

PROPOSED REVISIONS

WEST VIRGINIA CIVIL SERVICE SYSTEM RULES & REGULATIONS

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
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Article I	-	Definitions
Article IV	-	Compensation Plan and Salary Regulations
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PREAMBLE

The general purpose of the Civil Service System 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, layoff, removal, discipline, classification, compensation, and welfare of its civil service employees, and other incidents of state employment. All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness. All employment positions not in the classified service, with the exception of the Board of Regents, are included in a classification plan known as classified-exempt service.

ARTICLE I - DEFINITIONS

Accrue: To increase or accumulate periodically or by increment.

Agency: Any administrative department of state government established by law or executive order.

Allocation: The original assignment of a position to a class by the Director of Personnel.

Appeal: The complaint to the Civil Service Commission to correct or reverse an alleged injustice done or error committed.

Appointing Authority: The executive or administrative head of a department who is authorized by statute to appoint employees in the classified or classified-exempt service. By written notification to the Director of Personnel, the Appointing Authority may delegate specific powers authorized by these Rules.

Appointment: The act of hiring an applicant for employment.

Assembled Examination: An examination which, due to the testing process used, necessitates that applicants come to a testing location.

Availability: The indication, by an eligible, of the employment location and conditions under which employment would be accepted.

Carry Forward Days: The maximum number of annual leave days which can be accredited for use as of the first day of January depending on an employee's years of tenure.

Certification: The official list of eligibles given to an appointing authority for filling vacancies.

Civil Service System: The agency responsible for the system of personnel administration for the classified and classified-exempt service.

Class or Class of Positions: One or more positions sufficiently similar in duties, training, and responsibilities so that the same titles, the same qualifications, and the same schedule of compensation and benefits may be equitably applied to each position.

Classification Action: The actions of allocation, reallocation, classification, and reclassification.

Classification Plan: The official lists of classes to which positions in the classified service and classified-exempt service have been allocated by the Director of Personnel.

Classified Employee: An employee whose job is allocated to a class in the classified service.

Classified-Exempt Service: Those positions which satisfy the definitions for "class" and "classify" but which are not covered under the Civil Service System or by the Board of Regents.

Classified Service: Those positions which satisfy the definitions for "class" and "classify" and which are covered under the Civil Service System.

Classify: To group all positions in classes and to allocate every position to the appropriate class in the classification plan.

Commission: The Civil Service Commission as provided for in Section 7, Article VI, Chapter 29 of the Code of West Virginia whose members are appointed by the Governor with the advice and consent of the Senate.

Compensation Plan: The official schedule of pay rates, the range assigned to each class of positions and the salary regulations used in pay administration by the Civil Service agencies.

Compensatory Time: Time off from work with pay to compensate for work on holidays or for hours worked in excess of the regular work schedule when allowed under Chapter 21, Article 5C of the Code of West Virginia, as amended.

Continuance: To postpone an appeal hearing to a future date.

Covered Agency: An agency of State government or certain specific positions within an agency either designated by law or executive order of the Governor to be a part of the classified service.

Covered Employee: A permanent employee of an agency affiliated with the Civil Service System.

Day: Unless otherwise specified, the use of "day" means a calendar day.

Decorum: Use of polite behavior when appearing before the Civil Service Commission.

Demotion: A change for cause 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, or duties, or a reduction in an employee's pay to a lower step in the pay range assigned to the classification. The two types of demotions are: a) Disciplinary Demotion - A reduction in pay or a change in classification to a lower classification due to the inability of an employee to perform the duties of a classification or for improper conduct. b) Demotion Without Prejudice - A change in classification of an employee to a lower classification or a reduction of pay due to work necessity.

Director: The Director of Personnel, as provided in Section 6 and 9, Article VI, Chapter 29, of the Code of West Virginia, who serves as the executive head of the Civil Service System.

Discovery: The initial revealing of information.

Discretionary: Open to individual choice or judgement.

Dismissal: The separation from employment of an employee by an appointing authority.

Docket: List of employees who have filed an appeal or complaint with the Civil Service Commission and who are either awaiting review of eligibility for a hearing or awaiting a scheduled hearing.

Effective Date: The established date the action takes place.

Eligible: An applicant accepted for a Civil Service System examination who receives a final passing rating and whose name is listed on the register established for the class of position.

Emergency Appointment: An appointment, for not more than thirty (30) calendar days in any twelve (12) month period, necessitated by a state of emergency.

Employee: Any person who lawfully occupies a position in an agency and who is paid a wage or salary.

Employee-Appellant: Individual who has filed an appeal with the Civil Service Commission and has been granted a hearing.

Exempt Service: All positions not included in the classified service and those positions specifically excepted from the classified service (see Appendix H). The positions specifically exempted from the classified service as noted in Section 4, Article VI, Chapter 29 of the Code of West Virginia.

Full-time Employee: One who works the full work schedule established for the agency.

Grievance: Any matter of concern or dissatisfaction to an employee which is subject to the control of the agency management except those matters exempted under Article XXIII, Section 1.2 (see 1.2 Grievance).

Handicapped: A person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has had a record of such impairment or is regarded as having such an impairment.

Hearing Board: The body which hears grievances.

Immediate Family: Consists of the father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandfather, grandmother, granddaughter, grandson, stepmother, stepfather, and stepchildren.

Incumbent: A person occupying a position in the classified service.

Intra-Agency Transfer: A transfer within a single agency.

Inter-Agency Transfer: A transfer from one agency to another.

Irregular Employment: Work hours which are not symmetrical from week to week.

Lateral Class Change: The movement of an employee from one class to another class in the same pay grade.

Layoff: A reduction in the number of employees caused by a reduced work load or curtailment of funds.

Leave: A fringe benefit earned by employees for time off from work.

Length of Service Category: The grouping of the number of years, months, and days of employment spent in a position covered by Civil Service which is used to determine the rate of accrual of annual leave benefits.

Local Facility: A sub-unit of an agency which provides services to a specified section of the State and has employees reporting to locations other than the state office headquarters.

Longevity: The length of employment; seniority.

Merit Increase: An advancement in salary granted as a reward for the quality of work performance.

Meritorious Service: Quality of work performance judged to deserve reward or honor.

Minimum Qualifications: The least experience and/or training required by the Civil Service Commission for employment in a class of position and admission to an examination.

Month: Any of the twelve parts into which the calendar year is divided.

Ninety-Day Exempt Appointment: Personnel employed for less than ninety (90) working days in a year.

Original Appointment: Initial employment of an individual into the classified service as a result of selection from a certification of names from a register.

Part-time Employee: One who works less than the full-time work schedule established for an agency.

Part-time Professional: An employee engaged in professional services without administrative duties and who works no more than half the agency's full-time work schedule.

Pass Over: Not to certify the name of an eligible to an agency upon the request of its appointing authority after the eligible has been considered but not hired in connection with three separate appointments by the same appointing authority from the register.

Pay Plan: The official schedule of salaries approved by the Governor consisting of multiple pay grades with minimum, maximum, and intervening rates of pay for each grade.

Pay Rate: One of the fixed steps or increments listed in a pay plan.

Per Diem: A daily allowance.

Permanent Employee: An employee who was hired from a register and who has completed the probationary period prescribed by the Civil Service Commission for the job class.

Personnel Officer: That employee of each agency who is immediately responsible for the personnel administration of the agency.

Physician: A person licensed under the laws of a state to practice medicine.

Policymaking Positions: A position in which the person occupying it: a) acts as an advisor to or formulates plans for the implementation of broad goals for the executive or administrative head of the agency; b) is in charge of a major administrative component of the agency; and c) reports directly and is directly accountable to the administrative or executive head of the agency.

Position: An authorized and identified group of duties and responsibilities assigned by the proper authority requiring the full-time or part-time employment of at least one person.

Postmarked: An official United States postal marking showing the mailing date.

Probationary Period: A specified trial work period prescribed by the Civil Service Commission designed to test the fitness of an employee selected from a competitive list of eligibles for the position for which an original appointment has been received.

Procedural Due Process: A course of legal proceedings carried out regularly and in accordance with established rules and principles for the protection of employees' rights.

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 and increased level of duties and/or responsibilities.

Provisional Appointment: The hiring of an employee to fill a position pending the administration of competitive examination and the establishment of a register.

Reallocation: Reassignment of a position to a different class by the Director of Personnel.

Reclassification: The reassignment of a class of positions by the Civil Service Commission to a different pay grade.

Reduction-in-Force: A layoff of employees occasioned by curtailment of funds or reduced work load.

Register: An official list of currently available eligibles for a job class ranked in the order of the final score as a result of the Civil Service examination for the class of position.

Regular Employment: Work hours which are symmetrical from week to week.

Regular Part-time Employment: Work hours which are symmetrical from week to week, but are less than the full time work schedule established for the agency.

Reinstatement: A type of re-employment of a former permanent covered employee.

Resident: Any person eligible to register for voting in West Virginia.

Resignation: Voluntary separation from employment made at the request of the employee.

Salary Adjustment: A salary change resulting from a revision to the pay plan or the reclassification of a class to a different pay grade.

Salary Advancement: A salary increase within the range prescribed for the class by the classification plan.

Salary Range: The approved monthly and annual salary for a class which includes the initial, maximum, and intervening steps.

Seniority Rights: The right to continue to hold a certain job, based on length of service.

Served, Serving or Service of Process: Presentation of documents to a person either in person or by the United States mail. Service by mail is complete at the time and date of mailing.

Service: Employment time which may be used for determining annual leave accrual and order of separation in a reduction-in-force.

Shift Differential: The payment of a different rate of pay for hours worked in an approved class during prescribed evening and night shifts.

Specification: The official description of a class of position which defines the class, provides examples of work performed, knowledges, skills, and abilities, and the minimum qualifications required for employment.

Step for Step: The movement of an employee's salary to the same or corresponding step or pay rate in a higher or lower pay grade.

Stipulation: Formal written agreement between parties.

Student Employee: An employee working for a limited period of time as qualifying under the current Student Policy approved by the Commission.

Suspension: Disciplinary action taken by an agency temporarily to relieve an employee of duties and place the employee on leave without pay.

Technical Rules of Evidence: Rules applied to civil and criminal court cases but not to administrative hearings.

Temporary Appointment: The hiring of an employee from a register for a period not to exceed 6 months.

Termination: Separation from employment by the appointing authority as a result of limited term employment.

Transfer: The change of an employee from a position in a given class to a different position in the same class in a different subdivision or geographic location of the same or a different agency.

Unassembled Examination: An examination procedure which does not require persons being examined to gather at a test site.

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) 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.

Work Schedule: Designation of the periods of time during which work is performed.

Year: Twelve (12) month period, unless otherwise specified.

CURRENT RULES

1 ARTICLE IV - COMPENSATION PLANS

2 Sec. 1. Preparation of Plans
3 The director and members of the commission, after consulta-
4 tion with appointing authorities and state fiscal officers
5 and after a public hearing, shall prepare and submit to the
6 governor for his approval a comprehensive compensation plan
7 for all classes of positions. The plan shall include salary
8 schedules for the various classes with the salary of each
9 class consistent with the functions outlined in the job
10 specifications. Initial, intervening, and maximum rates of
11 pay for each class shall be established to provide for steps
12 in salary advancements without change of duty in recognition
13 of meritorious service. In arriving at such schedules,
14 consideration will be given to classifications and salary
15 schedules already established by the Board of Public Works of
16 West Virginia for comparable positions in other State
17 Departments.

PROPOSED RULES

1 ARTICLE IV - COMPENSATION PLAN AND SALARY REGULATIONS

2 Pursuant to the provisions of Chapter 29, Article VI,
3 Section 10 (2) of the Code of West Virginia, the following
4 salary regulations shall apply to employees covered by
5 the Civil Service System.
6 Sec. 1. Purpose and Intent
7 To attract qualified employees and retain them in
8 the classified service, the Commission shall endeavor to
9 provide through the pay plan adequate compensation based
10 on the principles of equal pay for equal work among the
11 various state agencies and on comparability to pay rates
12 established in other public and private agencies and
13 businesses. The intent of the Commission is to recommend
14 to the Governor a pay plan with annual adjustments for
15 cost-of-living increases and additional funds for merit
16 increases.

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18 Sec. 2. Preparation of Plan

19 After consultation with the appointing authorities
20 and State fiscal officers and after a public hearing, the
21 Director and the Commission shall prepare and submit to
22 the Governor for his approval an annual revision of the
23 pay plan. The pay plan shall include salary schedules
24 containing multiple pay grades with initial, intervening,
25 and maximum rates of pay for each grade. Periodic amend-
26 ments to the pay plan may be made in the same manner.

CHANGES

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2 Places the salary regulations
3 into the body of the Rules. Revises
4 the current Article IV, replaces Article
5 XIII and Appendix B.
6 Places more emphasis on merit
7 increases in addition to a cost-of-
8 living increase.
9 Clarifies the difference between
10 the Pay Plan and the allocation of
11 classes to pay grades in the Pay
12 Plan.

SALARY REGULATIONS

CURRENT RULES

1 ARTICLE IV - COMPENSATION PLANS

2 Sec. 2. Adoption of Plans

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

PROPOSED RULES

1 Sec. 3. Adoption of Plan

2 The plan shall become effective only after it
3 has been approved by the Governor. The approved pay
4 plan shall constitute the official schedule of salaries
5 for the classified service.

6 Sec. 4. Implementation of Plan

7 4.1 Assignment of Classes

8 The Commission shall assign each class of positions
9 to an appropriate pay grade consistent with the duties
10 outlined in the class specification. No salary shall be
11 approved by the Director of Personnel unless it conforms
12 to one of the pay rates in the pay grade assigned to
13 the employee's class of position.

CHANGES

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2 New wording assists clarification

3 that it is the Governor who approves the
4 Pay Plan and the Commission assigns
5 classes to pay grades and forth in the

6 Pay Plan.

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SALARY REGULATIONS

CURRENT RULES

1 ARTICLE IV - COMPENSATION PLANS

2 Sec. 3. Administration of Plans

3 The approved compensation plan shall constitute the
4 official schedules of salaries for all classes of positions
5 in the classified service. No salary shall be approved by
6 the Director of Personnel unless they conform to the
7 approved compensation plan. The entrance salary for any
8 employee shall be at the minimum salary for the class to
9 which he is appointed, except certain classes of profession-
10 al employees may be initially employed at a salary above the
11 minimum for their respective classes in cases where it is
12 shown that individual possesses qualifications, training,
13 and experience above the minimum required for the class.
14 For each step above the minimum, the individual must have at
15 least six months of pertinent experience or 15 semester hours
16 of pertinent training in excess of the minimum requirements.
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18 Salary advancements shall not be automatic but shall be
19 based upon quality and length of service, and the Commission
20 shall adopt salary regulations which shall include
21 provisions for the following:
22 a. The necessary adjustment of salaries of employees at the
23 time of adoption or amendment of the compensation plan;
24 b. The procedure to be followed in adjusting employees'
25 salaries at the time of promotion, demotion, or transfer;
26 c. All salary advancements to be based upon quality and
27 length of service;
28 d. Granting salary advancements to employees only upon
29 completion of a sufficient period of time to evaluate
30 performance;

PROPOSED RULES

1 4.2 Entry Salary

2 The entry salary for any employee shall be at the
3 minimum salary for the class. However, an individual
4 possessing qualifications, pertinent training, or exper-
5 ience above the minimum required for the class, as
6 determined by the Director, may be appointed at any pay
7 rate above the minimum, unless otherwise limited by
8 the Commission. For each step above the minimum, the
9 individual must have in excess of the minimum require-
10 ments at least six months of pertinent experience or
11 equivalent pertinent training.
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2 Allows appointment above minimum
3 for any class when certain requirements
4 are met.
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SALARY REGULATIONS

CURRENT RULES

- 1 e. Limiting the number of advancements that an individual
- 2 may receive during any one year;
- 3 f. Establishing fixed intervals for consideration of
- 4 granting advancements and fixed dates on which advance-
- 5 ments will be made effective.
- 6 Such regulations shall be uniformly applicable insofar as
- 7 possible, to all employees of the classified service.
- 8
- 9 ARTICLE XIII - SALARY REGULATIONS
- 10 The Commission shall adopt salary regulations which shall
- 11 include provisions for the following:
- 12 a. The necessary adjustment of salaries of employees at
- 13 the time of adoption or amendment of the compensation
- 14 plan;
- 15 b. The procedure to be followed in adjusting employees'
- 16 salaries at the time of promotion, demotion, or
- 17 transfer;
- 18 c. All salary advancements to be based upon quality and
- 19 length of service;
- 20 d. Granting salary advancements to employees only upon
- 21 completion of a sufficient period of time to evaluate
- 22 performance;
- 23 e. The equitable distribution among all eligible
- 24 employees of funds available for salary advancements;
- 25 f. Limiting the number of advancements that an individual
- 26 may receive during any one year;
- 27 g. Establishing fixed intervals for consideration of
- 28 granting advancements and fixed dates on which advance-
- 29 ments will be made effective.
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PROPOSED RULES

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This Article is replaced.

SALARY REGULATIONS

CURRENT RULES

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

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4 APPENDIX B - SALARY REGULATIONS

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

9 Section 1. Definition of Terms

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

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

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

19 "Demotion" means a change in the status of an employee
20 from a position in one class to a position in another class,
21 of lower rank as measured by salary range, minimum quali-
22 fications, and duties, in the same agency.

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

PROPOSED RULES

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SALARY REGULATIONS

CURRENT RULES

PROPOSED RULES

CHANGES

1	Section 2, <u>Standard Rates</u>	1	4.3 Standard Rates of Pay	1
2	The compensation plan applies to all classes of	2	The compensation plan applies to all classes of	2
3	positions in the classified service. It provides standard	3	positions in the classified service. It provides standard	3
4	rates of pay for full-time employees for the regularly	4	pay rates for full-time employees for regularly established	4
5	established working hours in all offices of the department.	5	working hours in all offices and departments. The salary	5
6	Any person serving in a position on a part-time basis, that	6	or wage paid shall be determined by the pay grade to which	6
7	is, for less than the regular full-time hours per day, days	7	the classification of the position has been allocated. All	7
8	per week, or days per month, shall be paid in proportion to	8	employees, including those serving in positions on a part-	8
9	the time actually employed. The salary or wage paid shall	9	time basis, shall be paid in proportion to the actual time	9
10	be determined by the class of position and the ratio which	10	worked.	10
11	the proportion of time employed bears to the full-time	11		11
12	salary or wage.	12		12
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20	Sec. 3, <u>Additional Pay</u>	20	4.4 Additional Pay	20
21	The rates as provided represent the total remuneration	21	Except for authorized overtime or shift differential,	21
22	for full-time employment, but do not include reimbursements	22	no pay additional to the regular salary shall be made to any	22
23	for actual and necessary expenses incurred incident to	23	employee. The rates as provided do not include reimburse-	23
24	employment, as travel expense. No pay additional to the	24	ments for actual and necessary expenses incurred incident	24
25	regular salary shall be made to any employee except as	25	to employment such as travel expense. Additional duties	25
26	previously authorized by administrative or delegated	26	imposed or volunteered shall not constitute an exception to	26
27	administrative authority. Additional duties imposed or	27	this rule.	27
28	volunteered shall not constitute an exception.	28		28
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SALARY REGULATIONS

CURRENT RULES

- 1 Sec. 4. Availability of Funds
- 2 Before salary adjustments and advancements are made in
- 3 accordance with Section 5 and 6 of these regulations, the
- 4 fiscal officer of the department shall certify that funds
- 5 for this purpose are available.

PROPOSED RULES

- 1 4.5 Availability of Funds
- 2 Before a department makes salary adjustments and
- 3 advancements in accordance with these regulations, its
- 4 fiscal officer shall certify that funds for this purpose
- 5 are available.

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- 11 4.6 Salary Adjustments
- 12 1. New Plan
- 13 (a) Upon adoption of a new pay plan, each incumbent's
- 14 salary shall be adjusted to the step in the new plan corre-
- 15 sponding to his step in the old plan. If it is impossible due
- 16 to budgetary restrictions to adjust an incumbent's pay on a
- 17 step-for-step basis, each incumbent's salary shall be adjusted
- 18 in a manner which provides for as nearly equal treatment of the
- 19 incumbent's pay as possible, (i.e. one step, two steps, etc.).
- 20 (b) When the salary ranges of a new pay plan do not have
- 21 the number of steps corresponding to the old plan, each incumbent's
- 22 salary shall be adjusted to the next higher rate in the appropriate
- 23 salary range.
- 24 (c) An incumbent whose salary falls above the maximum rate
- 25 of the new range shall maintain his current salary and shall be
- 26 ineligible for salary advancements.

SALARY REGULATIONS

CURRENT RULES

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CHANGES

1. Sec. 5. Salary Adjustments			1 2. Pay on Reclassification		
2	1. In fixing the rates of pay of incumbents of		2	(a) Higher minimum	2
3	positions upon upward revision of the salary range for the		3	(1) When a class is assigned to a salary range having	3
4	a class, each incumbent's salary shall be adjusted to the step		4	a higher minimum, the salaries of those incumbents	4
5	in the new range corresponding to his step in the former		5	below the new minimum shall be adjusted to the new	5
6	range, unless otherwise provided in the adoption of a		6	minimum.	6
7	revision in the compensation plan.		7	(2) Where the salary of the incumbent coincides with a step	7
8			8	in the new range, the salary shall remain unchanged.	8
9			9	(3) Where the salary of the incumbent falls within the new	9
10			10	range and does not correspond with a step in the range,	10
11			11	the salary shall be adjusted to the next higher rate in	11
12			12	the new range.	12
13			13	(4) Where the salary of the incumbent is above the maximum	13
14			14	rate of the new range, the salary shall remain unchanged	14
15			15	and the incumbent shall be ineligible for salary increases.	15
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SALARY REGULATIONS

CURRENT RULES

1 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.

5 (a) Where the rate of pay of the employee coincides with a rate in the new range, his rate of pay shall remain unchanged.

8 (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.

13 (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.

17 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:

20 (a) Where the range 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.

PROPOSED RULES

1 (b) Lower minimum

2 (1) When a class is assigned to a salary range having a lower minimum, the salaries of those incumbents which coincide with a step in the new range shall remain unchanged.

5 (2) Where the salary of the incumbent falls within the range and does not coincide with a step in the range, the salary shall be adjusted to the next higher rate in the new range.

9 (3) Where the salary of the incumbent is above the maximum rate of the new range, the salary shall remain unchanged and the incumbent shall be ineligible for salary advancements.

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17 3. Pay on Position Reallocation

18 When a position is reallocated to a different class,

19 the salary of the incumbent shall be adjusted in accordance with salary regulations for promotion, demotion and lateral class change.

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CHANGES

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SALARY REGULATIONS

CURRENT RULES

PROPOSED RULES

CHANGES

1 (b) Where the rate of pay of an employee is a rate above 1
2 the minimum and below the maximum for the new class, 2
3 his rate of pay shall be adjusted to the next higher 3
4 rate in the range for the new class provided that, if 4
5 the reallocation of the position occurs simultaneously 5
6 with an upward revision of the salary range for his 6
7 former class, the adjustment shall be to the rate 7
8 in the range for the new class which will give him a 8
9 salary increase as nearly as possible equal to the 9
10 increase he would have received if he had remained 10
11 in his former class. 11
12 4. In fixing the rate of pay of the incumbent of a 12
13 position upon allocation of the position to a different 13
14 class, the salary range for which has a lower minimum; 14
15 (a) Where the rate of pay of an employee coincides with a 15
16 rate in the range for the new class, his rate of pay 16
17 shall remain unchanged. 17
18 (b) Where the rate of pay of an employee is below the 18
19 maximum of the range for the new class and does not 19
20 coincide with a rate in that range, his rate of pay 20
21 shall be adjusted to the next higher rate in the 21
22 range for the new class. 22
23 (c) Where the rate of pay of an employee is above the 23
24 maximum of the range for the new class, his rate of 24
25 pay shall remain unchanged and the employee shall not 25
26 be entitled to salary advancements. 26
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SALARY REGULATIONS

CURRENT RULES

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11 5. An employee who is promoted shall have his salary
12 raised to the minimum rate of pay for the new class if
13 his salary before promotion fell below such minimum rate.
14 If, however, his salary before promotion falls within the
15 range of the new class, he shall receive a full step
16 adjustment at the time of promotion, unless his salary
17 before promotion does not coincide with one of the steps
18 in the new range, in which case he shall be paid at the
19 next higher step in that range.
20 6. When a professional employee (Article 4, Section 3)
21 has qualifications in excess of the minimum required for
22 the position class to which he is being promoted, his
23 salary may be adjusted to a higher step in the range
24 provided that he has at least six months of pertinent
25 experience or 15 semester hours of pertinent training for
26 each step above the minimum.
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PROPOSED RULES

1 4. Separation From Employment
2 An employee who separates from state employment by
3 (dismissal, resignation, layoff, termination, retirement,
4 death) prior to the date a new pay plan becomes effective
5 and who is continued on the payroll beyond that date
6 for annual leave payment is not entitled to salary
7 adjustments.
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11 Sec. 5. Pay on Promotion
12 5.1 Minimum Increase
13 The salary of an employee who is promoted shall be
14 adjusted to the minimum rate of the new class. If the
15 incumbent's current pay rate is at or above the minimum
16 rate for the new class, but coincides with a step in
17 the new range, the salary shall be adjusted one step in
18 the range. Where the pay rate does not coincide with a
19 step in the new range, the salary shall be adjusted to
20 the next higher rate.
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CHANGES

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SALARY REGULATIONS

CURRENT RULES

PROPOSED RULES

CHANGES

1		1	5.2 Additional Increase	1	
2		2	The appointing authority may grant additional steps	2	
3		3	to an employee being promoted if the employee has	3	
4		4	sufficient qualifications in excess of the minimum	4	
5		5	required for the new class. The employee shall possess at	5	
6		6	least six months of pertinent experience or an equivalent	6	
7		7	amount of pertinent training for each additional step	7	
8		8	granted.	8	
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12	7. An employee who is demoted shall have his salary	12	Sec. 6. Pay on Demotion	12	
13	reduced to the maximum rate of the new class. If his	13	An employee who is demoted and whose current pay rate	13	Clarifies that a salary may be reduced
14	salary before demotion falls within the range for the lower	14	is above the maximum pay rate for the new classification shall	14	because of demotion.
15	class, but does not coincide with one of the steps in that	15	have a pay reduction to at least the maximum rate of the	15	
16	range, his salary shall be reduced at least to the next	16	new classification. The employee's salary may remain in the	16	
17	lower step in the new range.	17	same if his pay is within the pay range of the new	17	
18		18	classification, or his pay may be reduced to a lower step	18	
19		19	in the new range.	19	
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21	8. An employee who is transferred shall be paid	21	Sec. 7. Pay on Lateral Class Change	21	
22	the same salary that he received prior to transfer if	22	Any employee who receives a lateral class change	22	
23	such salary coincides with a step within the range of	23	shall be paid the same salary received prior to the change.	23	
24	the class to which he is transferred. If such salary	24		24	
25	does not coincide with a step within the range of the	25		25	
26	class to which he is transferred, his salary shall not	26		26	
27	be lowered and he shall be paid at the next higher step,	27		27	
28	if any, in the range for the class to which he is	28		28	
29	transferred.	29		29	
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SALARY REGULATIONS

CURRENT RULES

PROPOSED RULES

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SALARY REGULATIONS

CURRENT RULES

- 1 Sec. 6. Salary Advancements
- 2 1. All salary advancements shall be based upon
- 3 quality and quantity of work as reflected by service
- 4 ratings and upon other recorded measures of performance,
- 5 giving due consideration to length of service.
- 6 2. Salary advancements shall be limited to permanent
- 7 employees.
- 8 3. Salary advancements shall be equitably distributed
- 9 where possible among the employees in all classes of
- 10 positions who are eligible for salary advancements.
- 11 4. No employee shall receive a salary advancement of
- 12 more than one step in the salary range for his position at
- 13 one time, except as provided in Paragraph 6 below.
- 14 5. No employee shall be eligible for a salary
- 15 advancement who has received an increase in salary
- 16 (as a result of a regular salary advancement) at least
- 17 equivalent to one step of the new salary range during the
- 18 6-month period immediately preceding the date on which the
- 19 new salary advancement would become effective, except as
- 20 provided in Paragraph 6 below.
- 21 6. In cases of exceptionally meritorious service,
- 22 salary advancements of more than one step in the range or
- 23 at intervals less than the regularly prescribed period may
- 24 be permitted. In each such case, however, the findings of
- 25 the Appointing Authority shall be filed with and approved
- 26 by the Director of Personnel before such advancement is
- 27 made effective and such record of findings and facts shall
- 28 be made a part of the permanent record of the employee.
- 29 No employee shall receive salary advancements of more than
- 30 two steps in a year including advancements for exception-

PROPOSED RULES

- 1 Sec. 9. Salary Advancements
- 2 9.1 Upon Merit
- 3 All salary advancements shall be based on merit
- 4 as reflected by service ratings and other recorded
- 5 measures of performance.
- 6 9.2 Limited to permanent employees
- 7 Salary advancements shall be limited to permanent
- 8 employees.
- 9 9.3 When made
- 10 The initial salary advancement may be effective
- 11 when an employee completes the probationary period.
- 12 Salary advancements for other permanent employees may
- 13 be effective on or after the date on which they become
- 14 eligible.
- 15 9.4 One-step advancement
- 16 No employee shall receive a salary advancement of
- 17 more than one step in the salary range for the class,
- 18 except as provided in paragraph 9.6.
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- 21 9.5 Salary advancement interval
- 22 Except as provided in paragraph 9.6, the interval
- 23 between salary advancements shall be at least six months.
- 24 9.6 Exceptionally meritorious service
- 25 In cases of an employee's exceptionally meritorious
- 26 service, salary advancements of more than one step in the
- 27 range or at intervals of less than the regularly prescribed
- 28 period are permitted. However, no employee shall receive
- 29 salary advancements of more than two steps, including
- 30 advancements for exceptionally meritorious service, in any

CHANGES

SALARY REGULATIONS

CURRENT RULES

1 ally meritorious service.
2 7. The initial salary advancements may be made
3 effective for employees when an employee has completed
4 the probationary period. Salary advancements for other
5 permanent employees may be effective on or after the date
6 on which they are earned, if funds are available. All
7 appointing authorities shall submit to the respective
8 personnel officers on the proper forms their recommenda-
9 tions for salary advancements in the counties or divisions
10 under their jurisdiction.

PROPOSED RULES

1 twelve (12) month period.

CHANGES

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14 Sec. 10. Longevity Increases
15 10.1 Eligibility
16 An employee with seven years of total state service
17 who has attained the maximum in the range for the class
18 without a salary increase in the immediately preceding
19 twelve months shall be eligible for a longevity increase
20 as prescribed in the adoption of a new pay plan.
21 10.2 Additional Longevity Increases
22 In the same manner, an employee otherwise not
23 receiving a salary increase in each succeeding 12 month
24 period shall be eligible for a longevity increase.
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CURRENT RULES

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

2 Sec. 3. Promotion by Non-Competitive Examination
3 If it is determined by the appointing authority to fill a
4 vacancy by a non-competitive promotional examination, an
5 employee proposed for promotion shall be examined by the
6 Director in accordance with Section 2, X-1, of this
7 Article, and if found to qualify for the class will
8 be so certified by him.
9 Sec. 4. Transfer-Promotion
10 A transfer-promotion may be made in the same manner as a
11 promotion except that the approval of both appointing
12 authorities concerned is required. Annual and sick leave
13 and all seniority rights shall be transferred with the
14 employee.
15 Sec. 5. Demotions
16 A permanent employee may be demoted for inefficiency or
17 other cause to a position for which he meets the minimum
18 qualifications, but in all such cases the employee shall
19 have the same right of appeal to the Commission as
20 employees who are dismissed. A probationary employee
21 may be demoted as provided for in Article IX, Section 4,
22 but shall not have the right of appeal to the Commission.
23 Sec. 6. Transfer-Demotion
24 A transfer-demotion may be made when the employee meets the
25 minimum qualifications for the lower position and the trans-
26 action is approved by the appointing authorities concerned.
27 employee so transferred and demoted shall have the same right
28 of appeal to the Commission as employees who are dismissed.
29 Annual and sick leave and all seniority rights shall be
30 transferred with the employee.

PROPOSED RULES

1 ARTICLE X - PROMOTIONS, DEMOTIONS, AND TRANSFERS

2 Sec. 3. Promotion by Non-Competitive Examination
3 If it is determined by the appointing authority to fill a
4 vacancy by a non-competitive promotional examination, an
5 employee proposed for promotion shall be examined by the
6 Director in accordance with Section 2, of this Article,
7 and if found to qualify for the class will be so
8 certified by him.
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15 Sec. 5. Demotions
16 A permanent employee may be demoted for cause after the
17 person who is to be demoted has been presented with the
18 reasons for such reduction stated in writing, and has been
19 allowed a reasonable time to reply thereto in writing, or
20 upon request to appear personally and reply to the appointing
21 authority or his deputy. The statement of reasons and the
22 reply shall be filed as a public record with the Director
23 of Personnel. In all such cases the employee shall have the
24 same right of appeal to the Commission as employees who are
25 dismissed. A probationary employee may be demoted as provided
26 for in Article IX, Section 4, but shall not have the right of
27 appeal to the Commission.
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CHANGES

10 Sec. 4, Transfer - Promotion and Sec. 6,
11 Transfer Demotion have been deleted from
12 this article because it is redundant.
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16 Sec. 5 has been revised to make clear
17 the opportunity to reply.
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CURRENT RULES

ARTICLE XI - SEPARATIONS, TENURE AND REINSTATEMENT

Sec. 2. Dismissals

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

PROPOSED RULES

ARTICLE XI - SEPARATIONS, TENURE AND REINSTATEMENT

Sec. 2. Dismissals

1 The appointing authority, fifteen (15) calendar days after
2 notice in writing to a permanent employee stating specific
3 reasons therefor, may dismiss any employee for a good cause.
4 The employee shall be allowed a reasonable time to reply
5 thereto in writing, or upon request to appear personally
6 and reply to the appointing authority or his deputy. The
7 reasons and the reply shall be filed as a public record
8 with the Director of Personnel. Fifteen days notice shall
9 not be required for employees in certain classes when the
10 public interests are best served by withholding such notice,
11 and shall be at the discretion of the appointing authority
12 for employees in any class when the cause of dismissal is
13 gross misconduct.

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CURRENT RULES

PROPOSED RULES

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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.

1 Sec. 3. Suspension

2 The appointing authority may, upon oral notice confirmed in
3 writing or by written notice, suspend any employee without pay
4 for cause or to conduct an investigation, for less or more
5 than thirty (30) calendar days. The suspension must be for
6 a specific period of time, except where an employee is the
7 subject of an indictment or other criminal proceeding. The
8 employee may be suspended without pay for less or more than
9 thirty (30) calendar days, pending the outcome of the criminal
10 proceeding. Permanent employees shall have the right to appeal
11 to the Commission if suspended for more than thirty (30)
12 calendar days in any twelve-month period. The person being
13 suspended shall be allowed a reasonable time to reply thereto
14 in writing, or upon request, to appear personally and reply
15 to the appointing authority or Deputy. The statement of
16 reasons and the reply shall be filed as a public record with
17 the Director of Personnel.

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CURRENT RULES

1 ARTICLE XII - Appeals

2 Sec. 4. Appeal from Dismissal, Suspension, Demotion or
3 Discrimination

4 1. A permanent employee who is dismissed, suspended for more
5 than thirty (30) calendar days in any one (1) calendar
6 year or demoted shall have the right to appeal to the
7 Commission for their review not later than thirty (30)
8 days after the effective date of the dismissal,
9 suspension or demotion. Such appeal shall be in writing
10 and shall be transmitted to the Director who shall
11 schedule the appeal and arrange a formal hearing before
12 the Commission within ninety (90) days after receipt of
13 the appeal. The appeal must be postmarked on or before
14 thirty (30) days from the effective date of the action.
15 The Director shall furnish to the Personnel Officer of
16 the Agency concerned a copy of the appeal in advance of
17 the hearing. Both the employee and the Personnel Officer
18 of the agency involved shall be notified reasonably
19 in advance of the time and place of the hearing. The
20 employee and an agency official designated by the
21 Appointing Authority shall have the right to present
22 witnesses and give evidence before the Commission. At
23 the hearing of such appeals, technical rules of evidence
24 shall not apply. At any such hearing, the burden of
25 proof will be upon the Appointing Authority to establish
26 that the dismissal, demotion or suspension was not
27 arbitrary or capricious. Such burden shall remain with
28 the Appointing Authority throughout every stage of such
29 hearing.
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PROPOSED RULES

1 ARTICLE XII - Appeals

2 Sec. 1. Appeal from Dismissal, Suspension, Demotion,
3 Non-Merit Discrimination, Non-merit Personnel
4 Action

5 1.1 Right of Appeal
6 Upon the occurrence of any one of the following events,
7 a permanent employee shall have the right to appeal to the
8 Commission for relief from the action complained of:
9 (1) dismissal; (2) suspensions for more than thirty (30)
10 calendar days in any twelve (12) month period; (3) demotion;
11 (4) discrimination in any incident of employment because of
12 political or religious opinions or affiliations, race, sex,
13 age, handicap, national origin; or (5) other non-merit
14 (non-job related) based personnel action.
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6 Change from 1 calendar year to 12
7 month period - for suspensions.
8 Inclusion of (4) discrimination
9 and (5) other non-merit personnel action.
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APPEALS

CURRENT RULES

1 ARTICLE XVI - Prohibition of Discrimination and Political
2 Action
3 Sec. 1. Prohibition of Discrimination
4 1. No person shall be favored or discriminated against
5 with respect to employment in the classified service
6 because of political or religious opinions or
7 affiliations, race, national origin, or other non-
8 merit factors. This prohibition shall apply to
9 recruitment, examination, appointment, training,
10 promotion, demotion, dismissal, and any other personnel
11 action. A person who alleges such discrimination shall
12 have the right of appeal to the Commission in accord-
13 ance with the provisions of Article XII of these rules.
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CURRENT RULES

PROPOSED RULES

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1		1	1.2 Written appeal	1	
2		2	Such appeal shall be in writing and must be postmarked	2	
3		3	no later than thirty (30) calendar days after the effective	3	
4		4	date of the action. An employee must provide in the appeal	4	
5		5	request substantial factual information including a specific	5	
6		6	recitation of the alleged act or acts about which the	6	
7		7	employee-appellant is complaining. The appeal shall be	7	
8		8	transmitted to the Director who shall docket the appeal	8	
9		9	request. If the Commission decides to hold a hearing on	9	
10		10	an appeal, the Director shall set a formal hearing before	10	
11		11	the Commission within ninety (90) calendar days after	11	
12		12	receipt of the appeal. In advance of the hearing, the	12	
13		13	Director shall furnish a copy of the appeal to the	13	
14		14	appointing authority of the agency concerned.	14	
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18		18	1.3 Notice of hearing	18	
19		19	Both the employee and the appointing authority of the	19	
20		20	agency involved shall receive reasonable advance notification	20	
21		21	of the time and place of the hearing.	21	
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CURRENT RULES

PROPOSED RULES

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1		1	1.4 Discovery	1
2		2	A broad form of discovery exists to simplify conduct	2 Provides for broad form of discovery.
3		3	of the Commission hearings. Both the appointing authority	3 Allows both parties access to
4		4	and the aggrieved employee-appellant shall have the right	4 relevant evidence.
5		5	to inquire and receive answers from the other party or	5 Encourages communication
6		6	other persons concerning evidence relevant to the issues	6 between parties.
7		7	at the hearing. Both may inspect any documents or other	7 Reorganizes conduct of hearings.
8		8	evidence in the possession of the other party or other	8 Encourages both parties to think
9		9	persons concerning evidence relevant to the issues at	9 through the entire process. Allows
10		10	the hearing. Only matters which are part of the attorney	10 the Commission to be better prepared.
11		11	work product or are otherwise privileged by law are exempted	11 Should assist the Commission to
12		12	from the requirements of this section. The intent of this	12 render consistent decisions.
13		13	section is to allow discovery of facts in a manner similar to	13
14		14	the West Virginia Rules of Civil Procedure including, but	14
15		15	not limited to, use of interrogatories, depositions, requests	15
16		16	for admissions, and requests for production of documents.	16
17		17	The scope of discovery shall not be limited by the West	17
18		18	Virginia Rules of Civil Procedure.	18
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CURRENT RULES

PROPOSED RULES

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1		1	1.5 Stipulations	1	
2		2	Ten (10) calendar days prior to the Commission hearing,	2	
3		3	both the appointing authority and the employee-appellant shall	3	
4		4	submit to the Commission a signed joint stipulation setting	4	
5		5	forth the following:	5	
6		6	a. issues to be decided;	6	
7		7	b. statement of undisputed facts, including facts to	7	
8		8	which each witness will testify;	8	
9		9	c. statement of disputed facts, including facts to which	9	
10		10	each witness will testify;	10	
11		11	d. applicable laws; and,	11	
12		12	e. exhibits to be introduced, with or without objection.	12	
13		13	Failure of either party to comply with this section	13	
14		14	may result in an adverse decision by the Commission on	14	
15		15	the merits of the case. It will be discretionary with	15	
16		16	the Commission to waive the signed joint stipulation	16	
17		17	requirement. The parties may enter into any other	17	
18		18	stipulations helpful to the Commission.	18	
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CURRENT RULES

PROPOSED RULES

CHANGES

1		1	1.6 Hearing	1	
2		2	The employee and an agency official designated by	2	
3		3	the appointing authority shall have the right to present	3	
4		4	witnesses and give evidence before the Commission.	4	
5		5	Technical rules of evidence shall not apply at the	5	
6		6	hearing of such appeals. At any such hearing, the	6	
7		7	appointing authority shall initially bear the burden	7	
8		8	of going forward with evidence to establish that the	8	
9		9	dismissal, demotion, suspension, or other non-merit	9	
10		10	based personnel action was not arbitrary or capricious	10	
11		11	and was for good cause. The appointing authority also	11	
12		12	bears the burden of persuasion and such burden shall	12	
13		13	remain with the appointing authority throughout every	13	
14		14	stage of such hearing.	14	
15		15	1.7 Continuance	15	
16		16	Continuances of a hearing may be granted by the	16	Civil Service Commission wants to
17		17	Commission only for good cause shown.	17	clarify existing policy.
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CURRENT RULES

1 2. The Commission within (30) days after hearing shall
 2 report its decision in writing to the Appointing
 3 Authority. If the Commission finds that the action
 4 complained of was taken by the Appointing Authority
 5 without good cause, the employee shall be reinstated
 6 to his former position or a position of like status
 7 and pay without loss of pay for the period of his
 8 suspension, and awarded his reasonable and necessary
 9 attorney fees expended therein, such fees to be paid by
 10 the Appointing Authority. If the Commission finds that
 11 the action complained of and taken by the Appointing
 12 Authority was too severe but was with good cause,
 13 the Commission may provide for such other remedy or
 14 remedies, as may be deemed appropriate and in the best
 15 interest of the parties. The Commission shall expressly
 16 have the authority by order to provide for such remedies
 17 as it may deem to be appropriate after it has made
 18 a complete review of the circumstances of each
 19 individual case and such remedies shall include, but
 20 not limited to, the restoration of the suspension
 21 or reinstatement of an individual to his former
 22 position or a position of like status, and pay or re-
 23 employment to any other position which in the judgment
 24 of the Commission is in the best interest of the
 25 parties or any combination of such remedies. When
 26 any employee is dismissed and not reinstated after such
 27 appeal, the Commission at its discretion may direct
 28 that his name be placed on an appropriate re-employment
 29 list for employment in any similar position other than
 30 the one from which he has been removed. Any final

PROPOSED RULES

1 Sec. 2. Decision
 2 Within thirty (30) calendar days after the hearing, the
 3 Commission shall report its decision in writing to the
 4 appointing authority and the employee. If the Commission
 5 finds that the action complained of was taken by the
 6 appointing authority without good cause, the employee shall
 7 be reinstated to his or her former position or a position
 8 of like status and pay without loss of pay for the period
 9 of the dismissal, suspension, demotion, denial of procedural
 10 due process rights or other non-merit based personnel action
 11 and shall be awarded his reasonable and necessary attorney
 12 fees expended therein, such fees to be paid by the
 13 appointing authority. If the Commission finds that the
 14 action complained of and taken by the appointing authority
 15 was too severe but was with good cause, the Commission
 16 may provide for such other remedy or remedies as may be
 17 deemed appropriate and in the best interest of the parties.
 18 In all cases, the Commission shall have the
 19 express authority by order to provide for such remedies
 20 as it may deem appropriate after it has made a complete
 21 review of the circumstances of each individual case.
 22 Such remedies shall include, but not be limited to, the
 23 restoration of the suspension, or reinstatement of an
 24 individual to his former position or a position of like
 25 status and pay, or re-employment to any other position
 26 which the Commission judges to be in the best interest
 27 of the parties, or any combination of such remedies.
 28 When any employee is dismissed and not reinstated after
 29 such appeal, the Commission at its discretion may direct
 30 that the employee's name be placed on an appropriate

CHANGES

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 Conforms to the Code and West Virginia
 Court decisions.

APPEALS

CURRENT RULES

1 action or decision taken or made hereunder shall be
2 subject to review by the Supreme Court of appeals if
3 appeal is made within sixty (60) days of the action or
4 decision complained of.
5 3. In the same manner as that described under Article XII,
6 Section 4 - 1 an employee who alleges that he has been
7 discriminated against in recruitment, examination,
8 appointment, training, retention or any other personnel
9 action because of political or religious opinions or
10 affiliations or because of race, national origin or
11 other non merit factors, shall have the right to be heard
12 by the Civil Service Commission.

14 ARTICLE XII

16 Sec. 1. Appeal for Examination Rejection

16 1. Any applicant whose application for admission to an
17 entrance or promotional examination has been rejected
18 by the Director may appeal to the Commission for
19 consideration of his qualifications. The Commission
20 shall consider such appeal, if in writing, provided it
21 shall have been received by the Director not later
22 than 48 hours prior to the announced time for holding
23 the written examinations. The Commission's decision
24 with respect to any such appeal shall be final.
25 2. Any applicant whose application for admission to an
26 unassessed examination has been rejected by the
27 Director may appeal to the Commission for consideration
28 of his qualifications. The Commission shall consider
29 such appeal, if in writing, provided it shall have
30 been received by the Director not later than 10 days

PROPOSED RULES

1 re-employment list for employment in any position other
2 than the one from which he has been removed. Any final
3 action or decision taken or made hereunder shall be
4 subject to review by the Supreme Court of Appeals if
5 appeal is made within sixty (60) calendar days of the
6 action or decision complained of.
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15 Sec. 3. Appeal for Examination Rejection

16 3.1 Appeal Request

17 Any applicant whose application for examination has
18 been rejected may appeal to the Commission for reconsideration
19 of his qualifications. The Commission shall consider such
20 appeal if submitted in writing and served not later
21 than fifteen (15) calendar days following the date the
22 rejection notice was postmarked. Pending the outcome of
23 the written appeal, applicants may be admitted to an examina-
24 tion. Admission to an examination under such circumstances
25 shall not constitute assurance of a passing grade with
26 respect to the other portions of the examination process.
27 3.2 Decision
28 Within thirty (30) calendar days after a properly
29 submitted appeal is received, the Director shall report
30 the decision of the Commission in writing to the applicant.

CHANGES

17 Extends the length of time from
18 48 hrs. to 15 calendar days an applicant
19 has to appeal his examination rejection.

APPEALS

CURRENT RULES

1 following the date upon which notices of rejection were
2 released by the office of the Director.
3 3. Applicants may be admitted to an examination by the
4 Director pending a consideration of a written appeal.
5 Admission to a written examination under such
6 circumstances, however, shall not constitute the
7 assurance of a passing grade in training and experience.
8 Sec. 2. Review of Examination Ratings
9 1. Any applicant who has taken an examination may appeal
10 to the Commission for review of his rating in any part
11 of such examination to assure that uniform rating
12 procedures have been applied equally and fairly.
13 Such appeal must be filed in writing at the office of
14 the Director within 30 days after the date on which
15 notification of the results of such examination was
16 mailed to the applicant.
17 2. A rating in any part of an examination shall not be
18 changed unless compliance with the foregoing conditions
19 has been made and unless it is found by the Director and
20 the Commission that a substantial error has been made.
21 The Commission's decision with respect to a review
22 or change shall be final and shall be entered in its
23 minutes. A correction in the rating shall not affect
24 a certification or appointment which may have already
25 been made from the register.

PROPOSED RULES

1 The Commission shall determine that uniform rating or review
2 procedures have been applied. A rating in any part
3 of an examination shall not be changed unless the
4 Commission finds that an error has been made.
5 Any correction resulting from the appeal shall not
6 affect a certification or appointment which has already
7 been made from a register.

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CURRENT RULES

PROPOSED RULES

CHANGES

1		1	Sec. 4. Appeal of a Classification Action	1	
2		2	4.1 Appeal request	2	
3		3	When a classification action results in the movement	3	Sets forth in the Rules the procedure
4		4	of a position from one class to another, the affected	4	required by the Code.
5		5	employee or the appointing authority may, within fifteen	5	
6		6	(15) calendar days following the date the classification	6	
7		7	notice was postmarked, request a classification review.	7	
8		8	The request shall be in writing and shall concern only	8	
9		9	the allocation of the individual position to a class.	9	
10		10	4.2 First review	10	
11		11	The Classification Division shall review the initial	11	
12		12	request and all additional information submitted by the	12	
13		13	employee or the appointing authority within fifteen (15)	13	
14		14	calendar days from the date the classification notice was	14	
15		15	postmarked. The Classification Division shall notify the	15	
16		16	employee and appointing authority in writing of the result	16	
17		17	of the classification review.	17	
18		18	4.3 Second review	18	
19		19	If the decision resulting from the first review remains	19	
20		20	unacceptable, the employee or the appointing authority may	20	
21		21	file a written appeal to the Director of Personnel within	21	
22		22	fifteen (15) calendar days following the date the written	22	
23		23	decision was postmarked. Such appeal request shall include	23	
24		24	justification for changing the classification of the position.	24	
25		25	4.4 Decision	25	
26		26	The Director shall consider all pertinent information	26	
27		27	and issue a written final allocation decision within thirty	27	
28		28	(30) calendar days after the appeal is received.	28	
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CURRENT RULES

1 Sec. 3. Appeal for Removal from Register
2 1. An eligible whose name has been removed from a register
3 for any of the reasons specified in Article VI, Section
4 3, P - 1, may appeal to the Commission for reconsidera-
5 tion. An individual who, because of serving in the armed
6 forces of the United States, fails to respond affirma-
7 tively to an offer of appointment or certification and
8 whose name is for that reason removed from a register,
9 may upon written application to the Director be
10 reinstated upon such register. Such appeal must be
11 filed in writing at the office of the Director within
12 30 days after the date on which notification was mailed
13 to the applicant. The Director shall refer the appeal
14 with all pertinent information to the Commission. The
15 Commission, after investigation, shall make its decision
16 and the eligible shall be notified accordingly by the
17 Director.

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PROPOSED RULES

1 Sec. 5. Appeal for Removal from Register
2 5.1 Appeal request
3 Any person whose name has been removed from a register
4 allegedly for reasons specified in these Rules may appeal
5 to the Commission for reconsideration. Such appeal must be
6 filed in writing with the Director within fifteen (15)
7 calendar days after the date on which notification to the
8 applicant was postmarked. Such appeal shall state the
9 reasons why the applicant should not be removed from the
10 register.
11 5.2 Decision
12 The Commission shall review all relevant information to
13 determine if the action appealed was taken in accordance with
14 the Rules and Regulations. Within thirty (30) calendar days
15 after a properly submitted appeal is received, the Director
16 shall report the decision in writing to the applicant.

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CURRENT RULES

PROPOSED RULES

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1		1	Sec. 6. Appeal for Denial of Procedural Due Process	1	
2		2	Rights	2	
3		3	Sec. 6.1	3	
4		4	In any case within the Commission's jurisdiction	4	
5		5	under Sec. 1.1 and for any suspension, the employee	5	
6		6	appellant may raise the issue of a violation of the	6	
7		7	employee's procedural due process rights by an appointing	7	
8		8	authority within thirty (30) calendar days thereafter.	8	
9		9	If the Commission finds that an appointing authority has	9	
10		10	violated an employee's procedural due process rights, the	10	
11		11	Commission shall have the authority to provide any remedy	11	
12		12	it may deem appropriate as more fully set forth under	12	
13		13	Section 2 of this Article. This section does not preclude	13	
14		14	consideration by the Commission in an appeal upon a	14	
15		15	personnel action of any procedural due process issues.	15	
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CURRENT RULES

PROPOSED RULES

CHANGES

1		1	Sec. 6.2	1	
2		2	(a) Unless waived by the Commission and at	2	
3		3	the direction of the Director of Personnel, both the	3	
4		4	appointing authority and the employee-appellant	4	
5		5	shall submit to the Commission by stipulation,	5	
6		6	written transcript of proceedings, or other	6	
7		7	appropriate manner, a joint statement of the	7	
8		8	procedures followed by the appointing authority	8	
9		9	and the actions taken by both the appointing	9	
10		10	authority and the employee-appellant regarding	10	
11		11	the employee's assertion of denial of procedural	11	
12		12	due process rights.	12	
13		13	This joint statement is to include (1) a copy	13	
14		14	of the notice which was given to the employee of	14	
15		15	the personnel action, (2) the time period	15	
16		16	within which the employee was required to reply	16	
17		17	to the notice of personnel action, (3) either a	17	
18		18	copy of any request by the employee for an	18	
19		19	opportunity to be heard by the appointing	19	
20		20	authority or a stipulation that such a request	20	
21		21	was or was not made, (4) a transcript or summary	21	
22		22	of the hearing held regarding the personnel action,	22	
23		23	(5) the personnel action taken by the appointing	23	
24		24	authority, (6) a statement of the consideration	24	
25		25	given by the appointing authority to any reply	25	
26		26	by the employee to the notice of personnel action	26	
27		27	and any matter presented during the hearing held	27	
28		28	by the appointing authority, if any, (7) a statement	28	
29		29	of the reason for the personnel action taken by the	29	
30		30	appointing authority, and (8) a copy of the written	30	
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CURRENT RULES

PROPOSED RULES

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CURRENT RULES

PROPOSED RULES

CHANGES

1		1	Sec. 7. Decorum of Parties, Witnesses, Representatives	1
2		2	of Parties or Witnesses, and Others	2
3		3	All persons appearing before the Commission in	3
4		4	person or by or through a representative shall act	4
5		5	in a professional and ethical manner and be subject	5
6		6	to disciplinary action by the Commission for improper	6
7		7	conduct of any nature. Disciplinary action by the	7
8		8	Commission will be determined in light of the conduct	8
9		9	of the individual(s) and may include, but is not	9
10		10	limited to, dismissal of the party's action or denial	10
11		11	of the privilege of a person or his representative to	11
12		12	appear before the Commission.	12
13		13		13
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15		15	Sec. 8. Cost and Expenses	15
16		16	1. All state employees who are subpoenaed or	16
17		17	required to attend Civil Service appeal hearings,	17
18		18	whether at the request of the department or the	18
19		19	applicant, will not be charged annual leave for their	19
20		20	absence from their normal duties and shall be paid	20
21		21	reasonable expenses in accordance with State Travel	21
22		22	Regulations for attending the hearing.	22
23		23	2. In accordance with Chapter 59, Article 1,	23
24		24	Section 16 of the West Virginia Code, any witness who	24
25		25	is subpoenaed, and who is not an employee of the	25
26		26	State, will be entitled to payment of a witness fee	26
27		27	and mileage. The party who requests the subpoena to	27
28		28	be issued will be responsible for the payment.	28
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CURRENT RULES

PROPOSED RULES

CHANGES

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1	3. The Commission may order the parties to	1
2	bear costs and expenses necessitated by an appeal	2
3	in any manner it deems just based on, including but	3
4	not limited to, the merits of a particular action,	4
5	the conduct of the parties, and such other factors	5
6	as are relevant to a determination of the taxing of	6
7	costs and expenses.	7
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CURRENT RULES

PROPOSED RULES

CHANGES

1	ARTICLE XIII. Classified-Exempt Service	1
2	Sec. 1. Classification Plan for the Classified-Exempt	2
3	Service	3
4	Upon the recommendation of the Director, the Commission	4
5	shall adopt and make effective a classification plan for the	5
6	classified-exempt service. This plan shall be so developed	6
7	and maintained that all positions sufficiently similar with	7
8	respect to type, difficulty, and responsibility of work	8
9	are included in the same class and are filled by the same	9
10	means of recruitment. The plan shall be based on an analysis	10
11	of the duties and responsibilities of each position, and	11
12	each position shall be allocated by the Director of Personnel	12
13	to its proper class in the plan.	13
14	Sec. 2. Report of Duties and Responsibilities	14
15	Each appointing authority shall report to the Director	15
16	the establishment of new positions or any material changes	16
17	in the duties and responsibilities of existing positions	17
18	in the classified-exempt service. The Director may at	18
19	any time require the appointing authority to submit a	19
20	statement of the duties and responsibilities of incumbents	20
21	of any position in the classified-exempt service.	21
22	Sec. 3. Report of Employees	22
23	The appointing authority shall, on the appropriate	23
24	specified forms, report to the Director any changes in class	24
25	title, pay, and status of any employee in the classified-exempt	25
26	service.	26
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CURRENT RULES

PROPOSED RULES

CHANGES

1	Sec. 4. Certification of Names for Filling Vacancies	1	
2	If an appointing authority wishes to request names of	2	
3	applicants for consideration for employment in the classi-	3	
4	fied-exempt service, he shall make the request on appropriate	4	
5	forms specified by the Director. To reduce the impact on	5	
6	hiring in classified service, the Director may send names	6	
7	irrespective of order of scores and may delay filling	7	
8	such request until certifications for the classified	8	
9	service are complete. In no event shall a classified	9	
10	service vacancy be filled from a certification prepared	10	
11	for a classified-exempt service vacancy.	11	
12	Sec. 5. Appeals	12	
13	Any employee affected by the allocation of a position	13	Provides an appeal procedure for
14	to a class may file with the Director a written request	14	disagreement over allocation to a
15	for reconsideration and shall be given a reasonable	15	class. Procedure is to be same as for
16	opportunity to be heard by the Director. The interested	16	the classified service.
17	appointing authority shall be given like opportunity to be	17	
18	heard.	18	
19	The appeal of a classification action shall follow the	19	
20	procedure established in Article XII, Section 4, of these	20	
21	Rules.	21	
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CURRENT RULES

1 APPENDIX A

2 ATTENDANCE AND LEAVE REGULATIONS

3 In compliance with Chapter 21, Article 10, Chapter 2,
4 Article 2, and Chapter 29, Article VI, Section 8, of the Code
5 of West Virginia, the following regulations shall apply
6 to state employees.

7 Sec. 1. Holidays

8 Official holidays are New Year's Day, Lincoln's Birthday,
9 Washington's Birthday, Good Friday, Memorial Day, West
10 Virginia Day, Independence Day, Labor Day, Columbus Day,
11 Veterans' Day, Thanksgiving Day, Christmas Day, and
12 any day in which an election (Primary or General) is held
13 throughout the state and such other days as the President,
14 Governor, or other duly constituted authority shall proclaim
15 to be legal holidays. If a holiday falls on a Sunday, the
16 following Monday shall be observed in lieu thereof. If a
17 holiday falls on a Saturday, the previous Friday shall be
18 observed in lieu thereof. If Christmas or New Year's Day
19 occurs on Tuesday, Wednesday, Thursday, or Friday, the last
20 four hours of work on the last scheduled work day will be
21 given as time off. If an official holiday falls on a day
22 other than Saturday or Sunday and this is an employee's
23 regularly scheduled day off, the employee's next scheduled
24 work day, following the holiday, will be observed in lieu
25 thereof. Employees may be required to work on official
26 holidays only when such work is deemed to be necessary to
27 the public interest by the Agency Head. Overtime compensation
28 in some form will be made for holidays worked.

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PROPOSED RULES

1 ARTICLE XIV. Attendance and Leave

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

6 Sec. 1. Holidays

7 1.1 Official Holidays

8 In accordance with Chapter 2, Article 2, of the West
9 Virginia Code, as amended, official holidays are New Year's
10 Day, Lincoln's Birthday, Washington's Birthday, Memorial Day,
11 West Virginia Day, Independence Day, Labor Day, Columbus Day,
12 Veterans' Day, Thanksgiving Day, Christmas Day, any day
13 in which an election (Primary or General) is held throughout
14 the State, and such other days as the President, Governor or
15 other duly constituted authority shall proclaim to be legal
16 holidays.

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

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CHANGES

1 Places Attendance and Leave

2 Regulations in the body of the Rules.
3 Replaces Appendix A and Article XIV.
4 Because observance of Good Friday
5 is not required by law, it has been
6 deleted. Title VII of the Civil Rights
7 Act of 1964, as amended, Section 701(j)
8 suggests that employers make reasonable
9 accommodations to meet the religious
10 practices of their employees.

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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	Public employees may observe Martin Luther King Day	1	Permits observance of Martin
2	on his actual birthday, January fifteenth. A public	2	Luther King's birthday in accordance
3	employer shall not refuse time off to any employee	3	with 1980 legislation chargeable to
4	for such observance; however, the time off shall be	4	annual leave.
5	charged against the employee's accrued annual leave and	5	
6	application therefor shall be the same as application for	6	
7	7 annual leave.	7	
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11	11 1,2 Religious Holidays	11	
12	12 Agencies shall make reasonable accommodation to an	12	Allows observance of religious
13	employee's religious holidays as required by law.	13	holidays chargeable to annual leave.
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ATTENDANCE AND LEAVE

CURRENT RULES

1 Sec. 2. Hours of Work

2 Except as specified by the Agency Head employees shall

3 work forty (40) hours a week. The work week will extend

4 from 12:01 a.m. on Saturday through 12:00 midnight on Friday.

5 All Agency Heads shall file work schedules with the

6 Director of Personnel.

7 Sec. 3. Annual Leave or Vacations

8 1. Except as otherwise noted in this section each

9 employee shall be entitled to annual leave with full pay

10 computed as follows:

11

12 Category	13 Period of Service	14 Rate	15 Annual Leave Accrual
16 13 15 days	17 Less than 5 years	18 .05769 hours leave	19
20 14 1 1/4 yrs/mo	21	22 per hour paid (not to	23 14
24 15	25	26 exceed 40 hours paid	27 15
28 16	29	30 per week)	16
17 18 days	19 5 but less than 10	20 .06923 hours leave	21 17
22 18 1 1/2 yrs/mo	23 years	24 per hour paid (not to	25 18
26 19	27	28 exceed 40 hours paid	29 19
30 20	21	22 per week)	20
21 21 days	22 10 but less than 15	23 .08077 hours leave	24 21
25 22 1 3/4 yrs/mo	26 years	27 per hour paid (not to	28 22
29 23	30	21 exceed 40 hours paid	23 23
24 24	25	22 per week)	24 24
25 24 days	26 15 years or more	27 .09231 hours leave	28 25
29 26 2 dys/mo	30	26 per hour paid (not to	29 26
30 27	27	27 exceed 40 hours paid	30 27
28 28	28	28 per week)	28 28
29 29	29		29 29
30 30	30		30 30

PROPOSED RULES

1 Sec. 2 Agency Work Schedules

2 Each appointing authority shall establish the

3 work schedule for the employees of his agency. The

4 work schedule shall specify the number of hours of

5 actual attendance on duty for full-time employees

6 during a workweek, the day and time that the workweek

7 begins and ends, and the time that each work shift

8 begins and ends. Such work schedules and changes

9 thereto must be submitted to the Director within

10 fifteen (15) calendar days after employees commence

11 work under the schedule.

CHANGES

ATTENDANCE AND LEAVE

CURRENT RULES

1	no more than 240 working hours (30 work days) of	1
2	accumulated annual leave may be carried forward from one	2
3	calendar year to another. If an employee's services are	3
4	terminated for any reason other than death, he cannot be paid	4
5	for more than 240 working hours of accumulated annual leave.	5
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PROPOSED RULES

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CHANGES

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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	1	Sec. 3. Annual leave	1	1	
2	2	3.1 Amount, Accrual	2	2	
3	3	Except as otherwise noted in these rules, each employee	3	3	Expands number of days of accrued
4	4	shall be entitled to annual leave with pay and benefits. The	4	4	annual leave that may be carried forward
5	5	table below lists rates of accrual according to the employee's	5	5	from one calendar year to another for
6	6	length of service category and the number of hours of annual	6	6	ten years or more of service.
7	7	leave that may be carried forward from one calendar year to another.	7	7	
8	8	Annual leave cannot be accrued for hours worked beyond the normal	8	8	
9	9	work week.	9	9	
10	10	length of Service Accrual Carry-forward	10	10	
11	11	Category Rate Hours	11	11	
12	12	less than 5 years .0569 hour per hour paid 240 hours	12	12	
13	13	of regular	13	13	
14	14	employment	14	14	
15	15	5 years but less .06923 hour per hour paid 240 hours	15	15	
16	16	than 10 years of	16	16	
17	17	regular employment	17	17	
18	18	10 years but less .08077 hour per hour paid 280 hours	18	18	
19	19	than 15 years of	19	19	
20	20	regular employment	20	20	
21	21	15 years or more .09231 hour per hour paid 320 hours	21	21	
22	22		22	22	
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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	Accumulated annual leave shall be granted by the	1	3.2 Service to Qualify	1	
2	Appointing Authority or upon the authority delegated by him	2	(a) Qualifying service for length of service category	2	
3	at such time or times as will not materially affect the	3	(Section 3.1) is based on State employment in an	3	
4	efficient operations of the agency. Service to qualify must	4	agency covered by Civil Service.	4	
5	be employment within the State of West Virginia.	5	(b) Credit may also be given for other State employment not	5	
6		6	in a covered Civil Service agency if requested in	6	
7		7	writing by the appointing authority of the covered	7	
8		8	agency and the executive or administrative head who is	8	
9		9	lawfully delegated authority in the non-civil	9	
10		10	Service agency and approved by the Director of Personnel.	10	
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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

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

1 3.3 Requesting, Granting

2 Accrued annual leave shall be granted at such

3 times as will not materially affect the agency's

4 efficient operation. The employee shall request

5 annual leave in advance of taking such leave except

6 as noted elsewhere in this Article. Annual leave

7 may not be granted in advance of the employee's accrual

8 of such leave. Agencies are encouraged to grant

9 annual leave when hazardous conditions make going

10 to and from work difficult.

8 Encourages the use of annual

9 leave for hazardous conditions.

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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1		1	3.4 Coverage	1
2		2	2 (a) Annual leave shall not be accorded temporary,	2
3		3	30-day emergency, part-time, 90-day exempt, or irregular	3
4		4	part-time employees.	4
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ATTENDANCE AND LEAVE

CURRENT RULES

1 7. Annual leave shall be accorded provisional,
2 temporary (appointed from register), and intermittent class
3 employees provided such leave is taken before the expiration
4 of the period of appointment. This leave shall be computed
5 on an hourly basis according to the proper tenure category.

PROPOSED RULES

1 (b) Annual leave shall be accorded provisional, intermittent,
2 and temporary (appointed from the register) employees.
3 Such leave must be taken prior to the expiration of the
4 period of appointment, unless immediately followed by
5 an appointment from the register or be forfeited.

CHANGES

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ATTENDANCE AND LEAVE

CURRENT RULES

- 1 3. Annual leave accorded regular part-time employees
- 2 shall be computed on an hourly basis according to the proper
- 3 tenure category.

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- 6 4. The minimum charge against annual leave shall be one
- 7 (1) hour.

- 8 5. Annual leave may be granted to an employee because
- 9 of illness provided all earned sick leave and compensatory
- 10 time has been exhausted.

PROPOSED RULES

- 1 (c) Annual leave accorded regular part-time employees
- 2 shall be computed in proportion to hours worked based
- 3 on the proper length of service category.

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- 5
- 6 3.5 Minimum Charge

- 7 The minimum charge against annual leave may be one half
- 8 (1/2) hour. Additional leave may be in multiples of a half
- 9 hour.
- 10

CHANGES

- 1 Part-time employees will receive the
- 2 same length of service credit as all
- 3 employees.

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- 7 Reduces minimum charge of annual

- 8 leave from 1 hour to 1/2 hour to accommodate
- 9 those departments whose employees work
- 10 37 1/2 hours and who earn leave on 37 1/2

ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	3.6 Use of Annual Leave for Illness	1
2	(a) Employee	2
3	An employee may request that accrued annual leave be	3
4	granted for his illness provided the employee has exhausted	4
5	all earned sick leave and compensatory time except as	5
6	provided below.	6
7	(b) Immediate Family	7
8	For illness or routine dental or medical appointments	8
9	in an employee's immediate family, the employee can use the	9
10	sick leave allowance as provided for under Sec. 4.6(f) of	10
11	up to 24 hours of accrued sick leave per year on no more than	11
12	12 days per year, or the employee may request that accrued	12
13	annual leave be granted for such illness or appointment.	13
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ATTENDANCE AND LEAVE

CURRENT RULES

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

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10 8. An employee who has resigned, been laid off, or

11 dismissed shall be paid in lump sum for all annual leave not
12 to exceed 240 working hours (30 work days) that has accrued
13 to his credit as of his last working day with the agency.

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PROPOSED RULES

1 3.7 Death of Employee
2 Upon the death of an employee who has not used all
3 accrued annual leave, the unused portion shall be paid
4 in such manner as to benefit the employee's estate.

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10 3.8 Separation from Employment

11 An employee who separates from employment for any
12 reason shall be paid for all accrued annual leave not to
13 exceed the maximum carry-over hours for the appropriate
14 length of service category. Annual leave does not accrue,
15 salary adjustments shall not be given, and payment shall
16 not be made for holidays which occur after the effective
17 date of separation, or last day worked during the notice
18 period.

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CHANGES

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11 Restricts actual of annual
12 leave after effective date of
13 separation and restricts payment of
14 holidays after effective date of
15 separation.
16 Removes reference to lump
17 sum payment.

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ATTENDANCE AND LEAVE

CURRENT RULES

1 9. An employee who transfers from one agency to another
2 shall transfer all annual leave.

PROPOSED RULES

1 3.9 Transfer of Annual Leave

2 (a) When a covered employee transfers from one agency to
3 another, all seniority rights and accrued annual leave
4 shall be transferred. The previous employer must
5 provide written documentation of the employee's annual
6 leave balance to the other agency within thirty (30)
7 calendar days after the employee commences work.

8 (b) At the discretion of the appointing authority, annual
9 leave accrued while in employment as defined in
10 Section 3.2(b) may be transferable to covered agency
11 employment.

CHANGES

1 Requires verification within 30 days.

17 Sec. 13. Leave Transfers

18 In the case of interagency transfers, all annual leave,
19 sick leave and all seniority rights shall be transferred with
20 the employee.

ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	(f) Serious illness in the immediate family (as defined	1	3.10 When Sick Leave Exhausted	1	
2	2 in Section 4, Paragraph 8b) requiring the presence of the	2	For illness of an employee, when the employee's	2	Removed from sick leave and allows
3	3 employee. If more than three days is required, a physician's	3	sick leave and compensatory time are exhausted, or for	3	use of all accrued annual leave. Requires
4	4 statement indicating the necessity of the employee's presence	4	illness in an employee's immediate family when the	4	verification beyond 3 days.
5	5 must be filed in accordance with Section 4, Paragraph 9 below.	5	sick leave allowance of 24 hours per year on no more	5	
6		6	than 12 days per year is exhausted, an employee who requests	6	
7		7	utilization of annual leave under this Section must be	7	
8		8	granted any or all accumulated annual leave, provided the	8	
9		9	employee's illness or the reasons necessitating the presence	9	
10		10	of the employee with his or her family are verified by a	10	
11		11	physician's statement in cases in which the leave extends	11	
12		12	beyond three working days. The immediate family shall	12	
13		13	be understood to include only the employee's father,	13	
14		14	mother, son, daughter, brother, sister, husband, wife,	14	
15		15	mother-in-law, father-in-law, son-in-law, daughter-in-law,	15	
16		16	grandfather, grandmother, grandchildren, stepmother,	16	
17		17	stepfather, and stepchildren.	17	
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19	19 Sec. 4, Sick Leave	19	Sec. 4, Sick Leave	19	
20	20 1. Except as otherwise provided in this section, each	20	4.1. Accrual	20	
21	21 employee shall be entitled to and shall receive sick leave	21	Except as otherwise provided in this section, each	21	
22	22 when and if needed, with full pay computed on the basis of	22	employee shall receive accrued sick leave with pay and	22	
23	23 0.06923 hours leave per hour paid (not to exceed 40 hrs.	23	benefits. Sick leave is computed on the basis of .06923	23	
24	24 paid/week). This equates to eighteen (18) work days per	24	hour leave per hour paid not to exceed the normal work	24	
25	25 year or 1 1/2 days per month. There shall be unlimited	25	week. There shall be unlimited accumulation of sick	25	
26	26 accumulation of sick leave.	26	leave.	26	
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ATTENDANCE AND LEAVEL

CURRENT RULES

1 2. Sick leave, with pay, shall not be accorded to
2 employees paid on a temporary, or per diem basis, or to
3 irregular part-time employees.
4 3. Sick leave with pay shall be allowed provisional),
5 temporary (appointed from the register) and intermittent
6 class employees on the basis of 0.06923 hours leave per hour
7 paid - 1 1/2 days/mo - not to exceed 40 hrs. paid/week. Such
8 leave if taken must be used prior to the expiration of the
9 period of appointment.

10 4. Sick leave accorded regular part-time employees shall
11 be computed on the basis of 0.06923 leave hours per hour paid
12 (not to exceed 40 hrs. paid/week) or 1 1/2 days/month.

PROPOSED RULES

1 4.2 Coverage
2 (a) Sick leave shall not be accorded temporary,
3 30-day emergency, 90-day exempt, per diem,
4 or irregular part-time employees.
5 (b) Provisional, temporary (appointed from the
6 register), and intermittent employees shall
7 accrue sick leave. Such leave expires at
8 the termination of the period of employment
9 unless immediately followed by an appointment
10 from the register.
11 (c) Regular part-time, probationary, and permanent
12 employees shall accrue sick leave with pay and
13 benefits on the basis of .06923 hour leave per
14 hour paid (not to exceed forty (40) hours paid
15 per week).

CHANGES

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13 For example, those working twenty (20)
14 hours per week shall accrue one and a half
15 days every two months.

ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	5. The minimum charge against sick leave will be one	1	4.3 Minimum Charge	1
2	(1) hour.	2	The minimum charge against sick leave may be one	2
3		3	half (1/2) hour. Additional leave may be charged in	3
4		4	multiples of a half (1/2) hour.	4
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16		16		16
17	11. The maximum charge against sick leave will be	17	4.4 Maximum Charge	17
18	260 work days per confinement, at which time disability	18	The maximum charge against sick leave will be one	18
19	retirement should be considered. Additional sick leave may	19	work year per substantially continuous absence after	19
20	be granted at the discretion of the Agency Head.	20	which time the employee should consider disability	20
21		21	retirement. The appointing authority may at his	21
22		22	discretion grant additional accrued sick leave.	22
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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	6. When the services of an employee have been terminated,	1 4.5 Separation From Service	1
2	all sick leave credited to him shall be cancelled as of his	2 (a) Separation from employment	2
3	last working day with the agency. If, however, the employee	3 All accumulated sick leave shall be cancelled as of the	3
4	returns to work within one (1) year, all sick leave lost shall	4 effective date of separation of employment or last day worked	4
5	be recaptured. If the employee returns after one (1) year,	5 during the notice period. Sick leave does not accrue, salary	5
6	sick leave lost up to a maximum of thirty (30) days shall be	6 adjustments shall not be given, and payment shall not be made	6
7	recaptured.	7 for holidays which occur after the effective date of separation	7
8	7. After a reduction in force, or leave of absence,	8 or last day worked during the notice period. If the employee	8
9	any unused accumulated sick leave may be reinstated if a	9 returns to work within twelve (12) successive calendar months	9
10	permanent employee is reinstated to the agency within a period	10 all lost sick leave shall be restored. However, if the employee	10
11	of one year from date of separation.	11 returns to work after more than twelve (12) successive calendar	11
12		12 months from his effective date of separation of employment, no	12
13		13 more than thirty (30) days of lost sick leave shall be restored.	13
14		14 (b) Leave of Absence/Reduction in Force	14
15		15 After a reduction in force or leave of absence, any unused	15
16		16 accumulated sick leave may be reinstated if a permanent employee	16
17		17 is reinstated within a period of twelve (12) successive calendar	17
18		18 months from date of separation.	18
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Restricts accrual and use of sick leave beyond effective date of separation.

ATTENDANCE AND LEAVE

CURRENT RULES

- 1 8. Sick leave shall be granted to employees for the
- 2 following reasons:
- 3 (a) Illness on the part of or injury to the employee,
- 4 incapacitating him for duty.

PROPOSED RULES

- 1 4.6 Granting
- 2 Accrued sick leave shall be granted to employees for
- 3 the following reasons:
- 4 (a) Illness
- 5 Sick leave may be granted in the event of an illness
- 6 of, or injury to, an employee which incapacitates him from
- 7 performance of his duties. An employee who elects not
- 8 to utilize sick leave under this section must apply
- 9 for a medical leave of absence without pay under Section
- 10 8.2.

CHANGES

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- 2 Allows an employee to apply for a
- 3 medical leave of absence without
- 4 exhausting sick leave.
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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1 (b) Death in the immediate family of the employee.
2 This provision shall be understood to include 3 days;
3 and the immediate family shall be understood to include
4 only the father, mother, son, daughter, brother, sister,
5 husband or wife, mother-in-law, father-in-law, son-in-law,
6 daughter-in-law, grandmother, grandfather, granddaughter,
7 grandson, stepmother, stepfather, and stepchildren.
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12 (c) Exposure to a contagious disease and determination
13 by his physician that the presence on duty of the employee
14 may jeopardize the health of others.
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1 (b) Death in the immediate family of the employee.
2 This provision shall be understood to include 3 days;
3 and the immediate family shall be understood to include
4 only the father, mother, son, daughter, brother, sister,
5 husband or wife, mother-in-law, father-in-law, son-in-law,
6 daughter-in-law, grandmother, grandfather, granddaughter,
7 grandson, stepmother, stepfather, and stepchildren.
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12 (c) Exposure to Contagious Disease
13 Exposure to a contagious disease when a physician
14 determines and states in writing that the employee's
15 presence on duty may jeopardize the health of others.
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ATTENDANCE AND LEAVE

CURRENT RULES

1 (d) An incapacity due to pregnancy shall be charged to
2 sick leave under the same conditions applying to any illness.
3 A pregnant employee may continue to work prior to delivery
4 as long as her doctor determines her physically able to
5 perform the duties of the position. A doctor's statement
6 shall be furnished showing expected date of delivery at least
7 six weeks in advance of that date. Doctor's statement must
8 indicate approval of the continuance of employment with a
9 recommended date for commencement of such leave. For
10 continuance of leave past 60 working days, the employee must
11 furnish a doctor's statement verifying the reason thereof.
12 Employee shall be returned to duty upon presentation of a
13 written release by her doctor. All such days as determined
14 by the attending physician that the employee be absent from
15 work for this temporary disability shall be chargeable as sick

PROPOSED RULES

1 (d) Pregnancy
2 An incapacity due to pregnancy shall be charged to sick
3 leave under the same conditions applying to any illness.

CHANGES

1
2 Requires pregnancy to be treated like
3 any other illness or injury in compliance
4 with Pregnancy Disability Act Public Law
5 96-606, 92 Stat. 2676 (1978).

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ATTENDANCE AND LEAVE

CURRENT RULES

1 (e) Routine dental and medical appointments for
2 treatment or examination may be charged to sick leave.

PROPOSED RULES

1 (e) Routine Medical Appointments - Employee
2 Routine dental and medical appointments for treatment or
3 examination of employees may be charged to sick leave.
4 (f) Routine Medical Appointments - Immediate Family
5 Absence for illness or routine dental or medical
6 appointments in an employee's immediate family may be
7 charged to accrued sick leave, not to exceed 24 hours
8 per year to be used on not more than 12 days per calendar
9 year.

CHANGES

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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	9. Immediately upon return to work, an employee shall	1	4.7 Physician's Statement	1	
2	furnish a statement from the attending physician for all	2	Immediately upon return to work, an employee shall	2	Requires doctor's verification at the
3	consecutive days of sick leave granted beyond three working	3	furnish a written statement from the attending physician	3	end of each 30 calendar days.
4	days, except that this requirement shall not apply to	4	for all consecutive days of sick leave granted beyond three	4	
5	Paragraph 8(b) in this section. This statement shall include	5	working days. The physician's statement shall include dates	5	
6	dates of treatment and also state that the employee was	6	of treatment and state that the employee was unable to	6	
7	unable to work. In the absence of the required physician's	7	perform his job. In the absence of the physician's statement,	7	
8	statement, annual leave shall be charged for the entire	8	annual leave shall be charged for the entire period. For	8	
9	period.	9	extended periods of sick leave, a physician's statement	9	
10		10	confirming the necessity for continued leave must be submitted	10	
11		11	every thirty (30) calendar days. The necessity for absence	11	
12		12	because of exposure to contagious disease must be verified	12	
13		13	regardless of the length of absence.	13	
14		14	The Director shall prescribe a physician's statement	14	
15		15	form to be supplied by all agencies to its employees. Use	15	
16		16	of this form is discretionary with the agency.	16	
17		17		17	
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20	10. An employee who transfers from one agency to	20	4.8 Transfer of Sick Leave	20	
21	another shall transfer all unused sick leave accrued.	21	(a) When a covered employee transfers from one agency	21	
22		22	to another, all seniority rights and accrued sick leave	22	
23		23	shall be transferred. The previous employer must provide	23	
24		24	written documentation of the sick leave balance to the	24	
25		25	other agency within thirty (30) calendar days after the	25	
26		26	employee commences work.	26	
27		27	(b) At the discretion of the appointing authority,	27	
28		28	sick leave accrued while in employment as defined in	28	
29		29	Section 3.2(b) may be transferable to covered agency	29	
30		30	employment.	30	

ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	1	4.9 Illness while on Annual Leave	1	
2	2	An employee who becomes ill and who is admitted to a hospital	2	Requires verification within 30 days.
3	3	or has medical services performed in an emergency room while on	3	Authorizes changing of annual leave
4	4	previously approved annual leave may request that all or part of	4	to sick leave.
5	5	the time spent in a hospital or emergency room be charged to	5	
6	6	sick leave. The employee must request such action immediately	6	
7	7	upon return to work and must provide a physician's statement or	7	
8	8	hospital statement listing the specific dates of hospitalization	8	
9	9	or emergency room services. Sick leave will be charged only	9	
10	10	for the period of time the employee is hospitalized or in the	10	
11	11	emergency room. The remainder of the time must be charged to	11	
12	12	annual leave.	12	
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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	10. If attendance at a funeral for a member of the	1
2	immediate family (Section 4, Paragraph 8b) requires more	2
3	than three (3) work days of sick leave, a maximum of	3
4	up to five (5) additional work days of annual leave must	4
5	be granted. If more than five (5) days of annual leave	5
6	is required, its granting will be at the discretion of the	6
7	Agency Head.	7
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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1		1	Sec. 5. Suspected Leave Abuse	1	
2		2	When an employee appears to have a pattern of	2	Permits agency to require verification
3		3	leave abuse, the appointing authority may request	3	of illness for less than 3 days or veri-
4		4	appropriate substantiation of the employee's claim for	4	fication that personal leave is being
5		5	leave, for example, verification of illness of less than	5	used properly.
6		6	three days.	6	
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ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1		1	Sec. 6. Unauthorized leave	1	
2		2	When an employee is absent from work without	2	Requires written notification be
3		3	authorization for sick or annual leave, the appointing	3	given to the employee when the employee's
4		4	authority may dock the employee's pay for an equal amount of	4	pay is docked due to unauthorized leave.
5		5	time paid during which no work was performed. The appointing	5	
6		6	authority must notify the employee in writing that such action	6	
7		7	is being taken. Unauthorized leave shall be used only when	7	
8		8	the employee fails to notify the appointing authority.	8	
9		9	According to agency policy, if the reason for absence. Such	9	
10		10	action must be transmitted to the director of personnel.	10	
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RENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	Sec. 5. Overtime Work and Holiday Work	1	Sec. 7. Overtime Work and Holiday Work	1	
2	An authorized agency supervisor or administrator may	2	An appointing authority or his designated repre-	2	Clarifies over-time to be in accordance
3	require an employee to work in excess of the prescribed	3	sentative may require an employee to work in excess of	3	with state labor laws.
4	working hours or on holidays when such work is deemed	4	the prescribed working hours or on holidays when such work	4	
5	necessary. Compensation for overtime work shall be made in	5	is deemed necessary to the public interest. Compensation	5	
6	accordance with Federal and State Labor Laws. Such compensa-	6	for holidays worked will be either pay at the employee's	6	
7	tion shall be in the form of: compensatory time on	7	regular rate or an equivalent amount of compensatory time	7	
8	hour-for-hour basis; and/or straight time payment at the	8	off to be taken at such times as will not materially	8	
9	regular hourly rate; and/or payment at the rate of one and	9	affect the agency's efficient operation. The employee	9	
0	one-half times the regular hourly rate. Compensatory time	10	must request such time off in advance of taking such leave	10	
1	cannot accumulate in excess of 40 hours during any calendar	11	except as noted elsewhere in this Article. Compensation	11	
2	year without the approval of the Agency Head. An employee	12	for overtime work shall be made in accordance with the	12	
3	who resigns or has been terminated shall be paid for all	13	Minimum Wage and Maximum Hour Standards Employee Law,	13	
4	accumulated and not used.	14	Chapter 21, Article 5C, West Virginia Code, as amended,	14	
5		15	and the West Virginia Department of Labor Administrative	15	
6		16	Regulations. Section 8 of this Article shall not be	16	
7		17	construed to modify the above cited law and regulations.	17	
8		18	Compensatory time cannot accumulate in excess of 40 hours	18	
9		19	during any calendar year without approval of the appointing	19	
0		20	authority. An employee who separates from service shall be	20	
1		21	paid for all unused accrued compensatory time.	21	
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ATTENDANCE AND LEAVE

CURRENT RULES

1 Sec. 6. Leave of Absence Without Pay

2 1. A permanent or probationary employee upon application

3 in writing to and upon written approval of the Appointing

4 Authority may be granted a continuous leave of absence without

5 pay for a period of time not to exceed one year provided:

6 (a) the employee's accumulated annual leave has been

7 exhausted; (b) his compensatory overtime has been exhausted;

8 and (c) if granted on account of illness; his annual, sick

9 leave and compensatory time have been exhausted. In cases

10 of leave of absence for probationary employees, such leave

11 shall not be construed as time served in completing the

12 probationary period.

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PROPOSED RULES

1 Sec. 8. Leave of Absence Without Pay

2 8.1 Personal Leave

3 Upon application in writing to and written approval of the

4 appointing authority, a permanent, probationary, or provisional

5 employee may be granted a continuous leave of absence without

6 pay for a specific period of time which normally should not

7 exceed one year. A leave of absence without pay may exceed

8 the normal one year limitation and may be granted at the

9 discretion of the appointing authority based on the depart-

10 ment's personnel needs. Time spent by probationary employees

11 for leaves of absence shall not be construed as time served

12 in completing the probationary period. This section shall

13 not be construed to extend the provisional period limitation.

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CHANGES

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3 Leave without pay may exceed one year.

4 All accumulated annual leave and compensatory

5 time need not be exhausted for such leave of

6 absence without pay.

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ATTENDANCE AND LEAVE

CURRENT RULES

1 2. An injured or ill permanent employee shall upon
2 written application to the Appointing Authority be granted
3 a continuous leave of absence without pay not to exceed six
4 months provided:
5 (a) Application is made within 30 calendar days of the
6 expiration of all leave.
7 (b) All annual, compensatory time and sick leave
8 have been exhausted.
9 (c) His absence is due to an illness or injury which
10 is verified by a physician as preventing him from performing
11 his duties.
12 (d) The disability is not of such a nature as to render
13 the employee unable to perform his duties permanently, as
14 verified by a physician.

PROPOSED RULES

1 8.2 Medical leave; Notice to Employee
2 (a) An injured or ill permanent employee upon written
3 application to the appointing authority shall
4 be granted a continuous medical leave of absence
5 without pay not to exceed six (6) months within
6 a twelve month period provided:
7 1. The employee makes application (1) no later
8 than fifteen (15) calendar days following the
9 expiration of all sick leave and compensatory
10 time or (2) no later than fifteen (15) calendar
11 days following the date on which the employee
12 filed a claim for Workmen's Compensation or
13 (3) within fifteen (15) calendar days after
14 the employee is injured or ill; and
15 2. The employee's absence is due to an illness or
16 injury which is verified by a physician's
17 written statement that the employee is unable
18 to perform his or her duties and giving a
19 tentative date for the employee's return to
20 work; and
21 3. A physician's statement is submitted every thirty
22 (30) calendar days to confirm the necessity for
23 continued leave; and
24 4. The disability as verified by a physician is not
25 of such nature as to render the employee perman-
26 ently unable to perform his duties.
27 (b) The appointing authority shall, at least 15 days
28 prior to, if possible, but no later than at the
29 expiration of the employee's sick leave, mail to
30 the employee a written notice of the employee's

CHANGES

1
2 Annual leave does not have to be
3 exhausted for medical leave of absence
4 without pay. An employee may exhaust
5 accrued annual leave before making
6 application for medical leave, or may
7 retain part or all of accrued annual
8 leave consistent with length of service
9 category until return to duty.
10 Allows an employee to apply for a
11 medical leave of absence without pay
12 prior to exhausting all sick leave.
13 Requires doctor's verification every
14 30 calendar days.

ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	1	right to a medical leave of absence without pay and	1
2	2	that the leave will not be granted if the employee	2
3	3	fails to apply within the above time limits.	3
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ATTENDANCE AND LEAVE

CURRENT RULES:

1 3. At the expiration of leave of absence without pay,
2 the employee shall be reinstated to his former position or
3 one of comparable pay and duties without loss of rights
4 unless the position is no longer available due to a reduction
5 in force caused by curtailment of funds. If the leave of
6 absence without pay was granted due to illness, the employee
7 must furnish a certificate from the attending physician
8 indicating the ability of the employee to return to work,
9 failure of the employee to report promptly at the expiration
10 of a leave of absence without pay, except for satisfactory
11 reasons submitted in advance, shall be cause for termination.

PROPOSED RULES

1 B.3 End of leave
2 At the expiration of leave of absence without pay, the
3 employee shall be reinstated to his or her former position, or
4 one of comparable pay and duties, without loss of rights,
5 unless the position is no longer available due to a reduction
6 in force caused by curtailment of funds. If the leave of
7 absence without pay was granted for illness, the employee
8 must furnish from the attending physician a certificate
9 indicating the ability of the employee to return to work,
10 The appointing authority may permit an employee to return
11 to work at or before the expiration of the leave of absence
12 at less than full duty, but the terms of return shall be
13 written and are subject to review and renewal every thirty (30)
14 calendar days. Failure of the employee to report promptly at
15 the expiration of a leave of absence without pay, except for
16 satisfactory reasons submitted in advance to the appointing
17 authority, shall be cause for dismissal.

CHANGES

1
2 Makes accommodation for return
3 to less than full duty.
4 Clarifies that an employee must be
5 dismissed rather than terminated if
6 employee fails to return from leave
7 of absence.

ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1	1 8.4 Reporting Procedures	1
2	2 The appointing authority must report a leave of absence	2 Requires specific date of return.
3	3 without pay to the Director of Personnel. The appropriate	3 to be submitted to Civil Service at time
4	4 forms must include the last date on the payroll and the	4 of granting leave.
5	5 specific anticipated date for return to duty. An exception	5
6	6 of a leave of absence must also be reported.	6
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ATTENDANCE AND LEAVE

CURRENT RULES

1 Sec. 7. Military Leave

2 1. All employees who are members of the National Guard
3 or of any of the Reserve Components of the Armed Forces of the
4 Federal Government shall be entitled to leave of absence
5 from duty without loss of pay, status, or efficiency rating,
6 on all days during which they shall be engaged in drills
7 or parades during business hours ordered by proper authority,
8 or for field training or active service for a maximum
9 period of thirty calendar days in any one calendar year
10 ordered or authorized by proper authority. The term "without
11 loss of pay" shall mean that the employee shall continue to
12 receive his normal salary or compensation, notwithstanding the
13 fact that such employee may have received other compensation
14 during the same period. Furthermore, such leave
15 of absence shall be considered as time worked for the
16 agency in computing seniority, eligibility for increase
17 and experience with the agency. The terms of this
18 paragraph shall not apply under the provisions of any
19 Selective Training and Service act, or other such act
20 whereby the President may order into active duty the
21 National Guard and the Reserve Components of the Armed
22 Forces of the Federal Government. An employee shall be
23 required to submit an order or statement in writing from the
24 appropriate military officer in support of the request for
25 military leave above referred to.
26 2. Any employee entering the U.S. armed services in
27 time of war, national emergency or under compulsory
28 provisions of law of the U.S. in time of peace must be
29 granted a leave of absence from his service with the
30 agency and, upon completion of and discharge from any

PROPOSED RULES

1 Sec. 9. Military Leave

2 (a) All employees who are members of the National Guard
3 or of any of the Reserve Components of the Armed Forces of the
4 Federal Government shall be entitled to leave of absence
5 from duty without loss of pay, status, or efficiency rating,
6 on all days during which they shall be engaged in drills
7 or parades during business hours ordered by proper authority,
8 or for field training or active service for a maximum
9 period of thirty calendar days in any one calendar year
10 ordered or authorized by proper authority. The term "without
11 loss of pay" shall mean that the employee shall continue to
12 receive his normal salary or compensation, notwithstanding the
13 fact that such employee may have received other compensation
14 during the same period. An employee need not exhaust all
15 annual leave, sick leave, or compensatory time. Furthermore,
16 such leave of absence shall be considered as time worked for
17 the agency in computing seniority, eligibility for increase
18 and experience with the agency. The terms of this
19 paragraph shall not apply under the provisions of any
20 Selective Training and Service act, or other such act
21 whereby the President may order into active duty the
22 National Guard and the Reserve Components of the Armed
23 Forces of the Federal Government. An employee shall be
24 required to submit an order or statement in writing from the
25 appropriate military officer in support of the request for
26 military leave above referred to.
27 (b) Any employee entering the U.S. armed services in
28 time of war, national emergency or under compulsory
29 provisions of law of the U.S. in time of peace must be
30 granted a leave of absence from his service with the

CHANGES

CURRENT RULESPROPOSED RULESCHANGES

1	such armed services, shall have the right to reassume his	1	agency. Upon completion of and discharge from any such	1
2	service with the agency without any prejudice whatsoever	2	armed services and within the applicable time period	2
3	to his status, merit rating or standing by reason of such	3	described by federal statute, rule, regulation regarding	3
4	absence, in accordance with Article XI, Section 8-2 of the	4	return to employment, the employee shall have the right to	4
5	Civil Service Rules and Regulations. Employees shall be	5	reassume his service with the agency without any prejudice	5
6	credited with all annual leave, sick leave, and compensa-	6	whatsoever to his status, merit rating or standing by	6
7	tory time not used at the commencement of his military	7	reason of such absence, in accordance with Article XI,	7
8	leave in accordance with Article XI, Section 8-3 of the	8	Section 8-2 of the Civil Service Rules and Regulations,	8
9	Civil Service Rules and Regulations. This paragraph	9	Employees shall be credited with all annual leave,	9
10	shall not be construed:	10	sick leave, and compensatory time not used at the	10
11	(a) As an attempt to enlarge or to extend the length	11	commencement of his military leave in accordance with	11
12	of employment of any temporary employee or to create a	12	Article XI, Section 8-3 of the Civil Service Rules	12
13	definite term where no definite term with respect to the	13	and Regulations. This paragraph shall not be	13
14	position heretofore existed.	14	construed:	14
15	(b) As providing that the salary paid by the	15	(c) As an attempt to enlarge or to extend the length	15
16	agency shall continue to be paid for the employee while he	16	of employment of any temporary employee or to create a	16
17	is not performing the duties of his position with the state	17	definite term where no definite term with respect to the	17
18	because of such services with the armed forces of the United	18	position heretofore existed.	18
19	States.	19	(d) As providing that the salary paid by the	19
20	agency shall continue to be paid to the employee while he	20	agency shall continue to be paid to the employee while he	20
21	is not performing the duties of his position with the state	21	is not performing the duties of his position with the state	21
22	because of such services with the armed forces of the United	22	because of such services with the armed forces of the United	22
23	States.	23	States.	23
24	(e) To the extent that any portion of this section	24	(e) To the extent that any portion of this section	24
25	is inconsistent with or conflicts with the requirements	25	is inconsistent with or conflicts with the requirements	25
26	of any applicable federal statute, rule, or regulation	26	of any applicable federal statute, rule, or regulation	26
27	regarding military leave or re-employment rights, the	27	regarding military leave or re-employment rights, the	27
28	provisions of the applicable federal statute, rule, or	28	provisions of the applicable federal statute, rule, or	28
29	regulation shall govern only to the extent that this	29	regulation shall govern only to the extent that this	29
30	section is inconsistent or in conflict with such federal	30	section is inconsistent or in conflict with such federal	30

ATTENDANCE AND LEAVE

CURRENT RULES

PROPOSED RULES

CHANGES

1 statute, rule, or regulation.

4 Sec. 10. Court, jury, and hearing leave

5 Upon application in writing, an employee shall be granted

6 leave with pay when, in obedience to a subpoena or direction

7 by proper authority, he serves upon a jury or appears as a

8 witness before any court or judge, any legislative committee,

9 or any officer, board, or body authorized by law to conduct any

10 hearing or inquiry.

11 The employee shall furnish such written confirmation of

12 absence as is required by the appointing authority. The employee

13 shall be entitled to a leave of absence with pay for the period

14 of absence required to perform such duty. Annual leave will

15 not be charged during the time the employee is on court, jury,

16 or hearing leave.

Requires written verification.

ATTENDANCE AND LEAVE

CURRENT RULES

1 Sec. 9. Educational leave

2 An agency which subsidizes advanced educational training
3 for state employees may grant educational leave to an employee
4 selected for such training subject to conditions stipulated
5 by the agency concerned. Such leave shall be considered as
6 continuous employment, except that employees while on
7 educational leave shall not accrue sick, annual, leave, or
8 compensatory time, nor shall such employees be eligible for
9 salary increases except when a new minimum salary is
10 established for the particular position title.

11 Sec. 10. Supplementary Regulations

12 Each agency shall prepare supplementary regulations
13 as may be required and copies of all such supplementary
14 regulations shall be filed with the Director of Personnel
15 who shall make them available to the other agencies.

PROPOSED RULES

1 Sec. 11. Educational leave

2 11.1 Subsidized by Agency

3 An agency subsidizing advanced educational training
4 for state employees may grant to selected employees educational
5 leave subject to conditions stipulated by that agency. The
6 procedures for granting educational leave and compensatory
7 payment shall be filed with the Director of Personnel. Such
8 leave shall be considered as continuous employment, except
9 that employees while on educational leave shall not accrue
10 sick leave, annual leave, or compensatory time, nor shall such
11 employees be eligible for salary advancements.

12 11.2 Non-subsidized by Agency
13 Leave of absence may be granted for educational purposes.
14 See Section 8.1.
15 Sec. 12. Supplementary Attendance and Leave Regulations
16 Each agency shall prepare supplementary regulations as
17 may be required. Copies of all such regulations shall be
18 filed with the Director of Personnel for approval. The
19 Director's approval must be obtained before the regulations
20 take effect. The Director shall then make copies of the
21 regulations available to the other agencies.

CHANGES

16 Agency personnel rules require approval
17 of Director of Personnel.

CURRENT RULES

1 Sec. 11. Distribution of Regulations
2 Each agency shall make available to each of its
3 employees a copy of these regulations together with the
4 agency's own supplementary Attendance and Leave Regulations.
5 Sec. 12. Leave Records
6 A leave record shall be maintained for each employee
7 which shall reveal at all times accrued leave as well as
8 leave that has been used.

PROPOSED RULES

1 Sec. 13. Distribution of Regulations
2 Each agency shall make available to each of its employees
3 a copy of these attendance and leave regulations together with
4 the agency's own supplementary attendance and leave regulations.
5 Sec. 14. Leave Records
6 Each agency shall maintain a current leave record of
7 its employees' accrued and used leave. Each employee shall
8 have access to his or her leave records subject to the
9 appropriate agency's established rules and regulations.

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CURRENT RULES

PROPOSED RULES

CHANGES

1 ARTICLE XVI

2 PROHIBITION OF DISCRIMINATION AND POLITICAL ACTIVITIES

3 Sec. 3. Penalty for Discrimination and Political

4 Activities

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

1 ARTICLE XVII

2 DUTIES OF STATE OFFICERS; LEGAL PROCEEDINGS TO SECURE

3 COMPLIANCE; PENALTIES

4 Sec. 1. Duties of State Officers

5 Pursuant to Chapter 29, Article 6, Section 12 of
6 the Code, all state officers and employees shall comply
7 with and aid in all proper ways in carrying out the
8 provisions of this article and the rules, regulations,
9 and orders thereunder. All officers and employees shall
10 furnish any records or information which the Director or
11 the Commission may request for any purpose of this article.
12 Sec. 2. Legal Proceedings to Secure Compliance
13 Pursuant to Chapter 29, Article 6, Section 12 of
14 the Code, the Director may institute and maintain any
15 action or proceeding at law or in equity with what
16 he considers necessary or appropriate to secure compliance
17 with this article and the rules and orders thereunder.

18 Sec. 3. Penalties

19 The Civil Service Commission adopts as its policy
20 by reference thereto the provisions of Chapter 29,
21 Article 6, Section 22(b) and will enforce the policy
22 accordingly.

1 The current Rules do not accurately

2 reflect the intent of the Code.

3 The proposed Article XVII places the
4 actual wording of the law into the
5 Rules.

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CURRENT RULES

1 APPENDIX F

2 STATE PERSONNEL GRIEVANCE PROCEDURE

3 Authority

4 The provisions of this part are based on the authority

5 contained in Article 11 of the Civil Service Rules and

6 Regulations which is cited as follows: Section 2, Paragraph

7 4 (5)

8 "To foster and develop, in cooperation

9 with appointing authorities and others,

10 programs for the improvement of employee

11 effectiveness, including training,

12 safety, health, counseling and welfare."

13 NATURE OF GRIEVANCE

14 In any organization it may be expected that conditions

15 leading to dissatisfaction and misunderstandings may arise

16 among employees. When employees believe they have been

17 treated unfairly, their attitude and their work may be

18 affected. Through the establishment of a grievance

19 procedure such as outlined in this part, your agency is

20 provided a means to resolve these problems so employee

21 morale and efficiency may be maintained at the highest

22 level possible.

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PROPOSED RULES

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GRIEVANCE PROCEDURE

CURRENT RULES

APPLICABILITY

2	A grievance procedure represents a method for deter-	2
3	mining the specific cause of a grievance and for resolving,	3
4	in an informal, harmonious atmosphere, employee complaints	4
5	and grievances resulting from day-to-day relationship	5
6	between an employee and his employer. All grievances and	6
7	complaints are to be processed through this agency	7
8	grievance procedure with the exceptions noted below,	8
9	The exceptions to this rule are covered in Article XII	9
10	of the rules and regulations of the Civil Service System;	10
11	these are generally matters for which time limits of rather	11
12	short duration have been prescribed which would make it	12
13	impractical to attempt resolution at all steps of the	13
14	grievance procedure prior to expiration of the time limits.	14
15	By mutual consent between the aggrieved employee and an	15
16	authorized agency representative, any and all steps in the	16
17	agency grievance procedure may be bypassed (beginning with	17
18	the first step and progressing upward in numerical sequence)"	18
19	except that such consent shall be mandatory where an obvious	19
20	conflict with the Civil Service System rules and regulations	20
21	would otherwise exist.	21
22	DEFINITIONS	22
23	As used in connection with this Grievance Procedure,	23
24	the following words and terms shall have the meanings	24
25	indicated:	25
26	(1) "Abandonment of Grievance" means the voluntary failure	26
27	of an employee to pursue his grievance through the	27
28	Grievance Procedure.	28
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PROPOSED RULES

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CHANGES

EVANCE PROCEDURE

CURRENT RULES

PROPOSED RULES

CHANGES

1	(11) "Employee Group" means an affiliated group made up	1
2	of employees of the State agency with which a grievance	2
3	is filed.	3
4	(12) "Examination" means the questioning of a witness during	4
5	a grievance procedure hearing.	5
6	(13) "Ex-parte Statement" means a written statement made	6
7	by one person, offered for consideration in connection	7
8	with a grievance procedure hearing.	8
9	(14) "Grievance" shall be defined as a dispute or disagree-	9
10	ment raised by an employee against his supervisor	10
11	or the department involving the interpretation or	11
12	application of agency policies and practices or	12
13	reference to a condition of employment. It is	13
14	specifically understood that any matters governed	14
15	by Civil Service rules or statutory provisions shall	15
16	not be considered grievances and subject to the	16
17	grievance procedure. Nor shall any disciplinary actions	17
18	which may be appealed directly to the Civil Service	18
19	System be considered grievances and subject to the	19
20	Grievance Procedure.	20
21	(15) "Grievance Hearing" means a hearing conducted by a	21
22	section, division, or unit head; by a personnel	22
23	officer or other representative of an appointing	23
24	authority; or by a hearing board; at which any	24
25	employee may have a reasonable opportunity to be	25
26	heard in accordance with the provisions of this Part.	26
27	(16) "Grievance Procedure" means the procedure prescribed	27
28	in this Part for the processing of employee grievances.	28
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GRIEVANCE PROCEDURE

CURRENT RULES

A. Employee Coverage:

1 Employees covered: This section applies to all
2 employees, including full and part-time, of any agency.

B. Grievance Coverage:

3 (a) Except as provided in paragraphs (b) and (c) of this
4 section, this subpart applies to any matter of con-
5 cern or dissatisfaction to an employee which is
6 subject to the control of agency management.

7 (b) This section does not apply to:

8 (1) A matter which is subject to final administra-
9 tive review outside the agency under law or
10 the regulations of the West Virginia Civil
11 Service Commission;

12 (2) The content of published agency policy;

13 (3) Nonselection for promotion via an established
14 agency promotion procedure and Civil Service
15 Rules and Regulations.

16 (4) An action by an agency due to a Federal or
17 State law, Civil Service law and/or regulation
18 as well as directives from the Governor's
19 Office.

20 (5) Non-adoption of a suggestion or disapproval of
21 a quality salary increase, performance award, or
22 other kind of honorary or discretionary award.

23 (6) A preliminary warning or notice of an action
24 which, if effected, would be covered under the
25 grievance system or excluded from coverage
26 under (1) of this paragraph.

27 (c) This subpart does not apply to a separation action,
28 however, an agency may extend the coverage of its

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PROPOSED RULES

Article XIII

Sec. 1. Grievance Procedure

1.1 General Application

1 Except as provided in paragraphs (2) and (3) of this
2 section, this Article applies to any matter which is subject
3 to the control of agency management and which is of concern
4 or dissatisfaction to an employee.

1.2 Exceptions

5 This section does not apply to:

6 (a) A matter subject to final administrative review outside
7 the agency.

8 (b) The content of published agency policy such as the
9 mission of an agency, its budget, its organization, and
10 assignment of personnel (other than the grievant).

11 (c) Any action by an agency due to a Federal or State law,
12 Civil Service law and/or regulation as well as directives
13 from the Governor's Office.

14 (d) Denial of a recommendation for, or disapproval of,
15 a merit salary increase, performance award, or other
16 kind of honorary or discretionary award.

17 Preliminary warning and non selection
18 for promotion removed from exceptions to
19 grievance procedure.

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CHANGES

GRIEVANCE PROCEDURE

CURRENT RULES

1 grievance system to any aspect of a separation
2 action that is not subject to final administrative
3 review outside the agency under law or the regula-
4 tions of the West Virginia Civil Service Commission.
5 C. Appeals (matters not covered under this procedure.)
6 The following events, actions, and circumstances are
7 directly appealable to the Civil Service System and are
8 not subject to the Grievance Procedure.
9 -- examination rejection
10 -- examination rating
11 -- removal from register
12 -- alleged discriminatory action in recruitment, examina-
13 tion, appointment, training, retention, discipline,
14 or any other personnel action because of political
15 or religious opinions or affiliations or because of
16 race, national origin, or any other non-merit
17 factors.
18 -- alleged discriminatory action on the basis of age,
19 sex, or physical disability when specific age, sex,
20 or physical requirements do not constitute a bona-
21 fide occupational qualification.
22 -- dismissal
23 -- suspension for more than thirty (30) calendar days in
24 one calendar year
25 -- demotion and transfer--demotion of a permanent
26 employee.
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PROPOSED RULES

1 1.3 Appeals
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6 The following events, actions, and circumstances are
7 directly appealable to the Civil Service System and are
8 not subject to the Grievance Procedure.
9 -- examination rejection
10 -- examination rating
11 -- removal from register
12 -- alleged discriminatory action in recruitment, examina-
13 tion, appointment, training, retention, discipline,
14 or any other personnel action because of political
15 or religious opinions or affiliations or because of
16 race, national origin, or any other non-merit
17 factors.
18 -- alleged discriminatory action on the basis of age,
19 sex, or physical disability when specific age, sex,
20 or physical requirements do not constitute a bona-
21 fide occupational qualification.
22 -- dismissal
23 -- suspension for more than thirty (30) calendar days in
24 any twelve (12) month period
25 -- demotion and transfer--demotion of a permanent employee.
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CHANGES

GRIEVANCE PROCEDURE

CURRENT RULES

PURPOSE OF GRIEVANCE

1 A grievance procedure guarantees all employees a "fair
2 Shake" whenever there is a possibility of improper discipli-
3 ne or unfair treatment by providing a channel for appeal.
4 It aims at creating a higher level of morale for the
5 employee and increases his sense of well-being in his work
6 situation. Ideally, this will create greater job
7 satisfaction on the part of all employees with greater
8 confidence in fair treatment, and will provide a legitimate
9 outlet for employee frustrations and tensions. It is
10 believed that a fair and equitable grievance procedure
11 will improve the quality of administration and supervision
12 at all levels.

WHO MAY FILE A GRIEVANCE

1 A grievance process must move upward in the chain of
2 command. An employee may file a grievance with or against
3 his supervisor; the supervisor with or against his chief;
4 the chief with or against the assistant director or director;
5 the director with or against the administrative officer.
6 However, a supervisor may not file against a subordinate
7 since the authority vested in his position permits
8 corrective action.

EMPLOYEE'S REPRESENTATIVE

1 At all steps of the agency grievance procedure, the
2 employee has the right, but shall not be required, to be
3 represented by one individual of his choice. The agency
4 may, if it desires, establish counselors to represent the
5 employee and help solve disputes at the local level. The
6 aggrieved employee may use this counselor if he desires or

PROPOSED RULES

Sec. 2. Purpose of Grievance

1 By providing a channel for appeal, a grievance
2 procedure guarantees all employees a "fair shake"
3 whenever there is a possibility of improper discipline
4 or unfair treatment. The grievance procedure aims at
5 creating a higher level of morale for the employee
6 and increases his sense of well-being in his work
7 situation. Ideally, the intent is to create for all
8 employees greater job satisfaction and greater
9 confidence in fair treatment and to provide a
10 legitimate outlet for employee "gripes". It is
11 believed that a fair grievance procedure will improve
12 the quality of communication and performance in any
13 organization.

Sec. 3. Who May File A Grievance

1 A grievance process must move upward in the chain of
2 command. An employee may file a grievance with or against
3 his supervisor; the supervisor with or against his chief;
4 the chief with or against the assistant director or director;
5 the director against the administrative officer. However, a
6 supervisor may not file against a subordinate since the
7 authority vested in his position permits corrective action.

Sec. 4. Employee Representative

1 At all steps of the agency grievance procedure, the
2 employee has the right, but shall not be required, to be
3 represented by one individual of his choice. The agency may,
4 if it desires, establish counselors to represent the employee
5 and help solve disputes at the local level. The aggrieved
6 employee may use this counselor if he desires or may choose
7 to be represented by himself or another individual.

CHANGES

GRIEVANCE PROCEDURE

CURRENT RULES

1 may choose another individual or himself to represent him in
2 the case.

THE GRIEVANCE PROCEDURE

3
4 I. Effective Date :

5 (a) Except as indicated in (b) and (c) below, this procedure
6 will become effective in all State agencies and with
7 respect to all personnel on August 1, 1973.

8 (b) If an appointing authority or employee group desires a
9 a modification of the procedure, proposals should be
10 presented to the Director of Civil Service prior to
11 to August 1, 1973.

12 (c) Formal grievance procedure agreements between State
13 agencies and employee groups shall continue in force
14 for the life of the agreement, or until July 31, 1973,
15 whichever is the earlier. No such agreement shall be
16 renewed or extended, or continued beyond July 31, 1973,
17 without the approval of the Director of Civil Service
18 and the Civil Service Commission.

19 (d) Following initial installation of this or a modified
20 procedure, subsequent modifications may be made from
21 time to time with the approval of the Director of Civil
22 Service and the Civil Service Commission.

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PROPOSED RULES

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(a) The provisions of this part shall be controlling in cases of conflict with any past or present agency practice, policy, or procedure.

(b) Nothing herein shall be so construed as to deprive a

classified employee of the right of appeal to the

Director of Civil Service or the Civil Service Commission

in appropriate cases, or to alter or extend the time

within which an appeal is required to be filed with

the Civil Service Commission, or to alter in any way

the Rules of the Commission.

(c) The Appropriate Hearing Board's decision shall be

submitted to the Head of the Agency for final disposition within ten (10) days in all cases which are properly

subject to processing through this agency grievance

procedure.

(d) Any supervisor who takes reprisal action of any kind

against any employee who makes use of this grievance

procedure shall be subject to administrative disciplinary

any action.

(e) Any agency employee who uses his official position to

coerce, attempt to coerce, or influence in any improper

manner any member of a Hearing Board shall be subject

to administrative disciplinary action.

(f) When a grievance hearing is conducted under this

procedure, the party against whom the grievance complaint

is made shall have the right to appear and testify at

the hearing.

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Sec. 5. General Provisions

5.1 Conflicts of Policy

The provisions of this Article shall be controlling in cases

of conflict and shall supersede any past or present agency practice,

policy, or procedure.

5.2 Appeal Rights

Nothing herein shall be so construed as to deprive a

classified employee of the right of appeal to the Director

of Personnel or the Commission in appropriate cases, or to

alter or extend the time within which an appeal is required

to be filed with the Commission, or to alter in any way

the rules of the Commission.

5.3 Reprisals

Any supervisor who takes reprisal action of any kind

against any employee who makes use of this grievance

procedure shall be subject to disciplinary action by the

Commission.

5.4 Improper Influence

Any agency employee who uses his official position to

coerce, attempt to coerce, or influence in any improper

manner any member of a Hearing Board or witness shall be

subject to disciplinary action by the Commission.

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GRIEVANCE PROCEDURE

CURRENT RULES

1 (g) All agency employees shall use this agency Grievance
2 Procedure in seeking personal relief for dissatisfaction
3 based on factual events, actions, or circumstances.
4 Except where otherwise provided for, all complaints,
5 grievances, charges of discrimination and like shall
6 be processed through this Grievance Procedure.
7 (h) An employee selected by a grievance to represent him in
8 the processing of a grievance through this procedure
9 shall, at such times as his supervisor may approve, be
10 granted necessary time off during his working hours to
11 represent such other employee without loss of pay and
12 without charge to annual or compensatory leave credits.
13 (e) Each employee shall be furnished a copy of the currently
14 approved Grievance Procedure by his appointing authority.
15 (j) Meetings and hearings held between employee and employer
16 at any step of the agency Grievance Procedure shall be
17 conducted in an informal manner and the technical rules
18 of evidence shall not apply. Every effort should be
19 made to maintain an informal, relaxed atmosphere in
20 which an amicable resolution of the grievance may be
21 more readily achieved.
22 (k) If any provision of this document is declared by proper
23 legislative, administrative, or judicial authority to
24 be unlawful, or not in accordance with applicable Civil
25 Service rules, or law, all other provisions of this
26 document shall remain in full force and effect.
27 (l) Areas of policy such as the mission of an agency, its
28 budget, its organization, and the assignment of
29 personnel are not proper grievance matters. In
30 addition, management retains and reserves the right to:

PROPOSED RULES

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15 5.5 Adverse Party
16 When a grievance hearing is conducted at any step
17 under this procedure, the party against whom the grievance
18 complaint is made shall have the right to appear and testify
19 at the hearing.
20 5.6 Exclusive Remedy
21 All agency employees shall use this Grievance
22 Procedure for matters covered in Sec. 9.1 of this Article.
23 5.7 Paid Time-Off
24 An employee selected by a grievant to represent him
25 in the processing of a grievance through this procedure shall
26 be granted necessary time-off during his working hours to
27 represent such other employee without loss of pay and without
28 charge to annual or compensatory leave credits. Likewise,
29 the grievant shall be granted time-off with no loss of pay
30 and benefits.

CHANGES

GRIEVANCE PROCEDURE

CURRENT RULES

PROPOSED RULES

CHANGES

1	(e) hire, promote, transfer, assign, retain employees	1	1		1
2	in positions within the agency, (b) suspend, demote,	2	2		2
3	discharge or take other disciplinary action against	3	3		3
4	employees, (c) relieve employees from duties because of	4	4		4
5	the lack of work or other legitimate reasons, (d)	5	5		5
6	maintain the efficiency of the government operations	6	6		6
7	entrusted to them, (e) determine the method, means, and	7	7		7
8	personal by which goals of an organization are to be	8	8		8
9	achieved, and (f) take whatever actions may be	9	9		9
10	necessary to carry out the mission of the agency in	10	10		10
11	situations of emergency. This is not to preclude an	11	11		11
12	employee from filing a grievance in those areas if he	12	12		12
13	believes an agency's action has been unjust, unfair, or	13	13		13
14	improper.	14	14		14
15		15	15		15
16		16	16	5.8. Distribution of Grievance Procedure	16
17		17	17	The appointing authority shall furnish to each	17
18		18	18	employee a copy of the currently approved Grievance	18
19		19	19	Procedure,	19
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GRIEVANCE PROCEDURE

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PROPOSED RULES

1 5.9 Informality
2 Meetings and hearings held between employee and employer
3 at any step of the agency Grievance Procedure shall be
4 conducted in an informal manner, and the technical rules of
5 evidence shall not apply. Every effort should be made to
6 maintain an informal, relaxed atmosphere in which an
7 amicable resolution of the grievance may be more readily
8 achieved.
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GRIEVANCE PROCEDURE

CURRENT RULES

PROPOSED RULES

CHANGES

CURRENT RULES		PROPOSED RULES		CHANGES	
1	III. Processing the Grievance	1	Sec. 6. Processing the Grievance	1	
2	First Step	2	6.1 First Step	2	
3	(Discussion with Immediate Supervisor)	3	(Discussion with Immediate Supervisor)	3	
4	All grievances shall be presented within fourteen (14)	4	All grievances shall be presented within five (5)	4	Reduces time frame to total of 5
5	calendar days from the date the grievant first became aware	5	working days from the date the grievant first becomes	5	working days including oral discussion;
6	of, or should have become aware of, the cause of such griev-	6	aware of, or should have become aware of, the cause of	6	does not require written grievance.
7	ance; the aggrieved employee should present his grievance	7	such grievance, where the cause of the grievance is of	7	Extends grievance procedure to cover
8	orally to his immediate supervisor, and if possible, it	8	an ongoing or continuing nature, the grievance shall be	8	trial causes of grievance.
9	should be settled through discussion.	9	presented within five (5) working days of the last	9	Requires immediate supervisor to
10	If a settlement cannot be reached through informal	10	occurrence of the cause of grievance. The aggrieved	10	respond within three working days.
11	discussion, the aggrieved employee must present to his	11	employee should present his grievance verbally to his	11	
12	immediate supervisor his grievance in writing within seven	12	immediate supervisor, and if possible, the grievance	12	
13	(7) calendar days. The supervisor shall then respond in	13	should be settled through discussion. The supervisor	13	
14	writing to the grievance. The supervisor shall provide the	14	must give his verbal reply to the aggrieved employee	14	
15	agency personnel officer or designated representative of	15	within three (3) working days after the grievant	15	
16	the appointing authority, and the employee a written state-	16	presents his grievance,	16	
17	ment of the grievance and his findings within seven (7)	17		17	
18	calendar days after receipt of the written grievance. The	18		18	
19	employee has the right, but shall not be required, to be	19		19	
20	represented by one individual of his choice during this step	20		20	
21	of the procedure.	21		21	
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GRIEVANCE PROCEDURE

CURRENT RULES

Second Step

(Section, Division, or Unit Head)
If the employee is not satisfied with the decision in the First Step, or if a decision is not rendered within the prescribed time limit, he may within seven (7) calendar days present his grievance in writing to the appropriate local section, division, or unit head. The latter shall investigate; afford the employee an opportunity to present his viewpoint during an informal hearing; and furnish the agency personnel officer or the designated representative of the appointing authority, and the employee a written statement of his findings and recommendations. Such statement shall be furnished within fourteen (14) calendar days of the receipt of the written grievance. The aggrieved employee shall have the right, but shall not be required, to be represented by one individual of his choice during this step of the procedure.

PROPOSED RULES

6.2 Second Step

(Section, Division, or Unit Head)

If the employee is not satisfied with the decision at the First Step or if the decision is not rendered within the prescribed time limit, the employee must write the grievance and submit it to his immediate supervisor within five (5) working days. The five (5) working days shall commence from and exclude the date of the supervisor's First Step answer or the prescribed day in which the answer was due. The immediate supervisor must forward the written grievance to the appropriate local section, division, or unit head, and the Director. The local section, division, or unit head shall investigate the grievance and afford the employee an opportunity to present his viewpoint during an informal hearing. Unless the relief sought by the grievant has been granted, the hearing shall not be held until at least ten (10) working days after the immediate supervisor's verbal First Step answer. The hearing must be completed and the employee given a written statement of the findings and recommendation of the local section, division, or unit head within fifteen (15) working days after the receipt of the immediate supervisor's verbal First Step answer. The employee shall have the right, but shall not be required, to be represented by an individual of his choice during this step of the procedure.

CHANGES

Requires informal hearing.
Requires response from second step within 15 working days.
Grievance must be submitted within 5 working days.
Changes the minimum interval before the hearing from fourteen calendar days to ten working days.
The grievance must be forwarded to the Director of Personnel.

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In the event that the decision of the section,

division, or unit head does not satisfy the employee or a

decision was not rendered within the prescribed time limits,

he may present his grievance to his agency Hearing Board

in writing within five (5) calendar days. A hearing shall

then be held before an agency Hearing Board designated

by the appointing authority which shall evaluate the case

and shall issue a written decision notifying all interested

parties within twenty-one (21) calendar days following the

date the grievance entered the Third Step. The aggrieved

employee shall have the right, but shall not be required,

to be represented by one individual of his choice during

this step of the procedure.

At any time after the filing of a grievance in

writing, at the Third Step, management or the Hearing Board,

may summarily dispose of the grievance on any of the

following grounds:

(a) That the appointing authority lacks jurisdiction of the

subject matter, or of the person against whom relief is

sought.

(b) That the aggrieved has no legal right to grievance

consideration.

(c) That the grievance has not been made in the required

manner or within the prescribed period of time.

(d) That the aggrieved has failed to appear at the

time and place fixed for the hearing of his grievance.

(e) That the aggrieved has withdrawn or abandoned his

request for grievance consideration.

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Generally

In the event that the decision of the section, division,

or unit head does not satisfy the employee or a decision was

not rendered within the prescribed time limits, the employee

may present the grievance in writing to a Hearing Board within

five (5) working days of his receipt of the Second Step written

findings or the prescribed day on which such written findings

were due. Presentation of the grievance to the Hearing Board

is accomplished by the employee's serving within the five (5)

day period a written request to convene the Hearing Board upon

the local section, division, or unit head and a copy thereof

upon the Director.

The Hearing Board shall consist of three (3) members.

One member shall be designated by the agency head and one

member shall be designated by the aggrieved employee.

The third member, designated by the Civil Service Commission,

shall be the chairperson of the board and shall conduct the

hearing and prepare the decision of the Board.

After holding the hearing, the Board shall issue a

written decision notifying all parties of its decision. The

hearing must be held and the decision issued within fifteen

(15) working days following the date of service of the

grievance in this step. The aggrieved employee shall have

the right, but shall not be required, to be represented

by an individual of his choice during this step of the

procedure.

GRIEVANCE PROCEDURE

CURRENT RULES

1 When management summarily disposes of a written
2 grievance, it shall notify all interested parties in
3 writing.

4 AGENCY HEARING BOARD

5 1. An agency Hearing Board shall be appointed by the
6 Commissioner of the agency.

7 2. Hearing Boards may be designated as ad hoc or continuing
8 in nature.

9 3. The Hearing Board shall normally be composed of three
10 members, one of whom may be disinterested person from
11 another agency. The Commissioner may, if he chooses,

12 appoint an employee representative to the Hearing

13 Board or a trained Hearing Officer may be appointed to

14 hear the case in irregular circumstances. Such

15 irregular circumstances shall include those times when

16 the Director of the agency feels it infeasible or

17 impracticable to establish a Hearing Board.

18 4. The Chairman of the Hearing Board shall be designated by

19 election from within its membership.

20 5. An employee designated as a member of a Hearing Board
21 shall, at such times as his appointing authority may

22 approve, be granted necessary time off during his

23 working hours to prepare for an hear appeals, and prepare

24 findings, without loss of pay and without charge to

25 annual or compensatory leave credits.

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PROPOSED RULES

CHANGES

GRIEVANCE PROCEDURE

CURRENT RULES

PROPOSED RULES

CHANGES

1		1	(b) Summary Disposition	1
2		2	At any time after the filing of a grievance in the Third	2
3		3	Step, the Hearing Board may summarily dispose of the grievance	3
4		4	on any of the following grounds:	4
5		5	(1) The aggrieved employee has no legal right to grievance	5
6		6	consideration.	6
7		7	(2) The appointing authority lacks jurisdiction of the	7
8		8	subject matter or of the person against whom relief is	8
9		9	sought.	9
10		10	(3) The grievance has not been made in the required manner	10
11		11	or within the prescribed period of time.	11
12		12	(4) The aggrieved employee has failed to appear at the	12
13		13	time and place fixed for the grievance hearing.	13
14		14	(5) The aggrieved employee has withdrawn or abandoned	14
15		15	the request for grievance consideration.	15
16		16	When the Hearing Board summarily disposes of a written	16
17		17	grievance, it shall notify all interested parties in writing.	17
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CURRENT RULES

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NOTICE OF HEARING

The aggrieved employee shall be given notice at least five (5) calendar days in advance of the hearing, provided that by consent of the Hearing Board and the aggrieved employee, such notice and delay may be waived.

TIME AND PLACE OF HEARING

The place of the grievance hearing shall be specified by the Hearing Board and shall be in a convenient place accessible to the aggrieved employee. All such hearings shall be held on the employer's premises or on other premises mutually agreeable to the parties and within regular working hours; provided that with the approval of the appropriate appointing authority, any such hearing may continue beyond normal working hours.

PROPOSED RULES

1 (c) Employee-members
2 An employee designated as a member of a Hearing Board
3 shall be granted necessary time off during his working
4 hours, without loss of pay and without charge to annual or
5 compensatory leave credits, to prepare for and hear appeals
6 and prepare findings.
7 (d) Notice of Hearing
8 The aggrieved employee shall be given notice at least
9 five (5) calendar days in advance of the hearing, provided
10 that by consent of the Hearing Board and the aggrieved
11 employee, such notice and delay may be waived.
12 (e) Time and Place of Hearing
13 The place of the grievance hearing shall be specified by
14 the Hearing Board and shall be in a convenient place
15 accessible to the aggrieved employee. All such hearings
16 shall be held on the employer's premises or on other premises
17 mutually agreeable to the parties and within regular working
18 hours, provided that any such hearing might continue beyond
19 normal working hours.
20 (f) Procedures Before Hearing Board
21 (1) The aggrieved employee, employing agency, and representatives of both shall have the right to call,
22 examine, and cross-examine witnesses who are employees
23 of the agency against which the grievance is lodged and
24 who have knowledge of the facts at issue.
25 (2) Both parties may produce witnesses other than employees of
26 the agency against which the grievance is lodged, and such
27 witnesses shall be subject to examination and cross-examination.
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CHANGES

CURRENT RULES

PROPOSED RULES

CHANGES

1		1	(3) Reasonable and necessary travel expenses of material	1	
2		2	witnesses called under sub-section (1) above shall be	2	
3		3	paid by the agency.	3	
4		4	(4) The aggrieved employee shall have the right to require the	4	
5		5	production of books, papers, records, and other items	5	
6		6	pertinent to the facts at issue which are within	6	
7		7	the control of the agency against which the grievance is	7	
8		8	lodged and which are not held to be confidential or privileged	8	
9		9	by law.	9	
10		10	(4) The aggrieved employee shall have the right, but shall	10	
11		11	not be required, to be represented by an individual of	11	
12		12	his choice.	12	
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GRIEVANCE PROCEDURE

CURRENT RULES

PROPOSED RULES

CHANGES

1 (e) The aggrieved employee shall have the right, but shall
2 not be required, to be represented by an individual
3 of his choice;
4 (f) Affidavits and ex-parte statements, offered during the
5 course of a grievance hearing, may be received and
6 considered by the Hearing Board.
7 (g) The Hearing Board shall have the right to examine and
8 cross-examine any witness, and to conduct the hearing
9 in a reasonable and orderly manner.
10 (h) The Hearing Board shall have the right to limit
11 corroborative evidence.
12 (i) When a pending case involves substantially the same
13 question of law or fact as presented in a prior case,
14 the Hearing Board may consider any part of the record in
15 such previous case as he or it may deem relevant;
16 provided, that in the application of this provision,
17 no party shall be deprived of the right to cross-
18 examine any witness.
19 (j) The Hearing Board on request of the aggrieved employee
20 or on his or its own motion, may order that the
21 witnesses in any hearing be separated so as to preclude
22 any witness, other than the parties and their repre-
23 sentatives, from hearing the testimony of any other
24 witness.
25 (k) When two or more grievance petitions involve similar
26 or related circumstances, the Hearing Board may order
27 a joint hearing of any or all the matters at issue,
28 or may order that all such petitions be consolidated.

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10 (6) Affidavits and ex-parte statements offered during the
11 course of a grievance hearing may be received and
12 considered by the Hearing Board.
13 (7) The Hearing Board shall have the right to offer examina-
14 tion and cross-examination of any witness and to conduct
15 the hearing in a reasonable and orderly manner.
16 (8) The Hearing Board shall have the right to limit corrobora-
17 tive evidence.
18 (9) When a pending case involves substantially the same
19 question of law or fact as presented in a prior case,
20 the Hearing Board may consider any part of the record in
21 such previous case as it may deem relevant, provided
22 that in the application of this provision, no party shall
23 be deprived of the right to cross-examine any witness.
24 (10) The Hearing Board may order that the witnesses in any
25 hearing be separated so as to preclude any witness, other
26 than the parties and their representatives, from hearing
27 the testimony of any other witness.

GRIEVANCE PROCEDURE

CURRENT RULES

1 (1) Any officer or employee required to testify shall not be
2 subjected to any disciplinary action by his appointing
3 authority because he testifies, but may be held
4 accountable for actions on his part revealed by his
5 testimony.

PROPOSED RULES

1 (11) When two or more grievance petitions involve similar or
2 related circumstances, the Hearing Board may order a
3 joint hearing of any or all the matters at issue or may
4 order that all such petitions be consolidated.

CHANGES

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GRIEVANCE PROCEDURE

CURRENT RULES

STANDARDS IN PRESCRIBED GRIEVANCE PROCEDURES	
1 Adherence to the letter and spirit of the grievance	1
2 procedure in all agencies serves to improve morale, working	2
3 conditions, and efficiency in the entire Civil Service.	3
4 In implementing the grievance procedure as required by rule	4
5 in each agency, the following standards will be observed:	5
6 1. Management officials, supervisors, and employees shall	6
7 be encouraged to review the procedure and to become	7
8 fully cognizant of its mechanics and purpose to	8
9 facilitate the settlement of any employee problem.	9
10 2. The Personnel Officer or some other appropriate official	10
11 reporting directly to the head of the agency should have	11
12 full and definite responsibility for the administration	12
13 of the procedure. He should permit and encourage	13
14 employees to consult with him freely and informally.	14
15 Before making any recommendations, he should consult	15
16 with appropriate supervisors.	16
17 3. The establishment of the Grievance Procedure outlined	17
18 above or of a similar one affords an orderly method to	18
19 present the employee grievance within the agency to the	19
20 immediate supervisor and if necessary to those higher in	20
21 the supervisory administrative line. The employee will	21
22 have the assurance that if a satisfactory settlement is	22
23 not made at a lower level, he may submit the matter to	23
24 the head of the agency for review and final administra-	24
25 tive decision.	25
26 4. The Grievance Procedure recognizes the operating	26
27 administrative responsibility of supervisors at all levels	27
28 to receive and act promptly and fairly on the grievances	28
29 of their subordinates, and provides for the delegation	29
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PROPOSED RULES

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CHANGES

GRIEVANCE PROCEDURE

CURRENT RULES

1 of appropriate authority to carry out this responsibility.
2 5. If a grievance cannot be solved orally at the local level,
3 it must be presented in writing by the employee to his
4 supervisor. The statement should indicate clearly who
5 is aggrieved and the specific nature of the grievance.
6 In such cases, provisions are made for a written decision.
7 6. In presenting a grievance, an employee shall be assured
8 freedom from restraint, interference, coercion,
9 discrimination, or reprisals of any type.
10 7. Provision is made for the dissemination of information on
11 the Grievance Procedure to all employees.
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PROPOSED RULES

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CURRENT RULES

PROPOSED RULES

CHANGES

1		1	Sec. 7. Review by Commission	1
2		2	Immediately upon issuance of the Hearing Board's written	2
3		3	decision, the Board shall send a copy of that decision to the	3
4		4	Commission for its review. The Commission, at its discretion,	4
5		5	may order a hearing on the subject of the grievance, whether	5
6		6	or not the hearing is held, the Commission has the power to	6
7		7	affirm, reverse, or modify the decision of the Hearing Board,	7
8		8	If the Commission declines to order a hearing of the grievance,	8
9		9	the Commission's decision about the grievance must be issued	9
10		10	within forty-five (45) calendar days after the Commission's	10
11		11	receipt of the Hearing Board's decision. If the Commission	11
12		12	orders a hearing of the grievance, the Commission's decision	12
13		13	about the grievance must issue as does any other appeal.	13
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GRIEVANCE PROCEDURE

CURRENT RULES

FORMS

1
2 The official Grievance Procedure Form, Standard Form
3 CS-6, is reproduced on attachment. Each agency is responsible
4 for the necessary duplication of the grievance form and the
5 issuance of instructions to the employees on its proper use.
6 The form will be used for recording the employee's grievance
7 and the action taken by officials at appropriate steps of the
8 Grievance Procedure. The original copy shall be returned to
9 the employee for his personal use. A duplicate copy shall be
10 maintained in the employee's personal file in the agency.
11 The Department of Civil Service will make an analysis of the
12 information and will furnish all agencies reports on a
13 periodic basis to assist them on employee relations matters.
14 Additional copies may be prepared to meet the needs of the
15 agency.
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18 GRIEVANCE ANALYSIS
19 An analysis of all grievances will help an employer
20 discover the causes of grievances and indicate to him the
21 steps he should take to prevent a repetition of the same
22 grievance. Successful analysis, in turn, depends upon a
23 simple system of keeping abreast of the various steps in
24 the handling of each grievance.
25 A good program of grievance analysis should provide
26 the employer with the following information:
27 1. Number and nature of grievances handled under the
28 established procedure.
29 2. Number and nature of grievances settled at each step
30 of the procedure.

PROPOSED RULES

FORMS

1
2 The Director of Personnel shall prescribe a uniform
3 grievance form to be used and distributed by all agencies
4 covered by the Civil Service System. The Director is authorized
5 and empowered to require that every appointing authority and his
6 agents have ample supplies of the grievance procedure and forms
7 to be made readily available to employees.
8 The official Grievance Procedure Form, Standard Form
9 CS-G-1, shall be printed in triplicate. The original copy
10 shall be retained by the employee for personal use.
11 The second copy shall be forwarded to the agency involved
12 and shall be maintained by the agency in an administrative
13 file. The third copy shall be filed with the Civil Service
14 Commission. This grievance procedure form will be used for
15 recording the employee's grievance and the action taken by
16 officials at appropriate steps.
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CHANGES

1
2 Requires that copies of grievance
3 and decisions be forwarded to CSC.
4 Agency shall maintain a copy
5 in an administrative file rather than
6 personnel file of the individual.
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GRIEVANCE PROCEDURE

CURRENT RULES

1 On the basis of this factual background, the analyst
 2 can then draw definite conclusions, such as:
 3 1. Which phases of an employer's policies cause the most
 4 misunderstanding.
 5 2. Reasons why these misunderstandings arose.
 6 3. The relative seriousness of the difficulties, based on
 7 the frequency with which these misunderstandings recur
 8 and the level of the grievance procedure at which they
 9 were settled.
 10 This analysis may then be used to revise agency policy
 11 to eliminate the difficulties shown to exist. Grievances
 12 which eventually go to the head of the agency for final
 13 decision should be given the most serious attention.
 14 Grievances which reach that level usually concern agency
 15 policies which are least clear.
 16 If grievance analysis is to operate successfully, a
 17 method should be devised to provide a written record of a)
 18 grievances at designated steps of the Grievance Procedure.
 19 The minor grievances settled at the lower steps in the
 20 procedure should not be overlooked. A minor misunderstanding
 21 which recurs frequently can have a more serious effect on
 22 the employee-employer relationship than a single grievance
 23 taken to the final step. The grievance prepared from
 24 completed Standard Form GS-6 can provide a complete record
 25 of all steps of the procedure.
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PROPOSED RULES

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CHANGES

GRIEVANCE PROCEDURE

CURRENT RULES

1 On the regular Personnel Management audits conducted by
2 Civil Service, an evaluation will be made of the operations
3 of the Grievance Procedures in all agencies. This evaluation
4 will include a review of the following factors:
5 1. Method used to distribute the Grievance Procedure to all
6 employees of the agency.
7 2. Those means used to inform employees at all levels of the
8 purpose of the procedure.
9 3. The frequency and types of grievances experienced in the
10 agency.
11 With this information the Civil Service representative
12 will be able to give advice and assistance to the agencies
13 concerning the administration of the Grievance Procedure.
14 The initiated grievance forms (Standard Form GS-6) are to
15 be made available to the representatives in addition to any
16 other report of grievance analysis prepared in the agency.

INQUIRIES

17
18 Information regarding the subject matter of this Part
19 may be obtained from the Civil Service Department, telephone
20 348-2146.

PROPOSED RULES

CHANGES

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