Commission.
2. In selecting persons from among those certified, the Appointing Authority shall be permitted to examine their applications and reports of investigations and to interview them. Final selection shall be reported in writing by the Personnel Officer to the Director.
3. If the eligible selected declines the appointment, evidence of declination and other such data shall be transmitted to the Director for permanent record. An eligible may be considered by the Director as having declined appointment if he fails to reply after five days in addition to the time allowed for transmission of letter and return of reply, or 48 hours, if notified by telegram. If an eligible accepts an appointment but fails to present himself for duty at the time and place specified, without giving reasons for delay satisfactory to the Appointing Authority and the Director, he shall be deemed to have declined the appointment.

Section 3. Provisional Appointments

1. If, in the opinion of the Appointing Authority, there are urgent reasons for filling a position and there are no available eligibles on the register established as a result of an examination for the position, and no appropriate promotional register or other appropriate register exists, the Appointing Authority may submit to the Personnel Officer the name of a person to fill the position pending examination and establishment of a register. If such person's qualifications have been certified by the Director as meeting the minimum qualifications as to training and experience for the position, such person may be provisionally appointed to fill the existing vacancy until an appropriate register is established and appointment made therefrom. No provisional appointment shall be made until the position has been classified and minimum qualifications established therefore in accordance with this rule. No provisional appointment shall be continued for more than thirty days after an appropriate register has been established for the class of position and in no event for more than 6 months from the date of appointment, nor shall successive provisional appointments of the same person be permitted, nor shall a position be filled by repeated provisional appointments.
2. A period of provisional appointment may apply toward completion of the probationary period only for that part served continuously, in

ARTICLE VIII - APPOINTMENTS - Cont'd

the same class, and immediately prior to an original appointment. Employees not covered by Section 2 of this Article and all appointments made without register subsequent to the effective date of this rule but prior to the holding of examinations shall be regarded as provisional appointments.

Sec. 4. Intermittent Appointments

1. The Director shall prepare lists, composed of the names of persons who have been permanent, probationary, or temporary employees appointed in accordance with this rule for at least three months. Such lists, arranged according to classes of positions, shall be known as reserve lists. If the work of the Agency demands the services of a person for intermittent periods, the Appointing Authority may select a person from a reserve list for a class of position. An appointment may be made to a vacancy in the specific class of position for which the reserve list was established, as well as to a vacancy in a lower class of position, without regard to the standing of the persons on the reserve list, and without prior clearance with the Director. An intermittent appointment to a higher class of position, however, shall not be made from any list of a lower class of position. When the reserve lists become exhausted, appointments shall be made in accordance with other provisions of this article.
2. The Director shall also prepare lists of the names of persons who have successfully passed an examination for the Intermittent positions. Such lists shall consist of the names of the successful candidates residing in the area served by each local office of the Department of Employment Security, arranged in the order of final scores on the examination. The entire list for each area shall be given to the local office manager. Intermittent appointments to these positions may be made from these lists without prior clearance with the Director of Personnel, but shall be made from among the five highest available eligibles on the list for that area. Once a person has received an intermittent appointment in accordance with this paragraph, he may be given successive intermittent appointments without regard to standing on the list.
3. In no case shall intermittent employment of an individual continue for more than six months in any twelve-month period beginning with the date of the original intermittent appointment.

Sec. 5. Emergency Appointments

In the event of an emergency which requires immediate addition of personnel with such urgency that appointment under other provisions of these rules is not feasible, the appointing authority may make an emergency appointment without regard to other provisions of these rules. In no case shall a person be employed under emergency appointment for more than 30 calendar days during any twelve-month period. The Personnel Officer shall immediately report each emergency appointment to the Director in writing with explanation

ARTICLE VIII - APPOINTMENTS - Cont'd.

of the nature of the emergency.

Section 6. Temporary Appointments

If an employee is needed for a temporary period, a certification shall be made by the Director of the names of those eligibles in the order of their places on an appropriate register, who have indicated willingness to accept temporary employment. Certification shall be made in the manner as prescribed in Article VII. Appointments shall be made in the same manner as prescribed in this rule for probationary appointments. The duration of a temporary appointment shall be limited to the period of the need and in no event shall a temporary appointment continue for more than 6 months in any twelve-month period. The acceptance or refusal of a temporary appointment shall not affect an eligible's standing on a register or his eligibility for a probationary appointment. Successive temporary appointments to the same position shall not be made nor shall an employee receive continued temporary appointments.

ARTICLE IX - PROBATIONARY PERIOD

Sec. 1. Nature, Purpose, and Duration

1. The probationary period shall be a trial work period designed to allow the Appointing Authority an opportunity to evaluate the ability of the employee to effectively perform the work of his position and to adjust himself to the organization and program of the agency. It shall be an integral part of the examination process and shall be utilized for the most effective adjustment of a new employee and the elimination of those who do not meet the required standards of work.
2. All original appointments to permanent positions shall be made from officially promulgated registers for a probationary period of not more than one year. The Commission, after consultation with the Advisory Board, shall fix the length of the probationary period for each class of position. The Appointing Authority shall notify the Director of Personnel when a probationary period has been completed and permanent status has been granted. The provision shall not be construed to prohibit application of time served in a provisional status to completion of a probationary period. However, it shall be the responsibility of the Appointing Authority to state in writing at the time permanent status is being granted that such time served in a provisional status has been applied toward completion of a probationary period. Permanent appointment of a probationary employee shall begin with the date ending the probationary period.

Sec. 2. Conditions Preliminary to Permanent Appointment

1. Four weeks prior to the end of the probationary period, the Appointing Authority shall obtain from the probationary employee's supervisor a statement in writing recommending that the employee be continued or not be continued in service. This statement shall include an appraisal of the value of the employee's services and shall include a service rating upon a form prescribed by the Director of Personnel. In the event it is determined that the services of the employee shall be retained, the Personnel Officer shall notify the employee and the Director of Personnel of the action no later than the last day of the probationary period. In the event it is determined that the employee's services are to be terminated, the employee shall be notified of the action in writing at least 15 days in advance of the date his services are to be terminated.
2. In the event the Appointing Authority takes no action on the status of a probationary employee before the expiration of the probationary period, either to retain or terminate, the employee shall be considered as having attained permanent status. In the event the Appointing Authority notified a probationary employee that his services are to be terminated, and if said notice is given before the date that would have otherwise been the last day of the probationary period but less than 15 days in advance of that date, the probationary period shall be extended 15 days from the date of the notice. The last sentence shall not apply to employees serving a 12 months probationary period.

ARTICLE IX - PROBATIONARY PERIOD - Cont'd.

Sec. 3. Promotions during Probation

The serving of a probationary period shall not, of itself, prevent an employee from being promoted to a position in a higher class, provided he is certified from an appropriate register for such higher class of position in accordance with the provisions of Article VII. If, within the above-mentioned limitations, an employee is promoted in this way during a probationary period, the probationary period for the class of position to which he is promoted shall begin with the date of appointment to such latter class of position.

Sec. 4. Demotions during probation

The serving of a probationary period shall not, of itself, prevent an employee from being demoted to a position in a lower class, provided he meets the minimum qualifications of the lower class. However, such action may not be taken until the employee has been presented with the reasons in writing and has been given a reasonable time to reply thereto in writing, or to appear personally and reply to the head of the department or his deputy. Neither shall such action be taken prior to completion of one-third of the probationary period, and the probationary period for the class of position to which the employee is demoted shall begin with the date of demotion.

Sec. 5. Transfers during Probation

An employee shall not be transferred during his probationary period to a position in another class for which a register exists, nor may an employee, certified to a vacancy in a local office on a strictly local-area basis in accordance with the provisions of Section 3 of Article VII be transferred from that local office to any other office or class for which a register exists until at least 60 days after his appointment from the local area register.

Sec. 6. Dismissal during Probation

1. If at any time during the probationary period, it is determined the services of the employee are unsatisfactory, the employee may be separated from the service, but such action shall take place only after the person to be discharged has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing or upon request to appear personally and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the Director. Notification of the termination of his services shall be given to the employee 15 calendar days prior to the effective date of his release, and no further salary shall be paid to him except in payment for accrued annual leave. Fifteen days notice shall not be required for employees in certain classes where the Commission holds by formal action that the public interests are best served by withholding such notice, and shall be at the discretion of the appointing authority for employees in any class when the cause of dismissal is gross misconduct.

ARTICLE IX - PROBATIONARY PERIOD - Cont'd.

Section 6. Dismissal during Probation - Cont'd.

2. The Director, with the approval of the Commission and after consultation with the appointing authority, may restore the name of a probationary appointee whose services have been terminated to the register from which he was certified, in accordance with the procedure described in Section 9 of Article XI, but the Director shall not in the future certify the name of such person to the same appointing authority from the same register.

ARTICLE X - PROMOTIONS, DEMOTIONS AND TRANSFERS

Section 1. Method of Making Promotions

1. Whenever practicable and in the best interest of the service, a vacancy will be filled by promotion, after consideration of the eligible permanent employees in the agency or in the career service upon the basis of demonstrated capacity and quality and length of service. In filling vacancies, an effort should be made to achieve a balance between promotion from within the service and the introduction into the service of qualified new employees.
2. A candidate for promotion must be certified by the Director to possess the qualifications for the position as set forth in the specifications for the class of position for which he is a candidate, and he may be required by the appointing authority to qualify for the new position by promotional competitive or non-competitive examination administered by the Director.

Section 2. Promotion by Competitive Examination

1. If it is determined by the appointing authority to fill vacancies in a particular class of position by promotional competitive examination, such examination shall be given under the direction of the Director. An employee to be eligible to compete for promotion must have permanent status and must meet the minimum qualifications as to training and experience for the class of position. A promotional competitive examination shall consist of any combination of the following: written tests, ratings on training and experience, evaluation of recorded service ratings and seniority, performance tests and oral examinations. The combination in each case and procedure for the determination of the passing grade shall be announced by the Director in advance of the examination, and shall take into consideration approved practices.
2. All employees who receive a passing grade shall be placed on a promotional register for the class of position in order of their examination ratings.
3. If a promotional and an original register exist, the same number of names shall be certified from each register in accordance with Article VII. The appointing authority may make his selection from the names submitted from either register, giving such preference to present employees as the good of the service will permit.

Revised-Effective April 1, 1963.

ARTICLE X - PROMOTIONS, DEMOTIONS, AND TRANSFERS - Cont'd.

Sec. 3. Promotion by Non-Competitive Examination

If it is determined by the appointing authority to fill a vacancy by a non-competitive promotional examination, an employee proposed for promotion shall be examined by the Director in accordance with Section 2, X-1, of this Article, and if found to qualify for the class shall be so certified by him.

Sec. 4. Transfer-Promotion

A transfer-promotion may be made in the same manner as a promotion except that the approval of both appointing authorities concerned is required. Annual and sick leave and all seniority rights shall be transferred with the employee.

Sec. 5. Demotions

A permanent employee may be demoted for inefficiency or other cause to a position for which he meets the minimum qualifications, but in all such cases the employee shall have the same right of appeal to the Commission as employees who are dismissed. A probationary employee may be demoted as provided for in Article IX, Section 4, but shall not have the right of appeal to the Commission.

Sec. 6. Transfer-Demotion

A transfer-demotion may be made when the employee meets the minimum qualifications for the lower position and the transaction is approved by the appointing authorities concerned. An employee so transferred and demoted shall have the same right of appeal to the Commission as employees who are dismissed. Annual and sick leave and all seniority rights shall be transferred with the employee.

Sec. 7. Transfers

1. Except as otherwise provided in Article IX, a transfer of an employee from a position in one organizational sub-division of an agency to a position in the same or comparable class in another organizational sub-division of the same or another agency may be made at any time by the appointing authorities concerned. In the case of inter-agency transfers, annual and sick leave and all seniority rights shall be transferred with the employee.
2. All inter and intra-agency transfers within a class shall be reported to the Director on appropriate forms at the time of the transfer. Transfers to comparable classes shall require prior approval of the Director who shall require that the employee must meet the minimum qualifications of the new class.

ARTICLE XI - SEPARATIONS, TENURE AND REINSTATEMENT

Sec. 1. Resignations

An employee who resigns shall present the reasons therefor in writing to the Appointing Authority. A copy of the resignation shall be forwarded by the agency to the Director of Personnel and shall be recorded by him. If a written resignation cannot be obtained, the Appointing Authority shall notify the Director of Personnel of the separation of the employee and the circumstances.

Sec. 2. Dismissals

The Appointing Authority, 15 days after notice in writing to a permanent employee stating specific reasons therefor, may dismiss any employee who is negligent or inefficient in his duties, or unfit to perform his duties, who is found to be guilty of gross misconduct, or who is convicted of any crime involving moral turpitude. Fifteen days notice shall not be required for employees in certain classes where the Commission holds by formal action that the public interests are best served by withholding such notice, and shall be at the discretion of the Appointing Authority for employees in any class when the cause of dismissal is gross misconduct.

Sec. 3. Suspension

The Appointing Authority may, upon notice confirmed in writing or by written notice, suspend any employee without pay for delinquency or misconduct, for a period not to exceed 30 calendar days in any one calendar year. The employee shall only have recourse to appeal if suspended for more than 30 days in any one year.

Sec. 4. Reduction of Force

The Appointing Authority may release any employee, without prejudice, because of lack of funds or curtailment of work, or in order to permit reinstatement of employees upon their release from periods of military service in the armed forces of the United States. No permanent employee, however, shall be released while there are emergency, intermittent, temporary, provisional, or probationary employees serving in the same class of position in the agency. The order of separation due to reduction of force shall be based upon service ratings and seniority, under a formula to be formally established by the Director of Personnel and approved by the Commission, and all such separations shall be reported to the Director. For re-employment purposes, the Director shall establish a list of employees laid off in accordance with the above provisions, giving due consideration to performance records and seniority in service in compiling said list.

Sec. 5. Like Penalties for Like Offenses

In dismissals for cause and other punishments, like penalties shall be imposed for like offenses.

ARTICLE XI - SEPARATIONS, TENURE AND REINSTATEMENT - Cont'd.

Sec. 7. Tenure of Office

The tenure of office of every permanent employee shall be during good behavior and the satisfactory performance of his duties as recorded by his service rating. This provision, however, shall not be interpreted to prevent the release of an employee for cause, or the release of an employee because of lack of funds or curtailment of work, when made in accordance with this rule.

Sec. 8. Reinstatement to Previous Class of Position

1. An employee with permanent status under the West Virginia Civil Service System, or a comparable system of personnel administration existing in the agency prior to the agency's affiliation with the Civil Service System, who has resigned while in good standing or who has been released without prejudice shall be eligible for reinstatement, provided he has been certified by the Director as meeting the current minimum qualifications as to training and experience of the class status of position to which he is being appointed. Prior to making such certification, the Director may require such employee to pass a qualifying examination.
2. Provisional, probationary, or permanent employees who leave the state service to enter the armed forces of the United States in time of war or national emergency or under compulsory provisions of laws of the United States in time of peace are entitled to reinstatement to their former positions or to positions of like class, seniority and pay within 30 days following application provided that within 90 days after release from active military service such employees indicate in writing or in person to the agency their readiness and ability to return to state employment. Veterans hospitalized immediately on release from the armed services due to service-connected disabilities must apply for reinstatement within 90 days of their release from hospitalization.
3. Any veteran who has been in the armed services of the United States and who has been granted military leave from one of the Civil Service Agencies and who returns to the Agency may be granted all within-grade salary adjustments and advancements he would have received had he remained in active status in the State service, and he shall be credited with all annual, sick, and compensatory overtime leave accumulated and unused at the time the military leave began. It is understood that the regulations contained in this paragraph shall be uniformly applied to all veterans within an agency having had military leave and who return to the agency.

ARTICLE XI - SEPARATIONS, TENURE AND REINSTATEMENT - Cont'd.

Sec. 9. Reinstatement to Register

1. A person who has had his name withdrawn from a register at his request may have his name reinstated on the currently effective register for the same position class provided the original register is still in effect and further provided that it has not exceeded a period of 3 years. His rank on the register shall be determined by his final earned examination rating.
2. Reinstatement to a register as provided for in the foregoing paragraph shall be subject to the following conditions:
 - a. The person petitioning such reinstatement shall make his request of the Director in writing and shall furnish whatever information the Director may require.
 - b. No person may be reinstated to a register who does not satisfy the current minimum qualifications for the position class for which the register is maintained. The Director may require that such a person pass an appropriate examination in the case of position classes requiring special skills.
 - c. No person may be reinstated to a register from which he has been or may be disqualified under any one of these Civil Service Rules: Article V, Section 4, Paragraph 1; Article VI, Section 3, Paragraph 1; or Article VII, Section 2, Paragraph 4.

ARTICLE XII - APPEALS

Sec. 1. Appeal for Examination Rejection

1. Any applicant whose application for admission to an entrance or promotional examination has been rejected by the Director may appeal to the Commission for consideration of his qualifications. The Commission shall consider such appeal, if in writing, provided it shall have been received by the Director not later than 48 hours prior to the announced time for holding the written examinations. The Commission's decision with respect to any such appeal shall be final.
2. Any applicant whose application for admission to an unassembled examination has been rejected by the Director may appeal to the Commission for consideration of his qualifications. The Commission shall consider such appeal, if in writing, provided it shall have been received by the Director not later than 10 days following the date upon which notices of rejection were released by the office of the Director.
3. Applicants may be admitted to an examination by the Director pending a consideration of a written appeal. Admission to a written examination under such circumstances, however, shall not constitute the assurance of a passing grade in training and experience.

Sec. 2. Review of Examination Ratings

1. Any applicant who has taken an examination may appeal to the Commission for review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly. Such appeal must be filed in writing at the office of the Director within 30 days after the date on which notification of the results of such examination was mailed to the applicant.
2. A rating in any part of an examination shall not be changed unless compliance with the foregoing conditions has been made and unless it is found by the Director and the Commission that a substantial error has been made. The Commission's decision with respect to a review or change shall be final and shall be entered in its minutes. A correction in the rating shall not affect a certification or appointment which may have already been made from the register.

ARTICLE XII - APPEALS - Cont'd.

Section 3. Appeal from Removal from Register

An eligible whose name has been removed from a register for any of the reasons specified in Article VI, Section 3, P - 1, may appeal to the Commission for reconsideration. An individual who, because of serving in the armed forces of the United States, fails to respond affirmatively to an offer of appointment or certification and whose name is for that reason removed from a register, may upon written application to the Director be reinstated upon such register. Such appeal must be filed in writing at the office of the Director within 30 days after the date on which notification was mailed to the applicant. The Director shall refer the appeal with all pertinent information to the Commission. The Commission, after investigation, shall make its decision and the eligible shall be notified accordingly by the Director.

Section 4. Appeal from Dismissal, Suspension, or Demotion or Discrimination

1. A permanent employee who is dismissed, suspended for more than 30 days or demoted shall have the right to appeal to the Commission not later than 30 days after the effective date of the dismissal, suspension, or demotion. Such appeal shall be in writing and shall be transmitted to the Director who shall arrange a formal hearing before the Commission within 30 days after receipt of the appeal. The Director shall furnish the Personnel Officer of the Agency concerned with a copy of the appeal in advance of the hearing. Both the employee and the Personnel Officer of the agency involved shall be notified reasonably in advance of the time and place of the hearing. The employee and an agency official designated by the appointing authority shall have the right to present witnesses and give evidence before the Commission. At the hearing of such appeals, technical rules of evidence shall not apply.
2. The Commission within 10 days after hearing shall report its decision in writing to the Appointing Authority. If the Commission finds that the action complained of was taken by the Appointing Authority without good cause, the employee shall be reinstated to his former position or a position of like status and pay without loss of pay for the period of his suspension. When any employee is dismissed and not reinstated after such appeal, the Commission at its discretion may direct that his name be placed on an appropriate re-employment list for employment in any similar position other than the one from which he has been removed. Any final action or decision taken or made hereunder shall be subject to review by the Supreme Court of Appeals if appeal is made within 60 days of the action or decision complained of.
3. In the same manner as that described under Article 12, Section 4 - 1, an employee who alleges that he has been discriminated against in recruitment, examination, appointment, training, retention or any other personnel action because of political or religious opinions or affiliations or because of race, national origin or other non-merit factors, shall have the right to be heard by the Civil Service Commission.

ARTICLE XIII - SALARY REGULATIONS

The Commission shall adopt salary regulations which shall include provisions for the following:

- a. The necessary adjustment of salaries of employees at the time of adoption or amendment of the compensation plan;
- b. The procedure to be followed in adjusting employees' salaries at the time of promotion, demotion, or transfer;
- c. All salary advancements to be based on quality and length of service;
- d. Granting salary advancements to employees only upon completion of a sufficient period of time to evaluate performance;
- e. The equitable distribution among all eligible employees of funds available for salary advancements;
- f. Limiting the number of advancements that an individual may receive during any one year;
- g. Establishing fixed intervals for consideration of granting advancements and fixed dates on which advancements will be made effective.

Such regulations shall be uniformly applicable, insofar as possible, to all employees of the classified service.

ARTICLE XIV - ATTENDANCE AND LEAVE

The Commission shall adopt regulations covering attendance, vacation, sick leave, and other types of leave which shall include provisions for the following:

- a. The hours of work required of employees and the holidays to be observed;
- b. The amount of annual and sick leave allowable to employees during a year, the amount of such leave which may be accumulated and carried over from year to year, and provision with respect to treatment of earned annual leave at the time of separation of employees;
- c. The granting of military leave to employees entering the armed services and reinstatement upon completion of military duty; and
- d. The amount of and conditions under which leave without pay may be granted.

Such regulations shall be uniformly applicable, insofar as possible to all employees of the classified service.

ARTICLE XV - SERVICE RATINGS

The Director of Personnel, after consultation with the Appointing Authorities, and with the approval of the Commission, shall establish and make effective a system of service ratings designed to give a fair evaluation of the quality and quantity of work performed. Insofar as practicable the system of service ratings in the classified service shall be uniform. Such ratings shall be prepared and recorded for all permanent and provisional employees at regular intervals not to exceed twelve months. Service ratings shall be considered in determining salary advancements and in making promotions, demotions, and dismissals, and in determining the order of separations due to reduction in force. An employee shall be notified of his service rating in writing by the Personnel Officer of the appropriate Agency.

ARTICLE XVI - PROHIBITION OF DISCRIMINATION AND POLITICAL ACTIVITIES

Section 1. Prohibition of Discrimination

1. No person shall be favored or discriminated against with respect to employment in the classified service because of political or religious opinions or affiliations, race, national origin, or other non-merit factors. This prohibition shall apply to recruitment, examination, appointment, training, promotion, demotion, dismissal, and any other personnel action. A person who alleges such discrimination shall have the right of appeal to the Commission in accordance with the provisions of Article XII of these rules.

Section 2. Political Activities Prohibited

1. No person shall seek or attempt to use any political endorsement in connection with any appointment in the classified service.
2. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration.
3. No employee in the classified service or member of the commission or the director shall, directly or indirectly, pay or promise to pay any assessment, subscription or contribution, or perform any service for any political party, or solicit or take part in soliciting any such assessment, subscription or contribution, or service. No person shall solicit any such assessment, subscription, contribution or service of any employee in the classified service.
4. No employee in the classified service shall be a member of any national, state or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take any part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote.

Section 3. Penalty for Discrimination and Political Activities

1. Any officer or employee in the state service who violates any of the foregoing provisions of this section shall forfeit his office or position, and for one year shall be ineligible for any office or position in the state service.

ARTICLE XVII - OTHER EMPLOYMENT

No employee shall hold other public office or have conflicting employment while in the classified service. Determination of such conflict shall be made by the Appointing Authority and the Commission.

ARTICLE XVIII - PAYROLL CERTIFICATION

"Certification of Payrolls"

- "a. No state disbursing or auditing officer shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified service unless the payroll voucher or account of such pay bears the certification of the Director, or of his authorized agent, that the persons named therein have been appointed and employed in accordance with the provisions of this law and the rules, regulations and orders thereunder. The Director may for proper cause withhold certification from an entire payroll or from any specific item or items thereon. The Director may, however, provide that certification of payrolls may be made once every six months, and such certification shall remain in effect except in the case of any officer or employee whose status has changed after the last certification of his payroll. In the latter case no voucher for payment of salary to such employee shall be issued or payment of salary made without further certification by the Director."
- "b. If an appointing authority fails to comply with an order of the Commission after a hearing, he shall be personally liable to the appealing employee for any salary due from the time of the final order of reinstatement by the Commission."
- "c. If the Director wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain a proceeding in the courts to compel the Director to certify such payroll voucher or account."

ARTICLE XIX - RECORDS AND REPORTS

The Agency shall establish and maintain a service record for each employee, showing name, title, organizational unit, salary, changes in status, service ratings, and such other personnel information as may be considered pertinent. All personnel records shall be open to the inspection of the Commission.

ARTICLE XX-- AMENDMENTS

If and when it appears desirable in the interests of good administration, the Civil Service Commission, after public notice and public hearing, may amend the rules as it becomes necessary.

ARTICLE XXI - EFFECTIVE DATE

These rules shall become effective September 1, 1962. They replace the rules adopted February 12, 1949.

State of West Virginia
Civil Service System

APPENDIX A

ATTENDANCE AND LEAVE REGULATIONS

In compliance with Chapter 29, Article VI, Section 8 of the Code of West Virginia, the following regulations shall apply to employees covered by the Civil Service System.

Section 1. Holidays

Official holidays are New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, West Virginia Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day, any day on which an election (Primary or General) is held throughout the State, and such other days as the President, Governor, or other duly constituted authority shall proclaim to be legal holidays. If a holiday falls on a Sunday, the following Monday shall be observed in lieu thereof. Employees may be required to work on official holidays only when such work is deemed to be necessary to the public interest by the agency head; and when such work is required, the employees affected shall be subsequently granted compensatory overtime leave as provided by Section 5.

Section 2. Hours of Work

1. Except as otherwise provided herein and as specified by the Agency Director, employees shall work no less than seven (7) and no more than eight (8) hours a day, except for Saturdays, and no less than thirty-seven and one-half (37½) nor more than forty (40) hours a week. Such work shall be performed between the hours of 8:00 a.m. and 5:00 p.m. Saturday work, if required, shall not exceed three (3) hours and shall be performed between the hours of 8:00 a.m. and 12:00 noon.

2. The work-week, work-day, and working hours of a field worker, who normally works alone rather than in association with a group of employees, shall conform to the foregoing regulations insofar as is practicable and consistent with his duties, as determined by the Appointing Authority. Necessary deviations shall be made by position classes rather than by individual employees.

Section 3. Annual Leave or Vacations

1. Except as otherwise noted in this section, each employee shall be entitled to annual leave with full pay computed on the basis of 1 1/4 working days for each completed calendar month of service, or major portion thereof. No more than thirty (30) days of accumulated annual leave may be carried forward from one calendar year to another. Accumulated annual leave shall be granted by the Appointing Authority or upon the authority delegated by him at such time or times as will not materially affect the efficient operation of the agency. In the event an employee's services are terminated for any reason, he cannot be paid for more than thirty (30) days of accumulated annual leave.

2. Annual leave shall not be accorded emergency, hourly, or per diem employees, and irregular part-time employees.

3. Annual leave accorded regular part-time covered employees each month shall be that proportion of 1 1/4 days that the amount of time they work is of the standard work week as defined pursuant to Section 2, Paragraph 1 of these regulations.

4. After an employee has completed one full month of service with the agency, annual leave to be earned during a particular month may be credited to him in advance at the discretion of the Appointing Authority and provided uniform practices are followed for all employees with respect to this matter. This administrative device shall not be construed as meaning that such leave has been earned except as provided in Paragraph 1 of this section.

5. For purposes of computing annual leave, a Saturday shall be counted as a half-working day when the employee was scheduled to work on Saturday had he not been on leave.

6. The minimum charge against annual leave shall be one-half (1/2) day, and additional leave shall be charged in multiples thereof. Absences of less than half a day shall be recorded and shall be charged in multiples of a half day as they accumulate.

7. Annual leave may be granted to an employee because of illness provided all earned sick and compensatory overtime leave has been exhausted.

8. In the event of the death of an employee who has not used all of his earned annual leave, payment for the unused portion thereof shall be made in a manner that will cause it to accrue to his heirs or estate.

9. Annual leave shall be accorded provisional, temporary, and intermittent employees provided such leave is taken before the expiration of the period of appointment.

10. An employee who has resigned or who has been laid off or dismissed shall be entitled to, and shall receive, all annual leave not to exceed thirty (30) working days that has accrued to his credit as of his last working day with the agency. Any employee charged with or convicted of a major crime, and who has been dismissed because of this or because of gross misconduct as provided in Section 2 of Article XI of the Rules for the Civil Service System, may, at the discretion of the Appointing Authority be denied all or any part of such leave. This provision shall not be construed as modifying Paragraph 9 of this section.

Section 4. Sick Leave

1. Except as otherwise provided in this section, each employee shall be entitled to and shall receive sick leave, when and if needed, with full pay computed on the basis of 1 1/2 working days for each calendar month of service or major part thereof. Such leave shall be cumulative for not more than sixty (60) working days. However, in cases of emergency, the appointing authority may, at his discretion, grant additional sick leave up to thirty (30) working days provided (1) all regularly earned sick, annual, and compensatory overtime leave have been used and (2) provided such sick leave has been earned but not credited to the employee because of the 60-day limitation.

2. Sick leave, with pay, shall not be accorded to employees paid on an emergency, hourly, or per diem basis, or to irregular part-time employees.

3. Sick leave, with pay, shall be allowed to provisional, temporary, and intermittent employees on the basis of 1 1/2 working days for each completed month of service, or major portion thereof, provided it is taken before the expiration of the period of appointment.

4. Sick leave accorded regular part-time covered employees each month shall be that proportion of 1 1/2 days that the amount of time they work is of the standard work week as defined pursuant to Section 2, Paragraph 1 of these regulations.

5. After an employee has completed one full month of service with the agency, sick leave to be earned during a particular month may be credited to him in advance at the discretion of the Appointing Authority and provided uniform practices are followed for all employees with respect to this matter. This administrative device shall not be construed as meaning that such leave has been earned except as provided in Paragraph of this section.

6. For purposes of computing sick leave, a Saturday shall be counted as a half-working day when the employee was scheduled to work on Saturday had he not been on leave.

7. The minimum charge against sick leave shall be one-half (1/2) day, and additional leave shall be charged in multiples thereof. Absences of less than half a day shall be recorded and shall be charged in multiples of a half day as they accumulate.

8. When the services of an employee have been terminated, all sick leave credited to him shall be canceled as of his last working day with the agency. However, after a reduction in force, or after pregnancy leave, any accumulated sick leave may be reinstated if a permanent employee is reinstated to the agency within a period of one year from date of separation.

9. Sick leave shall be granted to employees for the following reasons:

- (a) Illness on the part of or injury to the employee, incapacitating him for duty.
- (b) Death in the immediate family of the employee. This provision shall be understood to include time required for travel to and from, and attendance at the funeral; and the immediate family shall be understood to include only the father, mother, son, daughter, brother, sister, husband or wife, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, granddaughter, grandson, stepmother, stepfather and stepchildren.
- (c) Illness in the immediate family (see Section 4, Paragraph 9 (b)) of such a critical nature as to require the presence of the employee. This provision shall not be construed to cover absence for the purpose of nursing or caring for members of the family not declared by the attending physician to be critically ill.
- (d) Exposure to a contagious disease and determination by his supervisor that the presence on duty of the employee may jeopardize the health of others.
- (e) Illness due to pregnancy may be charged to sick leave under the same conditions applying to any illness. A pregnant employee may continue to work until six weeks before date of expected delivery if her doctor determines her physically able to work until this time. A doctor's statement shall be furnished showing expected date of delivery. After separation or termination for the above reason, only annual leave may be allowed.

10. An employee shall furnish a certificate from the attending physician for all consecutive days of sick leave granted beyond three working days, except that this requirement shall not apply to Paragraph 9 (b) in this section.

Section 5. Overtime Work and Compensatory Overtime Leave

1. In cases of emergency or when required by the public interests an authorized agency supervisor or administrator may require employees to work in excess of prescribed working hours, and grant compensatory overtime leave, subject to the following conditions:

- (a) Compensatory overtime leave shall not be accorded administrative, supervisory, and professional officials, as specified by the Appointing Authority to the Director of Civil Service in writing.
- (b) Such overtime work must be approved in advance by the authorized supervisor or administrator.

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- (c) Compensatory overtime leave shall accrue only when the employee is authorized to work more than one hour in any day in excess of the prescribed hours of duty. (It is not intended that this section modify Section 2, Hours of Work, Paragraph 2.)
- (d) Compensatory overtime leave shall be granted on an hour-for-hour basis within a reasonable time following its accrual but at such times as will least interfere with the efficient operation of the agency, as determined by the authorized administrator or supervisor.
- (e) Compensatory overtime leave may not accumulate or be taken in excess of 40 hours during any calendar year except on express written approval of the Appointing Authority.
- (f) Compensatory overtime leave may be granted to an employee because of illness provided all earned sick leave has been exhausted.
- (g) In the event an employee is terminated, no compensatory overtime leave may be granted subsequent to his last working day with the agency.

Section 6. Leave of Absence without Pay

1. A permanent or probationary employee upon application in writing to and upon written approval of the Appointing Authority, may be granted a continuous leave of absence without pay for a period of time not to exceed one year provided: (a) the employee's accumulated annual and compensatory overtime leave, if any, have been exhausted; or (b) if granted on account of illness, his annual, compensatory overtime, and sick leave have been exhausted. In case of pregnancy leave, accumulated sick leave does not have to be exhausted.

2. At the expiration of leave of absence without pay, the employee shall be reinstated in the service without loss of any of his rights unless the position is no longer available due to a reduction in staff caused by curtailment of funds or a reduced work load. Failure of the employee to report promptly at the expiration of a leave of absence without pay, except for satisfactory reasons submitted in advance, shall be cause for termination of his employment by the agency.

Section 7. Military Leave

1. All employees who are members of the National Guard or of any of the Reserve Components of the Armed Forces of the Federal Government shall be entitled to leave of absence from duty without loss of pay, status, or efficiency rating, on all days during which they shall be engaged in drills or parades during business hours ordered by proper authority, or for field

training or active service for a maximum period of thirty calendar days in any one calendar year ordered or authorized under provisions of State law. The term "without loss of pay" shall mean that the employee shall continue to receive his normal salary or compensation, notwithstanding the fact that such employee may have received other compensation from federal sources during the same period. Furthermore, such leave of absence shall be considered as time worked for the agency in computing seniority, eligibility for increase, and experience with the agency. The terms of this paragraph shall not apply under the provisions of any Selective Training and Service Act, or other such Act whereby the President may order into active duty the National Guard and the Reserve Components of the Armed Forces of the Federal Government. An employee shall be required to submit an order or statement in writing from the appropriate military officer in support of the request for military leave above referred to.

2. Any employee who may enter the military, naval, marine corps, or coast guard service of the United States may obtain a leave of absence from his service with the agency and, upon the completion of and discharge from any such armed services, shall have the right to reassume his service with the agency without any prejudice whatsoever to his status, merit rating or standing by reason of such absence. This paragraph shall not be construed:

- (a) As an attempt to enlarge or to extend the length of terms of any limited term employee or to create a definite term where no definite term with respect to the position heretofore existed.
- (b) As providing that the salary paid by the agency shall continue to be paid to the employee while he is not performing the duties of his position with the state because of such services with the armed forces of the United States.

Section 8. Court and Jury Leave

1. Upon application in writing, a permanent, probationary, provisional or temporary employee may be granted leave as indicated hereafter in this section. Annual leave will not be charged under the provisions of this section.

2. When, in obedience to a subpoena or direction by proper authority he appears as a witness for the Federal Government, the State of West Virginia, or a political subdivision thereof, he shall be entitled to leave with pay for such duty and for such period of required absence.

3. When attendance at court is in connection with an employee's usual official duties, time required in going and returning shall not be considered absence from duty.

4. When an employee serves upon a jury, or is subpoenaed in private litigation, he shall be entitled to leave with pay for such duty and for such period of required absence.

Section 9. Educational Leave

An agency which subsidizes advanced educational training for state employees may grant educational leave to an employee selected for such training subject to conditions stipulated by the agency concerned. Such leave shall be considered as continuous employment, except that employees while on educational leave shall not accrue sick or annual leave.

Section 10. Supplementary Regulations

Each agency shall prepare such supplementary regulations as may be required to implement Sections 2, 3 (paragraph 4), 4 (paragraph 5), and 5 of these regulations; and copies of all such supplementary regulations shall be furnished to the Director of Personnel who shall make them available to the other agencies.

Section 11. Distribution of Regulations

Each agency shall make available to each of its employees a copy of these regulations together with the agency's own supplementary regulations.

Section 12. Leave Records

A leave record shall be maintained for each employee which shall reveal at all times accrued leave as well as leave that has been used.

Section 13. Leave Transfers

In the case of inter-agency transfers, annual and sick leave and all seniority rights shall be transferred with the employee.

APPENDIX B

SALARY REGULATIONS

Pursuant to the provisions of Chapter 29, Article VI, Section 8 (2) of the Code of West Virginia, the following salary regulations shall apply to employees covered by the Civil Service System.

Section 1. Definition of Terms

"Range" means the salaries between the minimum and maximum rates for a given class of positions.

"Advancements" means a salary increase within the range prescribed for the class by the agencies' compensation plan.

"Promotion" means a change in the status of an employee from a position in one class to a position in another class, of higher rank as measured by salary range, minimum qualifications, and duties, in the same agency.

"Demotion" means a change in the status of an employee from a position in one class to a position in another class, of lower rank as measured by salary range, minimum qualifications, and duties, in the same agency.

"Transfer" means a change in the status of an employee from one position to another position in the same class, or to a position in another class having comparable minimum qualifications, salary range, and duties.

Section 2. Standard Rates

The compensation plan applies to all classes of positions in the classified service. It provides standard rates of pay for full-time employees for the regularly established working hours in all offices of the department. Any person serving in a position on a part-time basis, that is, for less than the regular full-time hours per day, days per week, or days per month, shall be paid in proportion to the time actually employed. The salary or wage paid shall be determined by the class of position and the ratio which the proportion of time employed bears to the full-time salary or wage.

Section 3. Additional Pay

The rates as provided represent the total remuneration for full-time employment, but do not include reimbursements for actual and necessary expenses incurred incident to employment, as travel expense. No pay additional to the regular salary shall be made to any employee except as previously authorized by administrative or delegated administrative authority. Additional duties imposed or volunteered shall not constitute an exception.

Section 4. Availability of Funds

Before salary adjustments and advancements are made in accordance with Sections 5 and 6 of these regulations, the fiscal officer of the department shall certify that funds for this purpose are available.

Section 5. Salary Adjustments

1. In fixing the rates of pay of incumbents of positions upon upward revision of the salary range for the class, each incumbent's salary shall be adjusted to the step in the new range corresponding to his step in the former range, unless otherwise provided in the adoption of a revision in the compensation plan.

2. In fixing the rates of pay of incumbents of positions upon downward revision of the salary range for the class, unless otherwise provided in the adoption of a revision in the compensation plan:

- (a) Where the rate of pay of the employee coincides with a rate in the new range, his rate of pay shall remain unchanged.
- (b) Where the rate of pay of the employee is above the minimum, and below the maximum of the new range and does not coincide with a rate in the new range, his rate of pay shall be adjusted to the next higher rate in the new range.
- (c) Where the rate of pay of an employee is above the maximum of the new range, his rate of pay shall remain unchanged and the employee shall not be entitled to salary advancements.

3. In fixing the rate of pay of the incumbent of a position upon allocation of the position to a different class, the salary range for which has a higher minimum:

- (a) Where the rate of pay of an employee is below the minimum of the range for the new class, his rate of pay shall be adjusted to that minimum provided that, if the reallocation of the position occurs simultaneously with an upward revision of the salary range for his former class, the adjustment shall be to the rate in the range for the new class which will give him a salary increase as nearly as possible equal to the increase he would have received if he had remained in his former class.
- (b) Where the rate of pay of an employee is a rate above the minimum and below the maximum for the new class, his rate of pay shall be adjusted to the next higher rate in the range for the new class provided that, if the reallocation of the position occurs simultaneously with an upward revision of the salary range for his former class, the adjustment shall be to the rate in the range for

the new class which will give him a salary increase as nearly as possible equal to the increase he would have received if he had remained in his former class.

4. In fixing the rate of pay of the incumbent of a position upon allocation of the position to a different class, the salary range for which has a lower minimum:

- (a) Where the rate of pay of an employee coincides with a rate in the range for the new class, his rate of pay shall remain unchanged.
- (b) Where the rate of pay of an employee is below the maximum of the range for the new class and does not coincide with a rate in that range, his rate of pay shall be adjusted to the next higher rate in the range for the new class.
- (c) Where the rate of pay of an employee is above the maximum of the range for the new class, his rate of pay shall remain unchanged and the employee shall not be entitled to salary advancements.

5. An employee who is promoted shall have his salary raised to the minimum rate of pay for the new class if his salary before promotion fell below such minimum rate. If, however, his salary before promotion falls within the range of the new class, he shall receive a full step adjustment at the time of promotion, unless his salary before promotion does not coincide with one of the steps in the new range, in which case he shall be paid at the next higher step in that range.

6. When a professional employee (Article 4, Section 3) has qualifications in excess of the minimum required for the position class to which he is being promoted, his salary may be adjusted to a higher step in the range provided that he has at least six months of pertinent experience or 15 semester hours of pertinent training for each step above the minimum.

7. An employee who is demoted shall have his salary reduced to the maximum rate of the new class. If his salary before demotion falls within the range for the lower class, but does not coincide with one of the steps in that range, his salary shall be reduced at least to the next lower step in the new range.

8. An employee who is transferred shall be paid the same salary that he received prior to transfer if such salary coincides with a step within the range of the class to which he is transferred. If such salary does not coincide with a step within the range of the class to which he is transferred, his salary shall not be lowered and he shall be paid at the next higher step, if any, in the range for the class to which he is transferred.

Section 6. Salary Advancements

1. All salary advancements shall be based upon quality and quantity of work as reflected by service ratings and upon other recorded measures of performance, giving due consideration to length of service.

2. Salary advancements shall be limited to permanent employees.

3. Salary advancements shall be equitably distributed where possible among the employees in all classes of positions who are eligible for salary advancements.

4. No employee shall receive a salary advancement of more than one step in the salary range for his position at one time, except as provided in Paragraph 6 below.

5. No employee shall be eligible for a salary advancement who has received an increase in salary (as a result of a regular salary advancement) at least equivalent to one step of the new salary range during the 6-month period immediately preceding the date on which the new salary advancement would become effective, except as provided in Paragraph 6 below.

6. In cases of exceptionally meritorious service, salary advancements of more than one step in the range or at intervals less than the regularly prescribed period may be permitted. In each such case, however, the findings of the Appointing Authority shall be filed with and approved by the Director of Personnel before such advancement is made effective and such record of findings and facts shall be made a part of the permanent record of the employee. No employee shall receive salary advancements of more than two steps in a year including advancements for exceptionally meritorious service.

7. The initial salary advancements may be made effective for employees who have just completed their probationary period on the first of the month following the completion of said period. Salary advancements for other permanent employees will be made effective not before the first of the month succeeding the date on which they are earned, if funds are available. All appointing authorities shall submit to the respective personnel officers on the proper forms their recommendations for salary advancements in the counties or divisions under their jurisdiction.

Revised

Approved by Civil Service Commission - June 1, 1964

Effective Date - June 1, 1964

APPENDIX C

REDUCTION-IN-FORCE FORMULA

In compliance with Chapter 29, Article VI, Section 8 (10) of the Code of West Virginia, the following reduction in force regulations shall apply to employees covered by the Civil Service System.

In the event of a reduction of force in any agency covered by the Civil Service System, all emergency, intermittent,* temporary, provisional, and probationary employees shall be separated before any permanent employees of the same class are separated. Permanent employees shall be separated by class in the manner hereinafter described.

1. Service ratings for separation purposes shall be computed for all permanent employees (hereinafter referred to as employees) in position classes in which reductions are to be effected in accordance with the following subparagraphs. Employees in position classes above the lowest one of a promotional series and who have been in such classes for insufficient time to have earned three service ratings shall be offered the option of demotion. Once this option is exercised, however, such employees shall be subject to the application of the following subparagraphs to the lower positions. In no case shall more than three service ratings, including a special one, be used in determining the rating for purposes of separation.
 - (a) For an employee who has served in a position class long enough to have earned three or more service ratings in the class, the rating for separation purposes shall be computed by dividing the sum of the last three ratings by three.
 - (b) For an employee who has served in a position class long enough to have earned two regular service ratings, but not three, a special rating may be assigned, provided it has been at least three months since the date of the last regular service rating, and provided such a rating is assigned to all others in the position class who are in a like situation. If a special rating is assigned, his rating for separation purposes shall be determined by dividing by three the sum of the two regular service ratings plus the special rating. If such a rating is not assigned, his rating for separation purposes shall be computed by dividing the sum of the two regular service ratings by three.

*Intermittent as used herein means a person employed on a non-permanent or part-time basis in any class. This does not preclude the interpretation that "Intermittent Claims Clerk-Typist" and "Intermittent Claims Clerk" are classes in themselves.

- (c) For an employee who has served in a position class long enough to have attained one but not two regular service ratings in the class, a special rating may be assigned, provided it has been at least three months since the date of the last regular service rating and provided such a rating is assigned to all others in the position class who are in a like situation. If a special rating is assigned, his rating for separation purposes shall then be computed by dividing by three the sum of the regular service rating and the special one. If a special rating is not assigned, his rating for separation purposes shall be determined by dividing ~~the~~ one regular service rating by three.
- (d) For an employee who has served in a position class for a period of time insufficient to have earned one regular service rating, a special rating may be assigned. His rating for purposes of separation shall be that rating divided by three.
- (e) Service ratings are, and shall be, assigned values according to the following scale:

Excellent.....10 points
Very Good..... 6 points
Good..... 4 points
Fair..... 2 points
Unsatisfactory..... 0 points

2. In determining the final order of separation, one-sixth point per month, or major fraction thereof, shall be added to the employee's separation service rating for each month of service with the Agency or any other agency under the Civil Service System. Employees shall then be ranked according to final separation rating and separated according to that rank. (See example as follows:)

EXAMPLE

<u>Name</u>	<u>Average Service Rating</u>	<u>Years of Service</u>	<u>Class Title Seniority Score</u>	<u>Separation Rating</u>	<u>Order of Separation</u>
John Doe	4	6	12	16	3
Richard Roe	6	3	6	12	1
Winnie Woo	10	2	4	14	2

3. In the event of a tie on the separation rating, the employee with the highest most recent service rating shall be given preference unless one of the employees is a veteran and the other not, in which case the veteran shall be given preference. If a tie still exists, the employee having the highest examination score for the same position shall remain. If a tie still exists, the appointing authority or his representative and those individuals who are tied shall agree on a satisfactory means of breaking the tie.

4. In computing length of service, all service in any Civil Service agency except emergency and intermittent shall be included. Time spent on leave of absence without pay shall not be included, but educational and military leave shall be included. If a person works with an agency in any capacity except as an emergency or intermittent employee at two or more periods, all periods of work shall be included, but the intervening times shall not be considered as service with the agency. Seniority shall be measured by the length of time with the agency, and not the length of time in any particular capacity.

5. The separation formula shall be applied on a divisional basis for all positions. For the purpose of applying this formula, the divisions of the agency shall be designated by the Appointing Authority subject to the approval of the Director of Civil Service, and a list of such divisions shall be filed by each Appointing Authority for their respective agencies with the Director of Civil Service.

APPENDIX D

STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION

These Federal Standards are issued to implement the statutory and regulatory provisions requiring the establishment and maintenance of personnel standards on a merit basis in the administration of various grant-in-aid programs. The merit system standards are issued by the Social Security Administration, the Welfare Administration of various Public Health Service of the Department of Health, Education, and Welfare, the Bureau of Employment Security, Department of Labor, and the Office of Civil Defense, Department of Defense.

The development of proper and efficient administration of the grant-in-aid programs is a concern of both the Federal and the State agencies cooperating in the programs. Proper and efficient administration requires clear definition of functions, the employment of the most competent available personnel, and the development of staff morale and individual efficiency. The merit system provisions of Federal statutes relating to the grant-in-aid programs are directed to the achievement of these ends through the application of personnel standards on a merit basis.

An integral part of the grant-in-aid programs is the maintenance by the State of a merit system of personnel administration applicable to the grant-aided agencies. The Federal agencies are interested in the development and continued improvement of State merit systems but exercise no authority over the selection, tenure of office, or compensation of any individual employed in conformity with the provisions of such systems.

Laws, rules and regulations to effectuate a merit system in accordance with these standards are a necessary part of the approved State plans required as a condition of Federal grants. Such laws, rules and regulations and amendments thereto will be reviewed for substantial conformity to these standards. The administration of the merit system will likewise be subject to review for compliance in operation.

Continuing application of these standards will give reasonable assurance of a proper basis for personnel administration, will promote a career service, and will result in increased operating efficiency in the State agencies. In order to assist States in maintaining their merit systems under these standards, technical consultative service will be made available.

JURISDICTION

These standards are applicable to all personnel, both State and local, except those hereinafter exempted, engaged in the administration of grant-in-aid programs established under the following Federal laws: Social Security Act, Titles I (Old-Age Assistance and Medical Assistance for the Aged), III (Unemployment Compensation), IV (Aid and Services to Needy Families with Children), V (Maternal and Child Welfare), X (Aid to the Blind), XIV (Aid to the Permanently and Totally Disabled), and XVI (Aid to the Aged, Blind, or Disabled, or for Such Aid and Medical Assistance to the Aged); the Public Health Service Act, including the Hospital Survey and Construction Act; the Wagner-Peyser Act, as amended; and the Federal Civil Defense Act as amended. The standards apply to personnel engaged in the administration of the Federally-aided programs, irrespective of the source of funds for their individual salaries.

At the option of the State agencies, the following positions in the several programs may be exempted from application of these standards; members of State and local boards or commissions; members of advisory councils or committees or similar boards paid only for attendance at meetings; State and local officials serving ex officio and performing incidental administrative duties; the executive head of each State agency; one confidential secretary to any of the foregoing exempted officials janitors; part-time professional personnel who are paid for any form of medical, nursing or other professional service, and who are not engaged in the performance of administrative duties; local civil defense directors; attorneys serving as legal counsel; members of unemployment compensation appeals tribunals and boards of review representing employer and employee interests. Upon request of the State health authority to the Public Health Service or Children's Bureau, as applicable, exemption of hospital and sanatoria and local health department personnel from application of these standards will be considered on the basis of State and local administration.

MERIT SYSTEM ORGANIZATION

If a State has a State-wide civil service system operating under standards substantially equivalent to those herein provided, such State civil service system should be applicable to the State agencies as defined above.

In the absence of a State civil service system with substantially equivalent standards, there will be established a merit system administered by an impartial body herein referred to as the Merit System Council, the members of which are appointed by the administrative agencies or by the Governor on recommendation of the administrative agencies, for stated overlapping terms, and no member of which is otherwise employed as an official or employee of any of the State agencies affected.

The executive of the merit system, referred to as the Merit System Director, will be appointed under the merit system. Qualifications for the Director will include training and experience in a field related to merit system administration, and known sympathy with the principles of the merit system.

In the interests of economy and of efficient administration, a joint merit system should serve all the State agencies as defined above unless, because of special circumstances, it is not feasible to establish such a joint system.

PROHIBITION OF DISCRIMINATION

Discrimination against any person in recruitment, examination, appointment, training, promotion, retention or any other personnel action, because of political or religious opinions or affiliations or because of race, national origin or other non-merit factors will be prohibited. The regulations will include appropriate provisions for appeals in cases of alleged discrimination.

LIMITATION OF POLITICAL ACTIVITY

Participation in political activity of any employee of the State or local agencies, except those hereinbefore exempted, will be prohibited under the merit system rules, except that an employee will have the right freely to express his views as a citizen and to cast his vote. Such prohibited political activity will include in substance the activities prohibited employees in Federally-aided agencies under the Federal Hatch Political Activities Act, as amended. (Individuals whose principal employment, whether or not under the merit system, is in a Federally-aided agency, are subject to the prohibitions in the Hatch Act, administered by the U. S. Civil Service Commission.)

CLASSIFICATION PLAN

A classification plan for all positions in the agency, based upon investigation and analysis of the duties and responsibilities of each position, will be established and maintained. The classification plan will include an appropriate title for each class of position, a description of the duties and responsibilities of positions in the class, and requirements of minimum training, experience, and other qualifications suitable for the performance of the duties of the class of position.

COMPENSATION PLAN

A plan of compensation for all classes of positions in the agency will be established and maintained. Such plan will include salary schedules for the various classes in which the salary of a class is adjusted to the responsibility and difficulty of the work. The salary range for each class will consist of minimum, intervening, and maximum rates of pay to provide for salary advancements within the range. In arriving at such salary schedules, consideration will be given to the prevailing rates for comparable positions in other departments of the State and to other relevant factors. The State administrative agencies will adopt plans for salary advancements based upon quality and length of service. Salary laws and rules and regulations uniformly applicable to departments of the State government will be given consideration in the formulation of the compensation plan.

RECRUITMENT AND APPOINTMENT OF PERSONNEL

All positions in the State agencies, except those hereinbefore exempted, will be filled by personnel selected on the basis of merit, and in accordance with standards and procedures set forth in rules and regulations for the merit system.

Regulations governing the administration of examinations will include the following provisions:

Examinations for entrance to the service will be conducted on an open competitive basis, with adequate publicity, and with a reasonable period for filing applications.

Applicants admitted to examinations will meet the minimum requirements for the positions for which they apply as set forth in the specifications for the positions.

Examinations will be practical in nature, constructed to reveal the capacity of the applicant for the position for which he is competing and his general background and related knowledge, and will be rated objectively. A practical written test will be included, except that where exceptional qualifications of a scientific or professional character are required, and competition through an assembled examination is impracticable, an unassembled examination may be held.

Examinations will also include: A rating of training and experience for the more responsible positions; an oral examination for positions requiring frequent contact with the public, or which involve important supervisory or administrative duties; and a performance test for positions involving the operation of office machines.

The Merit System Director will prepare and establish registers of eligibles in the order of their final scores and will maintain the registers, make certification of eligibility, and keep all examination records.

All positions, not specifically exempted herein, are to be filled from registers of eligibles, except for emergency and provisional appointments for limited periods. Appointments will be made by selection from a limited number of the highest available eligibles on the appropriate register.

In the absence of an appropriate register, provisional appointments may be made pending competitive examination, provided each provisional appointee is certified by the Merit System Director as meeting at least the minimum qualifications established for the class of position, and further provided that no individual may receive successive provisional or emergency appointments.

Personnel selected from registers to fill permanent positions will serve a fixed probationary period. Permanent appointment will be based upon an evaluation in writing of the performance of the employee during the probationary period.

An employee of an agency who has received appointment under a merit system with standards substantially comparable to these will retain the status held by him under such merit system in the event the agency is placed under the jurisdiction of another merit system.

An employee of an agency in which no comparable merit system has been in operation may, upon the initial extension of the merit system to such agency, obtain status through examination on an open competitive or qualifying basis as specified in the merit system rules and regulations. Such rules and regulations may permit an employee with a specified period of service in the agency to be automatically admitted to the examination covering the position held by him, and may permit him to be retained at the discretion of the State agency, providing he attains a passing grade in such examination.

PROMOTIONS

Whenever practicable and in the best interest of the service, a vacancy will be filled by promotion, after consideration of the eligible permanent employees in the agency or in the career service, upon the basis of demonstrated capacity and quality and length of service. Promotions, whether or not from a competitive promotional register, will require certification of eligibility by the Merit System Director.

LAYOFFS AND SEPARATIONS

Regulations will be established governing layoffs, suspensions and separations, and governing leaves and the conditions for payment of salary at termination of services. Such regulations will include provisions for adequate competition among employees in classes affected by reduction in force, and for retention of employees based upon systematic consideration of type of appointment, length of service and efficiency.

Employees who have completed the required probationary period of appointment and acquired permanent status will not be subject to separation except for cause, or for reasons of curtailment of work or lack of funds. In the event of separation, permanent employees will have the right of appeal to an impartial body through an established procedure provided for in the merit system rules.

PERFORMANCE EVALUATIONS

A system of periodic evaluations of work performance will be maintained. The manner in which such performance evaluations are to be used in promotions, salary advancements, and separations, as well as in the improvement of individual performance, will be provided for by regulation.

PERSONNEL RECORDS AND REPORTS

Such personnel records as are necessary for the proper maintenance of a merit system and effective personnel administration will be maintained by the State administrative agency. Periodic reports will be published by the Merit System Council.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
DEPARTMENT OF LABOR
DEPARTMENT OF DEFENSE

January 1963

APPENDIX E

CIVIL SERVICE SYSTEM

An Act of the Legislature of West Virginia,
Regular Session, 1961

Passed March 8, 1961; in effect July 1, 1961
Approved by the Governor

AN ACT to repeal article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article six, creating a civil service system for the state of West Virginia

ARTICLE 6. CIVIL SERVICE SYSTEM
Section

1. General purpose
2. Classified service; exceptions therefrom.
3. State personnel department.
4. Director of personnel
5. Organization of the Commission.
6. Duties of the Commission.
7. Duties of the Director
8. Rules
9. Duty to furnish facilities.
10. Duties of state officers and employees.
11. Status of present employees.
12. Certification of payrolls.
13. Appeals by employees to the Commission.
14. Records of the state personnel department.
15. Services to political subdivisions.
16. Retirement system.
17. Oaths, testimony, and the production of records; immunity from suit.
18. Refusal to testify.
19. Political activities prohibited.
20. Unlawful acts prohibited.
21. Penalties.
22. Appropriations.
23. Separability.

Be it enacted by the Legislature of West Virginia:

That article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and a new article six be enacted in lieu thereof to read as follows:

Section 1. General Purpose. - The general purpose of this article is to attract to the service of this state personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, lay-off, removal, discipline, classification, compensation, and welfare of

its civil employees, and other incidents of state employment. All appointments and promotions to positions in the state service shall be made solely on the basis of merit and fitness, except as hereinafter specified.

Sec. 2. Classified Service; Exceptions Therefrom. -(a) The classified service to which this law shall apply shall comprise all positions covered by the present merit system at the effective date of this article and the following positions in the state tax commission and the public service commission: Procurement officer; supervisor of field deputies; supervisor, supervisor I and field auditors of the cigarettes, soft drinks, general license and store license division; supervisor and field auditors of the accounting division; supervisor and research analysts of the public utility division; supervisor of the assessment and levy division; supervisor of the cashier's division; supervisor, senior accountant and auditors of the consumers' sales tax division; the supervisor, assistant supervisor and auditors of the gasoline excise division; supervisor and assistant division director of the inheritance tax division; supervisor, revenue examiners and field auditors of the business and occupation tax division; supervisor and field appraisers of the property evaluation division; the supervisor of the property evaluation-assessment and equalization-division; supervisor of the tabulation division; chief and assistant chief of the rate and tariff department; chief accountant, assistant chief accountant, and senior accountants of the accounting department; chief engineer, senior engineers, senior gasoline engineers, senior electrical engineers and staff engineers of the engineering department; and assistant director and rate analysts of the motor carrier department.

The governor may, by executive order, with the written consent of the civil service commission and the appointing authority concerned, add to the list of positions in the classified service, but such additions shall not include the following:

(1) The state Legislature and other officers elected by popular vote and persons appointed to fill vacancies in elective offices.

(2) Members of boards and commissions and heads of departments appointed by the governor or such heads of departments selected by commissions or boards when expressly exempt by law or board order.

(3) One principal assistant or deputy and one private secretary for each board or commission or head of a department elected or appointed by the governor or Legislature, other than the civil service commission and the director of personnel.

- (4) Not more than fifteen employees in the office of the governor.
- (5) Judges, referees, receivers, jurors and notaries public.
- (6) The secretaries and clerks of each judge of a court of record.
- (7) Patients or inmates employed in state institutions.
- (8) Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation or examination on behalf of the Legislature or a committee thereof, an executive department or by authority of the governor.
- (9) All employees assigned to the executive mansion.
- (10) Janitors and laborers employed by any agency.
- (11) Managers and clerks of liquor stores.
- (12) Superintendent, county maintenance of roads, and all personnel under his supervision.
- (13) Part-time professional personnel engaged in professional services without administrative duties and personnel employed for less than ninety working days a year.
- (14) All clerical employees who are not under the present merit system and whose jobs do not require special knowledge or skill and training in the operation of business machines.

All excepted positions to be termed unclassified service.

Nothing herein shall be construed as precluding the appointing authorities from filling any position in the manner in which positions in the classified service are filled.

Sec. 3. State Personnel Department.- (a) There shall be in the state government a state personnel department, the executive head of which shall be a director of personnel. The employees of the present merit system office, with the exception of the merit system supervisor, are hereby transferred into the office of the director of personnel. Their services shall be considered continuous. In addition, all funds, equipment, supplies, personnel and property records, or anything of value now in the possession of the merit system council are hereby transferred to the state personnel department.

(b) In the department there shall be a civil service commission of three members, with the powers and duties hereinafter enumerated.

Sec. 4. Director of Personnel.—After selection through open competitive examination, then upon recommendation of the civil service commission, the governor shall appoint a director of personnel, who shall be experienced in the field of personnel administration, and who is in known sympathy with the application of merit principles in public employment. The selection and appointment must be in conformity with civil service rules. The present merit system supervisor may be the appointee. The director of personnel may be removed by the civil service commission for cause only after he has been presented in writing with the reasons for his removal. He shall be given an opportunity, not less than fifteen days, to answer any charges either in writing or upon his request to be heard by the commission. The statement of reasons and answer or transcript of hearing shall be filed with the secretary of state as a public record. The decision of the commission after a hearing, shall be final and not subject to appeal.

Sec. 5. Organization of the Commission.—(a) The present merit system council shall be transformed into the civil service commission. The members of the commission shall be persons in sympathy with the application of merit principles to public employment. No member of the commission shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization or shall hold, or be a candidate for, any paid public office. Not more than two members of the same political party shall serve on the commission at the same time.

(b) Vacancies in the present merit system council now being transferred by this article into the civil service commission occur June thirtieth, one thousand nine hundred sixty-one, June thirtieth, one thousand nine hundred sixty-two and June thirtieth, one thousand nine hundred sixty-three. The members of the commission shall be appointed by the governor by and with the advice and consent of the senate. On the first vacancy, one member shall be appointed for a term of four years, on the second vacancy, the member shall be appointed for a term of five years, and on the third vacancy, for a term of six years. Thereafter, each member shall be appointed for a term ending six years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy occurring prior to the expiration of such term shall be appointed for the remainder of the term. Each member of the commission shall hold office until his successor is appointed and qualified.

(c) A member of the commission may be removed by the governor only for cause, after being given a copy of charges against him and an opportunity to be heard publicly on such charges before the governor. A copy of the charges and a transcript of the record of the hearing shall be filed with the secretary of state. The decision of the governor, after a hearing, shall be final and not subject to appeal.

(d) Members of the commission shall each be paid twenty-five dollars for each day devoted to the work of the commission, but not more than six hundred dollars in any one year. They shall be entitled to reimbursement for necessary traveling and other expenditures necessitated by their official duties.

(e) The commission shall elect one of its members chairman. It shall meet at such time and place as shall be specified by call of the chairman or the directors. At least one meeting shall be held in each month. All meetings shall be open to the public. Notice of each meeting shall be given in writing to each member by the director at least three days in advance of the meeting. Two members shall constitute a quorum for the transaction of business.

(f) There is hereby created an advisory board to advise the commission and the director in the administration of this article. The advisory board shall consist of the appointing authorities from all agencies having employees in the classified service.

Sec. 6. Duties of the Commission.-In addition to the duties expressly set forth elsewhere in this law, the commission shall:

(1) Represent the public interest in the improvement of personnel administration in the state service.

(2) Advise the governor and the director on problems concerning personnel administration.

(3) Foster the interest of institutions of learning and of industrial, civic, professional and employee organizations in the improvement of personnel standards in the state service.

(4) Make any investigation which it may consider desirable concerning the administration of personnel in the state service, and make recommendations to the director with respect thereto.

(5) Make an annual report and special reports and recommendations to the governor.

(6) Approve the budget as prepared by the director for administration of this article before submission to the director of the budget.

Sec. 7. Duties of the Director.-(a) The director, as executive head of the department, shall direct and supervise all its administrative and technical activities. In addition to the duties imposed upon him elsewhere in this law, it shall be his duty:

(1) To apply and carry out this law and the rules adopted thereunder.

(2) To attend meetings of the commission and to act as its secretary and keep minutes of its proceedings.

(3) To establish and maintain a roster of all employees in the state civil service, in which there shall be set forth, as to each employee, the class title, pay or status, and other pertinent data.

(4) To appoint such employees of the department and such experts and special assistants as may be necessary to carry out effectively the provisions of this law.

(5) To foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness, including training, safety, health, counseling and welfare.

(6) To make available to the public information about vacancies in the classified service and to strive constantly to attract to the career service of this state people of the highest ability.

(7) To investigate from time to time the operation and effect of this law and of the rules made thereunder and to report his findings and recommendations to the commission and to the governor.

(8) To make an annual report regarding the work of the department, and such special reports as he may consider desirable, to the commission.

(9) To prepare the annual budget for the department of personnel and when approved by the commission, submit it to the director of the budget.

(10) To perform any other lawful acts which he may consider necessary or desirable to carry out the purposes and provisions of this law.

(b) In the event of the absence of the director or his inability from any cause to discharge the powers and duties of his office, the commission may from time to time designate in writing an employee of the department to act for him. In such case, the powers and duties of the director shall devolve upon such employee designated by the commission.

(c) The director may designate appropriate persons, including officers and employees in the state service, to assist in the preparation and rating tests. An appointing authority shall excuse any employee in his division from his regular duties for the time required for his work as an examiner. Such officers and employees shall not be entitled to extra pay for further services as examiners but shall be entitled to reimbursement for necessary traveling and other expenses.

Sec. 8. Rules.—The present merit system council rules shall be transformed into the temporary rules of the civil service commission and shall continue in effect until the director of personnel prepares and submits to the civil service commission new rules for the classified service.

Such new rules shall be filed and made effective in conformity with article two, chapter five of this code after public notice and public hearing. Amendments thereto may be made in the same manner. The new rules shall provide:

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the commission, the director shall allocate the position of every employee in the classified service to one of the classes in the plan. Any employee affected by the allocation of a position to a class shall, after filing with the director of personnel a written request for reconsideration thereof in such manner and form as the director may prescribe, be given a reasonable opportunity to be heard thereon by the director. The interested appointing authority shall be given like opportunity to be heard.

(2) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state fiscal officers, and after a public hearing held by the commission. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commission. Amendments to the pay plan may be made in the same manner. Each employee shall be paid at one of the rates set forth in the pay plan for the class of position in which he is employed. The principle

of equal pay for equal work in the several agencies of the state government shall be followed in the pay plan as established hereby.

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations need not be held until after the rules have been adopted, the service classified and a pay plan established, but shall be held not later than one year after this article takes effect. Such examinations shall be announced publicly at least fifteen days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The director may, however, in his discretion, continue to receive applications and examine candidates long enough to assure a sufficient number of eligibles to meet the needs of the service; and may add the names of successful candidates to existing eligible lists in accordance with their respective ratings.

Veterans who present proof of at least one year's honorable service to the United States in either of the World Wars or the Korean War shall be entitled to an additional five points on any examination and disabled veterans shall be entitled to an additional ten points: Provided, however, that no such additions shall be made where a veteran fails to pass the examination.

(4) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance and his score on a written examination, when such examination is practicable. In filling vacancies an effort should be made to achieve a balance between promotion from within the service and the introduction into the service of qualified new employees. An advancement in rank or grade or an increase in salary beyond the maximum fixed for the class shall constitute a promotion.

(5) For the establishment of eligible lists for appointment and promotion, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Eligibility for appointment from any such list shall continue not longer than three years. An appointing authority must make his selection from the top five names on the appropriate list of eligibles.

(6) For the rejection of candidates or eligibles who fail to comply with reasonable requirements in regard to such factors as age, physical condition, character, training

and experience, who are addicted to alcohol or narcotics, or who have attempted any deception or fraud in connection with an examination, or where in the judgment of the commission there is reasonable doubt of the loyalty of the candidate or eligible to the nation.

(7) For a period of probation not to exceed one year before appointment or promotion may be made complete.

(8) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six months, nor shall successive provisional appointments be allowed, except during the first year after the effective date of this law in order to avoid stoppage of orderly conduct of the business of the state.

(9) For keeping records of performance of all employees in the classified service, which service records may be considered in determining salary increases and decreases provided in the pay plan; as a factor in promotion tests; as a factor in determining the order of lay-offs because of lack of funds or work and in reinstatement; and as a factor in demotions, discharges and transfers.

(10) For lay-offs by reason of lack of funds or work, or abolition of a position, or material change in duties or organization, and for reemployment of employees so laid off, giving consideration in both lay-offs and reemployment to performance record and seniority in service.

(11) For discharge or reduction in rank or grade only for cause of employees in the classified service. Discharge or reduction of these employees shall take place only after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing, or upon request to appear personally and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the director.

(12) For such other rules and administrative regulations, not inconsistent with this law, as may be proper and necessary for its enforcement.

The commission and the director may include in the rules provided for in this article such provisions as are necessary to conform to regulations and standards of any federal agency governing the receipt and use of federal grants-in-aid by any state agency, anything in this article to the contrary notwithstanding. The commission and the director shall see that rules and practices meeting such standards are in effect continuously after the effective date of this article.

Sec. 9. Duty to Furnish Facilities.-All officers and employees of the state and of municipalities and political subdivisions of the state shall allow the department the reasonable use of public buildings under their control, and furnish heat, light and furniture, for any examination, hearing or investigation authorized by this law. The department shall pay to a municipality or political subdivision the reasonable cost of any such facilities furnished by it.

Sec. 10. Duties of State Officers and Employees.-All officers and employees of the state shall comply with and aid in all proper ways in carrying out the provisions of this law and the rules, regulations and orders thereunder. All officers and employees shall furnish any records or information which the director or the commission may request for any purpose of this law. The director may institute and maintain any action or proceeding at law or in equity that he considers necessary or appropriate to secure compliance with this article and the rules and orders thereunder.

Sec. 11. Status of Present Employees.-(a) Employees under the present merit system at the effective date of this article: No employee shall lose any rights gained by appointment under the present merit system now being formulated into the civil service by this article. Employees who have gained permanent status under the present system will not be subject to further examination, except when they wish to qualify for promotion, and will continue in the position they hold. Their rights as permanent employees shall be continuous. Employees holding provisional appointments under the present merit system must qualify for permanent appointments under competitive examination.

(b) Employees holding positions included under classified service by this article or placed under the same by future action shall be required to take qualifying tests prescribed by the director.

Those employees who fail to qualify shall be dismissed from their positions within thirty days after establishment of an eligible list for their respective positions. Nothing in this article shall preclude the reclassification or reallocation as provided by this law of any position.

Sec. 12. Certification of Payrolls.-(a) No state disbursing or auditing officer shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified service unless the payroll voucher or account of such pay bares the

certification of the director, or of his authorized agent, that the persons name therein have been appointed and employed in accordance with the provisions of this law and the rules, regulations and orders thereunder. The director may for proper cause withhold certification from an entire payroll or from any specific item or items thereon. The director may, however, provide that certification of payrolls may be made once every six months, and such certification shall remain in effect except in the case of any officer or employee whose status has changed after the last certification of his payroll. In the latter case no voucher for payment of salary to such employee shall be issued or payment of salary made without further certification by the director.

(b) If an appointing authority fails to comply with an order of the commission after a hearing, he shall be personally liable to the appealing employee for any salary due from the time of the final order of reinstatement by the commission.

(c) If the director wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain a proceeding in the courts to compel the director to certify such payroll voucher or account.

Sec. 13. Appeals by Employees to the Commission.-Any employee in the classified service who is dismissed or demoted after completing his probationary period of service or who is suspended for more than thirty days in any one year, may, within thirty days after such dismissal, demotion or suspension, appeal to the commission for review thereof. Upon such review, both the appealing employee and the appointing authority whose action is reviewed shall have the right to be heard publicly and to present evidentiary facts. At the hearing of such appeals, technical rules of evidence shall not apply. If the commission finds that the action complained of was taken by the appointing authority without good cause, the employee shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his suspension. When any employee is dismissed and not reinstated after such appeal, the commission in its discretion may direct that his name be placed on an appropriate reemployment list, for employment in any similar position other than the one from which he has been removed. Any final action or decision taken or made hereunder shall be subject to review by the supreme court of appeals, if appeal is made within sixty days of the action or decision complained of.

Sec. 14. Records of the State Personnel Department.-The records of the department, except such records as the rules may properly require to be held confidential for reasons of public policy, shall be public records and shall be open to public inspection, subject to reasonable regulations as to the time and manner of inspection which may be prescribed by the director.

Sec. 15. Services to Political Subdivisions.-(a) Subject to the approval of the commission the director may enter into agreements with any municipality or other political subdivision of the state to furnish services and facilities of the department to such municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the state of the reasonable cost of the services and facilities furnished, as determined by the director. All municipalities and political subdivisions of the state are hereby authorized to enter into such agreements. Subject to the approval of the commission, the director may enter into an agreement with the state department of health for the inclusion of personnel of local health departments under the civil service system established by this article.

(b) The director may cooperate with governmental agencies for other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of this law.

Sec. 16. Retirement System.-The director will submit to the governors recommendations concerning the advisability and practicability of establishing an actuarially sound retirement and pension system for persons holding positions in the service.

Sec. 17. Oaths, Testimony, and the Production of Records: Immunity from Suit.-The commission, each member of the commission and the director shall have power to administer oaths, subpoena witnesses and compel the production of books and papers pertinent to any investigation or hearing authorized by this law. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony therein shall be guilty of a misdemeanor. Immunity from civil suit is hereby granted for all relevant evidence offered at commission hearings.

Sec. 18. Refusal to Testify.—If any employee in the state service shall wilfully refuse or fail to appear before any court or judge, any legislative committee, or any officer, board or body authorized to conduct any hearing or inquiry, or having appeared shall refuse to testify or answer any question relating to the affairs or government of the state or the conduct of any state officer or employee on the ground that his testimony or answers would tend to incriminate him, or shall refuse to accept a grant of immunity from prosecution on account of any matter about which he may be asked to testify at any such hearing or inquiry, he shall forfeit his office or position and shall not be eligible thereafter for appointment to any position in the state service.

Sec. 19. Political Activities Prohibited.—(a) No person shall be appointed or promoted to, or demoted or dismissed from any position in the classified service or in any way favored or discriminated against with respect to such employment because of his political or religious opinions or affiliations or race; but nothing herein shall be construed as precluding the dismissal of any employee who may be engaged in subversive activities or found disloyal to the nation.

(b) No person shall seek or attempt to use and political endorsement in connection with any appointment in the classified service.

(c) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration.

(d) No employee in the classified service or member of the commission or the director shall, directly or indirectly, pay or promise to pay any assessment, subscription or contribution, or perform any service for any political party, or solicit or take any part in soliciting any such assessment, subscription, contribution or service. No person shall solicit any such assessment, subscription, contribution or service of any employee in the classified service.

(e) No employee in the classified service shall be a member of any national, state or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take any part in the management or affairs of any political party or in any political campaign, except to exercise his right

as a citizen privately to express his opinion and to cast his vote.

(f) Any officer or employee in the state service who violates any of the foregoing provisions of this section shall forfeit his office or position, and for one year shall be ineligible for any office or position in the state service.

Sec. 20. Unlawful Acts Prohibited.-(a) No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provisions of this law or in any manner commit or attempt to commit any fraud preventing the impartial execution of this law and the rules.

(b) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the classified service.

(c) No employee of the department, examiner, or other person shall defeat, deceive or obstruct any person in his right to examination, eligibility, certification or appointment under this law, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

Sec. 21. Penalties.-(a) Any person who wilfully violates any provision of this law or of the rules shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment in the county jail for a period not to exceed one year, or both, in the discretion of the court. Jurisdiction under this section shall be in a court of record exercising criminal jurisdiction within the county wherein the offense is committed.

(b) Any person who is convicted of a misdemeanor under this law shall, for a period of five years, be ineligible for appointment to or employment in a position in the state service, and if he is an officer or employee of the state, shall forfeit his office or position.

Sec. 22. Appropriations.-(a) Appropriations shall be made from the general fund to the state personnel department to meet the estimated pro rata share of the cost of administering the provisions of this article for departments, commissions, boards or agencies which receive their sole support from the general fund or other state funds.

(b) The director shall maintain accurate records reflecting the cost of administering the provisions of this article. At the close of each quarter year period he shall summarize the cost and shall bill each department, commission, board or agency which receives support from the federal government for a pro rata share of the administrative cost based on the relationship between the quarterly-average number of employees in the service of such department, commission, board or agency and the quarterly-average number of employees in the service of all the departments, commissions, boards and agencies for the appropriate calendar quarter.

(c) All departments, commissions, boards or agencies which receive support from the federal government shall include in their budgets sufficient amounts to meet their pro rata shares of the cost of administering this article and shall remit such shares quarterly to the state personnel department in the manner provided by law.

(d) The department is authorized and directed to accept on behalf of the state any grant or contribution, federal or otherwise, made to assist in meeting the cost of carrying out the purposes of this article.

Sec. 23. Separability.--If any provision of this law or of any rule, regulation or order thereunder of the application of such provision to any person or circumstance shall be held invalid the remainder of this law and the application of such provision of this law or of such rule, regulation or order to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.