

CIVIL SERVICE COMMISSION
Willard H. Erwin, Jr., Chairman
Bill J. Wellman



Address Communications To:
Director of Personnel
1900 Washington Street East
Room B-456
Charleston, West Virginia 25305
Phone 348-3950

STATE OF WEST VIRGINIA

CIVIL SERVICE SYSTEM

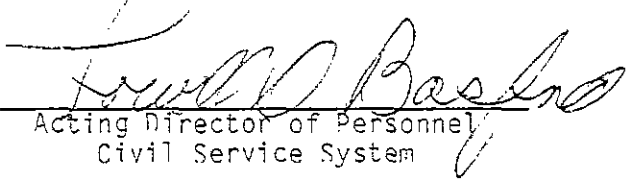
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1986 DEC 15 AM 9 04
STATE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION

LEGISLATIVE RULE: _____

West Virginia Civil Service System

The above titled rule has been modified as a result of comments by the
Legislative Rule-Making Review Committee and the attached modifications
have been incorporated into the above titled rule and filed in the
Secretary of State's office on December 12, 1986



Acting Director of Personnel
Civil Service System

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Section 3. Definitions

Veterans' Preference Points: An additional 5 points added to the final passing score of any veteran who has served in the armed forces of the United States of America during World War I (April 6, 1917, to November 11, 1918), World War II (December 7, 1941, to December 31, 1946), the Korean Conflict (June 27, 1950, to January 31, 1955), or the Vietnam Conflict (August 5, 1964, to March 28, 1973 May 7, 1975) and who has received a discharge under honorable conditions from such service. An additional 5 points are available to such veterans who also have a current and compensable service connected disability or who have received a Purple Heart award.

Section 10. Appointments

10.07. Posting of Job Openings-Whenever a job opening occurs in the classified service, the appointing authority shall post a notice within the building, facility or work area and throughout the agency that candidates will be considered to fill the job opening. The posting of the notice shall be at least ten (10) working days before making an appointment to fill the job opening. The notice shall state that a job opening has occurred, describe the duties to be performed, and the classification to be used to fill the job opening.

(a) The term job opening refers to any vacancy to be filled by promotion, lateral class change, or transfer.

(b) A vacancy is any full-time permanent unfilled budgetary position or any full-time permanent new position created by a reorganization or realignment of job functions.

(c) The posting notice shall include a description of the duties to be performed by the person selected, the minimum qualifications for the position, the job classification to be used in filling the job opening, the salary level or range that will be considered, and the job location. When appropriate, the posting notice may specify two classes in a promotional series.

An established closing date, if any, for the receipt of applications shall allow sufficient time to ensure that the job vacancy circulation has been posted throughout the agency for ten (10) working days. The naming of an individual to fill the position is the appointment and is not altered by the fact that the individual will not assume the duties until a later date. Therefore, the agency shall not make an appointment to a position prior to the deadline for receipt of applications as listed on the posting.

(d) Any employee in the classified service who believes that the posting time and notice requirements of this Section have been violated or who is denied consideration for the job opening shall have the right to initiate a grievance under Section 23 of these Rules and Regulations within five working days of becoming aware of the event or within five working days of when they should have become aware of the event.

Section 12. Promotions, Demotions, Transfers

12.06. Posting Requirements

The vacancy posting requirements described in Section 10.07 of these Rules and Regulations shall apply to all full-time classified position vacancies except demotions with prejudice and/or transfers for cause, regardless of the means used to fill such vacancy.

Section 16. Attendance and Leave

In compliance with Chapter 21, Article 5C; Chapter 2, Article 2; and Chapter 29, Article 6, Section 10, of the Code of West Virginia, as amended, the following regulations shall apply to classified employees.

16.01. Holidays Official Holidays

1. In accordance with Chapter 2, Article 2, of the West Virginia Code, as amended, official holidays are New Year's Day, Martin Luther King's Birthday, Lincoln's Birthday, Washington's Birthday, Memorial Day, West Virginia Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, any day in 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.

2. When a holiday falls on a Sunday, the following Monday shall be observed as the official holiday. When a holiday falls on a Saturday, the previous Friday shall be observed. When Christmas or New Year's Day occurs on Tuesday, Wednesday, Thursday, or Friday, the last half of the scheduled work day immediately preceding the holiday will be given as time off. It is recognized that some agencies must modify holiday schedules to accommodate around-the-clock shifts or other special needs. Each agency should notify employees in advance of altered holiday work schedules and should schedule altered holidays on days as close as possible to the normal holidays.

~~3. Public-employees-may-observe-Martin-Luther-King-Day-on-his-actual-birthday, January-fifteenth.--A-public-employer-shall-not-refuse-time-off-to-any-employee-for-such-observance;--however,--the-time-off-shall-be-charged-against-the-employee's-accrued-annual-leave-and-application-therefor-shall-be-the-same-as-application-for-annual-leave.~~

~~(b)-Religious-Holidays-~~Agencies shall make reasonable accommodation to an employee's religious holidays as required by law.

Section 16.03. Annual Leave

(f) Death of Employee-Upon the death of an employee who has not used all accrued annual leave, the unused portion shall be paid in such manner as to benefit the employee's estate. Payment shall not be limited to the maximum carry-forward amount for length of service category and may be paid in lump sum as provided in Section 16.03(g)2 of these rules.

(g) Separation From Employment-An employee who separates from employment for any reason except as described in 16.03(f) of these Rules and Regulations shall be paid for all accrued annual leave not to exceed the maximum carry-over hours for the appropriate length of service category. Annual leave does not accrue, salary adjustments shall not be given, and payment shall not be made for holidays which occur after the effective date of separation or last day worked during the notice period. Such payment shall be made according to one of the following methods:

1. An employee may elect to be paid in bi-monthly installments as if employment were continuing until the pay period during which the accrued annual leave is exhausted. If the last day for which separation leave payment is due falls before the day on which the pay period ends, separation leave payment for those days within that pay period shall be calculated using the daily rate for the month in which the last day on payroll occurs. Employees in positions allocated to job classes assigned to an hourly pay schedule or per diem pay schedule approved by the Commission shall be paid according to those standard procedures.

2. Any eligible employee as defined in §5-5-1 of the West Virginia Code as amended, who is separated from employment by resignation, layoff, dismissal, retirement, death, or termination, may be paid in lump sum, at their option, for accrued annual leave in accordance with this section and Section 16.03(f) of these Rules and Regulations. Separation leave payment for an employee who selects a lump sum payment shall be calculated using the annualized hourly rate of pay established for the class by Civil Service.

3. An employee who retires may elect not to receive payment for any or all accrued annual leave and may apply the balance towards extended insurance coverage under guidelines established by the Public Employees Insurance Board.

Section 16.04. Sick Leave

(e)--Separation From Service

1. Separation From Employment-All accumulated sick leave shall be cancelled as of the effective date of separation of employment or last day worked during the notice period. Sick leave does not accrue, salary adjustments shall not be given, and payment shall not be made for holidays which occur after the effective date of separation or last day worked during the notice period. If the employee returns to work within twelve (12) successive calendar months all lost sick leave shall be restored. However, if the employee returns to work after more than twelve (12) successive calendar months from his effective date of separation of employment, no more than thirty (30) days of lost sick leave shall be restored.

~~2. Leave of Absence/Reduction in Force-After a reduction in force or leave of absence, any unused accumulated sick leave shall be reinstated if a permanent employee is reinstated within a year from date of separation.~~

(e) Separation From Service-Sick leave does not accrue, salary adjustments shall not be given, and payment shall not be made for holidays which occur after the effective date of separation or last day worked during the notice period.

1. Retirement-Unused sick leave may be used to purchase extended insurance coverage upon retirement under guidelines established by the Public Employees Insurance Board.

2. All Other Separations-All accumulated sick leave shall be cancelled as of the effective date of separation of employment or last day worked during the notice period. If the employee returns to work within twelve (12) calendar months all lost sick leave shall be restored. However, if the employee returns to work after more than twelve (12) calendar months from the effective date of separation of employment, no more than thirty (30) days of lost sick leave shall be restored.

Section 18. Prohibition of Political Activities Political Activities

18.01. Prohibition of Political Activities

(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.

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

(b)(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 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.

(c)(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 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 solicit or receive any assessment, subscription or contribution, or perform any service for any political party, committee or candidate for compensation, other than for expenses actually incurred, or in any manner take part in soliciting any such assessment, subscription, contribution or service of any employee in the classified service.

(e) Notwithstanding any other provision of this code, no employee in the classified service shall:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) Directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

(3) Be a candidate for any national or state paid public office or court of record; or hold any paid public office; or be a candidate or delegate to any state or national political party convention, a member of any national, state or local committee of a political party, or a financial agent or treasurer within the meaning of the provisions of section three, four or five-e, article eight, chapter three of the Code of West Virginia, as amended. Other types of partisan or nonpartisan political campaigning and management not inconsistent with the provisions of this subdivision and with the provisions of subsection (d) of this section, shall be permitted.

(e) Political participation pertaining to constitutional amendments, referendums, approval of municipal ordinances or activities shall not be deemed to be prohibited by the foregoing provisions of this section.

(f) Any classified employee who becomes a candidate for any paid public office as permitted by this section shall be placed on a leave of absence without pay for the period of such candidacy, commencing upon the filing of the certificate of candidacy. If elected, such employee shall resign the position in the classified service to be effective no later than the date of assuming the elective office.

18.02. Application of the Hatch Act-Employees whose principal employment involves an activity which is financed wholly or in part by loans or grants made by the United States or a Federal agency are subject to applicable provisions of the Federal Hatch Act. These provisions shall be made known to classified employees by the appointing authority concerned and compliance adhered to.

18.03. Additional Prohibition for Highways Employees-No person may be appointed or employed in any capacity by the department who is a candidate or holds any public office or is a member of any political party committee. Employees of the Department of Highways may not be a candidate for or hold any

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Leg. Rule, 29-6
Series II, Sec. 23

public office or be a member of any political party committee. An employee of the Department of Highways who becomes a candidate for or holds any public office or becomes a member of any political party committee shall vacate his position with the department immediately on the date of the filing of candidacy or the date of assuming the public office or the political party committee membership.

Section 23. Grievance Procedure

23.05. General Provisions

(g) Paid Time-Off-An employee selected by a grievant to represent him in the processing of a grievance through this procedure shall be granted necessary time-off during his working hours to represent such other employee without loss of pay and without charge to annual or compensatory leave credits. Likewise, the grievant shall be granted time-off with no loss of pay and benefits. An employee may have the assistance of one other person in the preparation and presentation of the grievance. At the request of the grievant, such person may be present at any step of the procedure. In addition to actual time spent in grievance presentation at the first, second and third steps, the employee representative shall be granted time-off during his working hours, not to exceed four (4) hours per grievance, for the preparation of such grievance without loss of pay and without charge to annual leave or compensatory leave. Likewise, the grievant shall be granted time-off during his working hours, not to exceed four (4) hours per grievance, with no loss of pay and benefits. However, it shall be understood by all parties that the first responsibility of any State employee is the work assigned by the appointing authority to the employee. Grievance preparation and representation activities by an employee shall not seriously affect the overall productivity of the employee.

Section 24. Amendments Training

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.

24.01. Training-Each agency is responsible for providing training to employees of the agency based upon the agency's needs and resources and the employee's needs and capability. Selection of employees for training shall ensure equal opportunity and shall not discriminate on the basis of race, sex, age, religion, national origin, political affiliation, handicap or any other non-job related factors. The Director of Personnel shall make available to the agencies technical assistance in the areas of training needs assessment, locating training materials and resources, course development, training techniques, training evaluation and coordination of training between the agencies.

(a) Required Courses-The Director shall provide training courses on specific aspects of personnel administration under Civil Service law and these rules and regulations, and shall designate employees by classification, or by duties, who must attend each type of course.

(b) General Courses-The Director shall make available to the agencies training in knowledge, skills and abilities which are applicable broadly in many classifications in all agencies. Employee selection for the courses shall be consistent with established agency and Civil Service nomination procedures.

24.02. Apprenticeship Programs-The Director of Personnel, or his designee, in cooperation with participating appointing authorities within each agency shall develop and annually revise by the thirty-first day of December a list of employment classifications appropriate for apprenticeship training. Each appointing authority shall develop apprenticeship programs for approved classes that have employees working in apprenticeable trades which are, or may be recognized by, the United States Department of Labor, Bureau of Apprenticeship and Training. The apprenticeship program shall be developed and conducted in a manner that will assure meeting the national minimum requirements of quality and be registered with the United States Department of Labor, Bureau of Apprenticeship and Training.

Subject to the approval of the Director of Personnel, each participating agency shall determine the location and positions in which apprenticeships shall be established. The Chief Administrative Officer of each agency shall establish procedures for the coordination of apprenticeship programs developed in accordance with this section and shall provide to the Director of Personnel, at his request, information which shall include, but not be limited to, the number of persons who applied for apprenticeship positions, the number of persons accepted into the apprenticeship programs, the number of persons who successfully completed and received a certificate of completion from the Bureau of Apprenticeship and Training, the number of persons who failed to complete apprenticeships, the number of persons who remain employed after successfully completing apprenticeships and a summary of characteristics of applicants and participants in the program.

24.03. Apprenticeship Advisory Board-The Director of Personnel shall prepare and submit necessary reports to the Apprenticeship Advisory Board established in accordance with §29-6-17b of the West Virginia Code, as amended, regarding the achievements and deficiencies of the apprenticeship program.

Section 24. 25. 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.

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee



NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

December 11, 1986

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Lowell D. Basford
Acting Director of Personnel
1900 Washington St., East
Room B-456
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Rules and Regulations - Civil Service System

FILED
1986 DEC 12 AM 10:39
STATE

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule as originally filed or as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the state register and with the agency proposing the rule.