

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

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2009 JUL 31 PM 6:14

SECRETARY OF STATE
STATE OFFICE BLDG
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MARTINSBURG, WV 26150

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia State Police TITLE NUMBER: 81

CITE AUTHORITY: W. Va. Code §15-2-25 and §15-2-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 3

TITLE OF RULE BEING AMENDED: West Virginia State Police Career Progression System

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

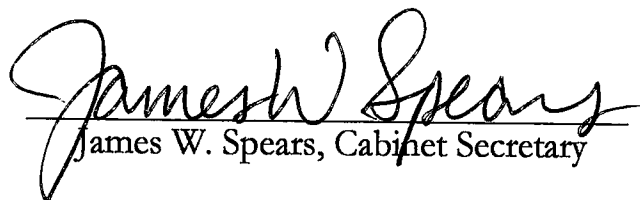
From: James W. Spears, Cabinet Secretary
Department of Military Affairs and Public Safety

To: Legislative Rule Making Committee

Date: July 31, 2009

Re: 81CSR3 / West Virginia State Police Career Progression System

I have reviewed the proposed Legislative Rule having gone to a public hearing or a public comment period and is hereby approved by the promulgating agency for filing with the Secretary of State and the Legislative Rule Making Review Committee for their review.


James W. Spears, Cabinet Secretary

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 31 2009

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia State Police
725 Jefferson Road
South Charleston, WV 25309

LEGISLATIVE RULE TITLE: West Virginia State Police Career Progression System

1. Authorizing statute(s) citation _____

W. Va. Code §15-2-25 and §15-2-5

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

July 1 2009

b. What other notice, including advertising, did you give of the hearing?

None

c. Date of Public Hearing(s) or Public Comment Period ended:

July 30 2009

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached NO No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 31 2009

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Colonel Timothy S. Pack
Superintendent
West Virginia State Police
725 Jefferson Road
South Charleston, WV 25309

(P) 304-746-2115
(F) 304-746-2246

E-mail - tspark@wvsp.state.wv.us

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

F/Lt. Joe White
West Virginia State Police
Planning and Research
725 Jefferson Road
South Charleston, WV 25309

(P) 304-746-2193
(F) 304-746-2281

E-mail - cjwhite@wvsp.state.wv.us

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?


d. Attach findings and determinations and reasons:

Attached



Planning and Research
West Virginia State Police
725 Jefferson Road
South Charleston, West Virginia 25309
Telephone: (304) 746-2193 Fax: (304) 746-2281

Memorandum

From: First Lieutenant Joe White 

To: Legislative Rule Making Committee

Date: July 31, 2009

Re: 81CSR3 / West Virginia State Police Career Progression System

There were no comments received by the West Virginia State Police during the comment period.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia State Police Career Progression System

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia State Police

Address: 725 Jefferson Road
South Chareleston, WV 25309

Phone Number: 304-746-2193 Email: cjwhite@wvsp.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This measure will not have an impact on costs and revenues of state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title: _____

Rule Title:

West Virginia State Police Career Progression System

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

Not applicable

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: 7-1-09

Signature of Agency Head or Authorized Representative

Col. [Signature]

**TITLE 81
LEGISLATIVE RULE
WEST VIRGINIA STATE POLICE**

**SERIES 3
WEST VIRGINIA STATE POLICE CAREER
PROGRESSION SYSTEM**

Summary of Proposal

Employee Performance Appraisals – Section 4.4.2 (b)

The proposed changes would eliminate the awarding of points for Employee Performance Appraisals (EPA) toward promotions in accordance with 4.2.2 (b) of this rule. Currently, members are awarded points toward their composite promotional scores based upon their EPA scores. Whether real or perceived, this awarding of points based upon the EPA scores has become controversial because an appearance of preferential treatment may be given to one member and not the other through the awarding of EPA points.

Physical Fitness Tests – Section 4.2.2 (f)

The proposed changes would also eliminate the awarding of physical fitness points for medical deferrals/waivers and would require members to participate in the physical fitness inventory to be granted points toward promotions. The changes would also require military personnel who are sworn members of the State Police to take the physical fitness inventory prior to deployment or within 30 days of returning from military duty to receive their promotional points.

Rank Ordered Promotional List – Section 4.5.2

This proposal would change the requirements of Section 4.5.2 of this rule. Currently, the top 66% of each rank ordered list shall become the rank ordered promotional list. Members in the bottom 34 percent are removed from the rank ordered list and eliminated from the further promotional consideration at the end of the promotional cycle or prior to the oral evaluation, whichever the Superintendent chooses. This process has caused the mathematical elimination of members from the promotional list that were eliminated because other members who were initially deemed eligible did not participate in or dropped out of the promotional cycle. The proposed change would still allow the bottom 34 percent of the list to be eliminated, but the change would eliminate the bottom 34 percent from those deemed initially eligible as opposed to those on the final rank ordered list.

Promotional Cycle Start Date – Section 4.3.2 and Section 4.3.3

This proposal would require the Superintendent to initiate a promotional cycle on January 1, 2012 and every two years thereafter. Currently, the promotional cycle is required to begin on July 1, 2000 and every two years thereafter. This has caused a hardship on members who are participating in the cycle and those charged with administering the various phases of the cycle

due to planning of vacations and other personal obligations throughout the summer months by members of the agency. The West Virginia State Police believes by moving the start date to January 1st, there would be an increase in the participation level during the cycle, which would be advantageous for the agency and its members without sacrificing time with family.

Awarding of Points for Time-in-Grade – Section 4.2.2 (g)

This is a new section to the rule. Section 4.2.2 (g) would grant members competing for the ranks of First Sergeant and Lieutenant with 0.5 point per year for time served in their present rank beginning in the 13th month after they were promoted. Section 4.2.2 (g) would reward those members who are experienced in their current rank of Sergeant or First Sergeant as they compete for the ranks of First Sergeant and Lieutenant, respectively. This would allow those members who have held a current supervisory rank for an extended period to receive points, not to exceed 7 points total toward their overall promotional score. This proposal breaks the 0.5 point per year down into months of service at 0.0416 point per month of service.

New England Associations of Schools and Colleges (NEASC) – Section 2.1

The NEASC was accidentally removed from the Accredited Educational Institutions listed in this rule. This was confirmed by reviewing older revisions of 81CSR3. If the NEASC were not added to the rule, members who received college hours or degrees from colleges or universities in Connecticut, Maine Massachusetts, New Hampshire, Rhode Island and Vermont would not be allowed to claim these hours or degrees toward their composite score for promotions.

Typos and Mathematical Calculations – Legislative Rule 81CSR3

Several typographical errors and calculations were discovered in the current rule. These errors were corrected to improve the readability and the professionalism of the document. In addition, “time-in-grade” was defined, as well as a redefining “promotional examination” and “practical examination”.

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2009 JUL 31 PM 6:14

TITLE 81
LEGISLATIVE RULE
WEST VIRGINIA STATE POLICE

2009 JUL -1 PM 1:25

SECRETARIAL STATE
STATE OF WEST VIRGINIA

SERIES 3
WEST VIRGINIA STATE POLICE CAREER
PROGRESSION SYSTEM

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§81-3-1. General.

1.1. Scope. -- This rule governs the process for all permanent promotions, all non-supervisory reclassifications, all criminalist reclassifications and all administrative support specialist reclassification.

1.2. Authority. -- W. Va. Code §§15-2-5; 15-2-25.

1.3. Filing Date. -- ~~March 27, 2008.~~

1.4. Effective Date. -- ~~April 1, 2008.~~

§81-3-2. For the Purposes of This Rule.

2.1 "Accredited Educational Institution" means an institution of higher learning accredited by one of the following: Middle States Association of State Colleges and Schools, New England Association of Schools and Colleges, North Central Association of State Colleges and Schools, Northwest Association of State Colleges and Schools, Southern Association of State Colleges and Schools, Western Association of State Colleges and Schools.

2.2. "Criminalist Classification" means the grade awarded to or achieved by a member within the Criminalist Classification System, including the classifications of Criminalist I-VIII.

2.3. "General Knowledge Examination" means a written examination of general questions, relevant to the non-supervisory rank positions.

2.4. "Permanent Rank" means that grade awarded to or achieved by a member within the Supervisory Field Promotional System, including the ranks of Sergeant, First Sergeant, Second Lieutenant and First Lieutenant.

2.5. "Personnel Director" means an employee of the State Police, designated by the Superintendent, who is responsible for the activities and operation of the State Police Personnel Section.

2.6. "Petition for Reclassification" means a petition filed with the Promotional Standards Officer requesting that a member be considered for reclassification.

2.7. "Post-secondary Educational Degree" means a certificate/diploma/degree from an accredited educational institution affirming the successful completion of a course of study where a baccalaureate (bachelor's) degree, master's degree or ~~PhD~~ doctorate degree is awarded for completion of a field of study.

Note: Hours of credit alone do not constitute a post-secondary educational degree. In order to receive credit for a post-secondary educational degree, the member must be awarded a degree by an accredited educational institution.

2.8. "Practical Examination" means an oral interview and/or an in-basket evaluation that evaluates the candidate's ability to perform tasks relevant to a supervisory rank position. ~~a written and/or oral evaluation of the candidate's performance of tasks rele-~~

~~vant to the supervisory rank positions.~~

2.9. "Promotional Cycle" means one complete series of events required to establish a rank ordered list of eligible promotional candidates within the Supervisory Field Promotional System.

2.10. ~~"Promotional Written Examination"~~ means a series of multiple choice, true or false, or similar written examination of questions relevant to a supervisory rank position.

2.11. "Member" means an employee of the State Police empowered under the provisions of W. Va. Code §15-2-12 with statewide law enforcement powers and who has taken and subscribed to the oath of office as required by W. Va. Code §15-2-14.

2.12. "Non-supervisory Rank" means the grade awarded to or achieved by a member within the Non-supervisory Rank Classification System, including the classifications of Trooper, Senior Trooper, Trooper First Class and Corporal.

2.13. "Request For Promotional Consideration" means a form filed with the Promotional Standards Officer expressing a member's intent to participate in a promotional cycle and listing those field operations positions that the member is willing to accept promotion.

2.14. "Senior Staff" means the 18 principle supervisory positions appointed by the Superintendent as authorized by W. Va. Code §15-2-4.

2.15. "Superintendent" means the Superintendent of the West Virginia State Police or his or her duly authorized agent.

2.16. "Support Specialist" means the

temporary grade awarded to or achieved by a member within the Administrative Support Specialist Classification System, including the classifications of Support Specialist I-VIII. This temporary grade has no affect upon a member's permanent rank, non-supervisory rank or criminalist classification.

2.17. "Time-In-Grade" means the period of time a member has held in their present rank.

§81-3-3. Career Progression System - General Requirements.

3.1. This rule is promulgated for the purpose of ensuring consistency, predictability and review of the West Virginia State Police Career Progression System as authorized by W. Va. Code §15-2-5.

3.2. The career progression system shall consist of the following four subsystems:

3.2.1. The Supervisory Field Promotional System, a permanent rank system established to rank those members of the field operations force who desire to perform within designated supervisory positions within the field operations force and to provide a mechanism for the ranking and selection of individuals for promotion;

3.2.2. The Non-Supervisory Rank Classification System, a permanent classification system established to identify those members of the field operations force that meet minimum required levels in demonstrated job knowledge and Department tenure and to provide a series of progressive non-supervisory rank classifications for members who meet the minimum requirements;

3.2.3. The Criminalist Classification System, a permanent classification system established to identify those members of the Forensic Laboratory who meet minimum required levels in demonstrated job knowledge and laboratory tenure, and who receive the recommendation for advancement from appropriate supervisors and to provide a series of progressive criminalist classifications; and

3.2.4. The Administrative Support Specialist Classification System, a temporary classification system, established to identify those members who are permanently assigned to the field operations force of the forensic laboratory, who are designated by the Superintendent to occupy specific support positions and who have demonstrated proficiency in performing the duties and responsibilities of the support position and to provide a series of progressive administrative classifications.

3.3. The Superintendent shall appoint a member to the position of Promotional Standards Officer who shall have the authority and responsibility for administering the Career Progression System. His or her duties shall include:

3.3.1. Maintain individual status files for every member within the system,

3.3.2. Provide notice as required on behalf of the Superintendent or any system board,

3.3.3. Receive all requests for promotional consideration, petitions for reclassification and petitions of justification on behalf of the Superintendent or any system board,

3.3.4. Review any candidate challenges to ~~promotional~~ written examination

questions,

3.3.5. Coordination of the activities of all Career Progression System sub-systems, and

3.3.6. Provide direct contact to all Department members concerning the Career Progression System.

3.4. The Superintendent shall provide each member with a written manual governing the specific procedures for evaluating and testing members for promotion or reclassification.

3.5. Basic eligibility requirements for participation in all sub-systems include:

3.5.1. Achievement of the required rank or classification as defined in subdivision 4.1.1 of this rule; and

3.5.2. Achievement by the member of a minimum score of 75 percent on the most recent General Knowledge examination completed by all members required to take the examination.

3.6. In addition to the requirements set forth in Section 3.5 of this rule, members in the Non-supervisory Rank Reclassification System must achieve a "Meets Expectations" or higher final rating score for the most recent Employee Performance Appraisal evaluation in order to be eligible for promotion or reclassification.

3.7. The Promotional Standards Officer may establish minimum or maximum advance notification limits for the submission of requests for promotional consideration or petitions for reclassification.

§81-3-4. Permanent Rank Promotions.

4.1. Eligibility Requirements

4.1.1. Participation in the Supervisory Field Promotional System, hereinafter Promotional System, is restricted to those members who have achieved and hold the permanent classification or rank of Trooper First Class, Corporal, Sergeant, First Sergeant or Second Lieutenant when new promotional cycles are initiated by the Superintendent pursuant to Subsection 4.3.2 and 4.3.3, on July 1, 2000, and every two years thereafter on July 1st. If the Superintendent initiates a promotional cycle pursuant to Subsection 4.3.1, the member must meet all of the applicable eligibility requirements set forth in this rule in order to participate in any phase of the cycle as of the first day of the month following the initiation of the cycle.

a. Members holding the rank of Trooper First Class, having completed nine years service, or Corporals may request promotion to the rank of Sergeant.

b. Non-probationary Sergeants, who have at least one year in the present rank, may request promotion to the rank of First Sergeant.

c. Non-probationary First Sergeants, who have at least one year in the present rank, may request promotion to the rank of Second or First Lieutenant

d. Non-probationary Second Lieutenants may request promotion to the rank of First Lieutenant.

4.1.2. To participate in the Promotional System, the member shall meet the basic eligibility requirements as required by Subsection 3.5 and 3.6 of this rule.

4.1.3. The Promotional Standards Officer shall notify all members of the requisite rank or classification when a promotional cycle has been initiated and shall provide to those members forms to request promotional consideration. Members on permanent rank probation or members who do not meet the provisions of Section 4.1.1 (b) and (c) of this rule on the date the notification is forwarded are not eligible to receive notification of or to participate in the promotional cycle.

4.2. Composite Score.

4.2.1. Members who participate in the Promotional System shall receive a composite score as determined by a competitive process including both a written and a practical examination (~~promotional examination and practical examination~~), as well as the member's State Police tenure, education educational background employee performance appraisal and, physical fitness test and time-in-grade.

4.2.2. The maximum attainable composite score for First Sergeant and Lieutenant candidates shall be ~~110~~ 115 points. The maximum attainable composite score for Sergeant candidates shall be 108. Effective January 1, 2012, and continuing thereafter, the maximum attainable composite score for First Sergeant and Lieutenant candidates shall be 113.5 points. The maximum attainable composite score for Sergeant candidates shall be 106.5 points with the determination of points made as follows:

a. Promotional Written examination -- The member may receive up to 40 points for the written examination, which shall consist of no less than 40 written questions.

b. Practical examination -- The member may receive up to 20 points for an oral interview and may receive up to 10 points for an in-basket or similar examination, not to exceed 30 cumulative points.

~~b. Employee Performance Appraisal -- Members may receive a maximum total of fifteen (15) points for the employee performance appraisal. The selection and review board will award points to the member based on the member's average final rating score of the evaluations for the two (2) year period prior to the initiation of the promotional cycle.~~

c. Longevity -- The member shall receive .0833 point, not to exceed 20 points for each month of service from 61 to 300 months, inclusive.

d. Education -- The member shall receive .075 point, not to exceed 10 points, for each certified college semester hour or each five cumulative days of successfully completed schools authorized or sanctioned by Department Special Order. A member shall receive additional points for completion of a post-secondary educational degree as follows: bachelor's degree - one point, master's degree - one and one half points, PhD doctorate - two points. Points for educational degrees are not cumulative and multiple degrees shall not earn additional points. The cumulative points awarded for education shall not exceed 12. maximum total points possible for education is fourteen (14).

e. Physical fitness test -- The member shall receive 0.5 point, not to exceed a total of six points, for each section of the semi-annual physical fitness test passed by the member during the two-year period prior to the initiation of the promotional cycle.

f. Physical fitness test -- Effective January 1, 2012, and continuing thereafter, the member shall receive 0.5 point, not to exceed a total of 4.5 points, for each section of the semi-annual physical fitness test passed by the member during the two-year period prior to the initiation of the promotional cycle. The three highest composite scores achieved by the member during the two-year period shall be counted toward the composite score, the lowest score shall not be counted. Medical deferrals and waivers shall not be recognized. Points for the physical fitness test shall only be awarded to those members who successfully complete the individual sections of the assessment. Members who are on military leave during the physical fitness-testing period shall be given the physical fitness inventory prior to deployment and within 30 days upon completion of the absence to be awarded the applicable promotional points. Should a member while on military leave miss more than one physical fitness inventory, the score for the physical fitness inventory taken upon the member's return shall also be used for the missing physical fitness inventory score.

~~f. Practical examination -- The member may receive up to 15 points for the written and/or oral practical examination results.~~

g. Time in Grade -- First Sergeant and Lieutenant Candidates shall receive .0416 point, not to exceed 7 points for each month of service in their current rank from 13 to 180 months, inclusive.

4.3. Initiation of promotional cycle.

4.3.1. The Superintendent may initiate a promotional cycle when one or more of the following conditions exist:

a. An insufficient number of candidates remain on a current promotional list to fill State Police vacancies,

b. A number of members, equal to or greater than ten percent of the number remaining on the current list, reach a tenure requirement that would permit their participation in the Promotional System, or

c. The current promotional list has been active for at least 12 calendar months.

4.3.2. Beginning on July 1, 2000, and every two years thereafter on July 1st, the Superintendent shall initiate a promotional cycle for the ranks of Sergeant, First Sergeant, and Lieutenant. The provisions of this Section shall end on December 31, 2011.

4.3.3. Beginning on January 1, 2012, and every two years thereafter on January 1st, the Superintendent shall initiate a promotional cycle for the ranks of Sergeant, First Sergeant, and Lieutenant.

4.4. Creation of a selection and review board and its duties.

4.4.1. The selection and review board is created and shall consist of six voting members and a chairperson who shall only vote in cases of tie.

a. The board shall meet at the direction of the Superintendent.

b. The voting members shall be two members of the Non-supervisory Rank Classification System and one member of each of the supervisory ranks of Sergeant and First Sergeant. These members shall be drawn by blind lot by the Superintendent or a member of the Senior Staff from a list of

members of the applicable classification or supervisory rank determined by the Superintendent to be eligible to participate in the Promotional System. The voting members shall also include two members of the First or Second Lieutenant rank who shall be drawn from a list of all Lieutenants in the Department.

c. Each voting member has equal voting privileges and all actions of the board shall be by majority decision.

d. The board chair shall be appointed by the Superintendent from the Senior Staff.

e. A member who is selected for inclusion on this board may not vote on any issue of his or her personal promotion, and any member so affected shall be recused from any deliberations concerning that issue.

f. The voting members of this board shall serve a minimum term of 12 consecutive months unless the member is unable to serve due to illness, injury, promotion, demotion, suspension or other cause.

g. In instances where a member cannot fulfill the original term of the board, the Superintendent shall appoint another member of equal rank or classification to fulfill the term.

h. Prior to assuming the duties of the board, each member shall be administered the following oath by the Superintendent:

"I, _____, do solemnly swear (or affirm) that I will, without prejudice or partiality, perform the duties hereby imposed upon me as a member of this board."

i. Upon request of the board, the Personnel Director or other person designated by the Superintendent shall provide specific information concerning an individual member's personnel records necessary for determining promotional scores or eligibility.

4.4.2. Duties.

a. The board has responsibility for reviewing the eligibility of applicants for promotion, determining individual promotional category scores, reviewing all supervisory recommendations and non-recommendations and determining individual positions of applicants on the rank ordered promotional list.

b. The board shall communicate with the reclassification boards within the Career Progression System and shall present annually to the Superintendent a review of the Career Progression System listing identified problems with suggestions for corrective action.

c. Following the board's evaluation of applicant members' eligibility for supervisory rank promotions, the board shall individually transmit to every affected member the results of his or her individual eligibility review. The transmittals shall be made following the review of the initial eligibility requirements with a second transmittal following the completion of the competitive testing procedures.

4.5. Rank ordered promotional list.

4.5.1. Members participating in the Promotional System shall be rank ordered on a promotional list according to the member's composite score as established under Subsection 4.2 of this rule.

~~4.5.2. The top 66% of each rank ordered list shall become the rank ordered promotional list. Members in the bottom 34% removed from the rank ordered list and eliminated from the promotional cycle. The 34% removed members shall be done at the end of the ordered promotional list or prior to the oral evaluation whichever the Superintendent chooses.~~

4.5.2 The final rank ordered lists shall consist of no more than the top 66 percent of those candidates determined to meet initial eligibility within their specific rank, in accordance with Section 3.5 and 3.6 of this rule. Those members in the bottom 34 percent of those determined to meet initially eligibility in accordance with Section 3.5 and 3.6 of this rule shall be removed from the rank ordered list and eliminated from further promotional consideration.

4.5.3. The selection and review board shall submit to the Superintendent the rank ordered promotional list of members eligible for supervisory promotion.

4.5.4. Identical composite scores and tiebreakers.

a. If two members requesting consideration for promotion to the rank of Sergeant achieve identical composite scores, time-in-grade and then longevity ~~the length of time in classification and then length of time in service~~ shall be used as a tiebreaker. If all factors are identical, members shall be ranked according to their score on the ~~promotional~~ written examination.

b. If two members requesting consideration for promotion to a position with a designated rank of First Sergeant or Second Lieutenant achieve identical composite scores, time-in-grade and then longevity ~~time in rank and then time in service~~ shall be

used as the tiebreaker. If all factors are identical, members shall be ranked according to their score on the ~~promotional~~ written examination.

c. If two members requesting consideration for promotion to a position with a designated rank of First Lieutenant achieve identical composite scores, any Second Lieutenant shall be ranked ahead of any First Sergeant, then ~~time in rank~~ time-in-grade and ~~time in service~~ then longevity shall be used as the tiebreaker. If all factors are identical, members shall be ranked according to their score on the ~~promotional~~ written examination.

4.5.4. The rank ordered promotional list shall be affirmed as follows:

"The selection and review board, acting under oath, recommends the members named on the attached rank ordered promotional list be considered for promotion to the indicated rank."

4.5.5. The rank ordered promotional list shall be filed by the Superintendent who shall not expire the list until a new rank ordered list is created as provided in this rule.

4.6. Selection for promotion.

4.6.1. In order to be promoted, a member shall indicate on a form provided by the Promotional Standards Officer that he or she is willing to be assigned or transferred to specific field operations positions.

4.6.2. Promotions within the West Virginia State Police shall only be made by the Superintendent when there is a vacant supervisory field position. When making promotions, the Superintendent shall select a member from the rank ordered promotional

list, as certified by the selection and review board, whose final composite score is equal to or higher than the final composite score of the third highest-ranking member who has indicated that he or she is willing to accept a promotion to the specified vacancy.

4.6.3. Any member selected for and who accepted a permanent rank promotion shall successfully complete a required six-month probationary period. The probationary period may be extended by the Superintendent. Probationary members are not eligible to participate in any promotional cycle until non-probationary status is granted.

§81-3-5. Non-Supervisory Rank Reclassifications.

5.1. Eligibility requirements.

5.1.1. All members permanently assigned to the field operations force and who have completed the basic State Police entry-level training program are eligible for participation in the Non-supervisory Rank Classification System and shall be classified as Troopers following receipt of a field assignment.

5.1.2. To participate in the Non-Supervisory Rank Classification System, the member shall meet the basic eligibility requirements as required by Subsection 3.5 and 3.6 of this rule.

5.1.3. The Non-supervisory Rank Reclassification Board shall automatically consider a member's eligibility for reclassification upon completion of the following cumulative years of service to the Department, provided the member has not received a reduction in classification or reclassification denial:

- a. Senior trooper - three years;
- b. Trooper first class - six years;
- c. Corporal - nine years

5.1.4. A member who receives a reduction in classification or reclassification denial shall be required to file a petition for reclassification with the Promotional Standards Officer.

5.1.5. The Superintendent shall reclassify members participating within the Non-supervisory Rank Classification System who meet or exceed the minimum established reclassification and tenure requirements.

5.2. Creation of Non-supervisory Rank Reclassification Board and its duties.

5.2.1. The Non-supervisory Rank Reclassification Board is created and shall consist of five voting members.

a. The board shall meet at the direction of the Superintendent.

b. The board members shall be two members of the Senior Staff as selected by the Superintendent, the Personnel Director, and two members and two alternates drawn by blind lot by the Superintendent. One member and one alternate shall be drawn from the commissioned ranks of First Lieutenant and Second Lieutenant and one member and one alternate drawn from the non-commissioned officer ranks of First Sergeant and Sergeant. If the Personnel Director is unavailable to serve or if the position of Personnel Director is eliminated, the Superintendent shall select a member to occupy that board position.

c. Each board member has

equal voting privileges and all actions of the reclassification board shall be by majority decision.

d. The most senior highest-ranking officer shall serve as chairperson.

e. In instances where a board member drawn from the commissioned or non-commissioned officer ranks is within a candidate's direct supervisory chain, that board member shall be recused and replaced by an alternate during the affected candidate's review.

f. The members of the board, except the Personnel Director who shall be a permanent member, shall serve a minimum term of 12 consecutive months unless a member is unable to serve due to illness, injury, promotion, demotion, suspension or other cause.

g. The alternate shall fulfill the term in all instances where a member cannot fulfill the original term of the board.

h. Prior to assuming the duties of the reclassification board, each member shall be administered the following oath by the Superintendent:

"I, _____, do solemnly swear (or affirm) that I will, without prejudice or partiality, perform the duties hereby imposed upon me as a member of this board."

5.2.2. Duties.

a. The reclassification board shall verify a member's eligibility in the areas of longevity, Employee Performance Appraisal and General Knowledge examination.

b. The reclassification board

shall review all petitions for reclassification and shall determine eligibility.

c. The Promotional Standard Officer shall individually transmit to every affected member the results of individual eligibility and petition reviews.

d. The reclassification board has responsibility for identifying deficiencies in the Non-supervisory Rank Classification System and for communicating these deficiencies with suggestions for remedial action to the selection and review board of the Supervisory Field Promotional System.

5.3. Reclassification recommendations.

5.3.1. Upon verifying a member's eligibility, the reclassification board will submit to the Superintendent a recommendation for reclassification.

5.3.2. The reclassification recommendation shall be affirmed as follows:

"The reclassification board, acting under oath, finds, by majority decision, that the members named on the attached list have met or exceeded the minimum eligibility requirements for reclassification to the non-supervisory rank indicated and recommends said members be reclassified to the indicated non-supervisory rank."

5.3.3. The affirmation shall be filed by the Superintendent and shall be maintained for a minimum period of one year.

§81-3-6. Criminalist Reclassifications.

6.1. Eligibility requirements.

6.1.1. All members permanently assigned to the forensic laboratory are eligible for participation in the Criminalist Clas-

sification System, and all members with less than one year of service within the forensic laboratory shall be classified as Criminalist I.

6.1.2. To participate in the Criminalist Classification System the member shall meet the basic eligibility requirements as required by Subsection 3.5 of this rule, and the member shall receive the recommendation for reclassification from each applicable supervisory level as determined by the reclassification board.

6.1.3. A member may file a petition for reclassification upon completion of the following years of cumulative service within the Forensic Laboratory. The service shall be inclusive of the member's basic training.

- a. Criminalist II - one (1);
- b. Criminalist III - three (3);
- c. Criminalist IV - five (5);
- d. Criminalist V - eight (8); and
- e. Criminalist VI - ten (10)

6.1.4. A member who receives a reduction in classification or a reclassification denial shall re-file a petition for reclassification.

6.1.5. The Superintendent shall reclassify members participating within the Criminalist Classification System who meet or exceed the minimum established reclassification and tenure requirements.

6.2. Unit Supervisors.

6.2.1. A member may be appointed as unit supervisor by the Superintendent to assume direct supervisory and administra-

tive responsibility for a specific laboratory unit. A member so appointed shall receive a temporary criminalist classification designation that is one level above his or her permanent classification.

6.2.2. A member appointed as a unit supervisor may receive an additional temporary designation that is up to two levels above his or her permanent classification subject to the following criteria:

a. A member appointed as a unit supervisor shall serve a minimum of 24 consecutive months before becoming eligible to receive additional designations.

b. Additional designations shall be at the discretion of the Superintendent based upon the recommendation of the Director of the Forensic Laboratory and the Chief of Staff.

6.2.3. A temporary criminalist classification as authorized by this Section may not exceed Criminalist VIII.

6.3. Creation of Criminalist Reclassification Board and its duties.

6.3.1. The Criminalist Reclassification Board is created and shall consist of five voting members.

a. The board shall meet, at the direction of the Superintendent, following a reclassification request by a member of the criminalist System.

b. The board members shall include the Senior Staff officer in charge of the Forensic Laboratory, the Director of the Forensic Laboratory and the Personnel Director as permanent members. The board members shall also include two members and two alternates, drawn by blind lot by the

Superintendent from all members of the Criminalist System who will not become eligible for reclassification during the term of the board. If the Director of the Forensic Laboratory or the Personnel Director is unavailable to serve or if either or both positions are vacant or eliminated, the Superintendent shall select a member or members to occupy the vacancies.

c. Each member shall have equal voting privileges and all actions of the reclassification board shall be by majority decision.

d. The Senior Staff officer in charge of the Forensic Laboratory shall serve as chair.

e. In instances where a board member drawn from the Criminalist System is within a candidate's direct supervisory chain, that board member shall be recused and replaced by an alternate during the affected candidate's review.

f. The members of the board, except the Senior Staff officer in charge of the Forensic Laboratory, the Director of the Forensic Laboratory and the Personnel Director who shall serve as permanent members, shall serve a term of 12 consecutive months unless a member is unable to serve due to illness, injury, promotion, demotion, suspension or other cause.

g. The alternate shall fulfill the term in instances where a member cannot fulfill the original term of the board.

h. Prior to assuming the duties of the reclassification board, each member shall be administered the following oath by the Superintendent.

"I, _____, do solemnly

swear (or affirm) that I will, without prejudice or partiality, perform the duties hereby imposed upon me as a member of this board."

6.3.2. Duties.

a. The reclassification board shall verify a member's eligibility in the areas of criminalist tenure, General Knowledge examination score and supervisory recommendations.

b. The reclassification board shall review all petitions for reclassification and shall determine eligibility.

c. The Promotional Standards Officer shall individually transmit to every affected member the results of individual eligibility and petition reviews.

d. The reclassification board has responsibility for identifying deficiencies in the Criminalist Classification System and for communicating these deficiencies with suggestions for remedial action to the selection and review board of the supervisory field promotional system.

6.3.3. Reclassification recommendations.

a. Upon verifying a member's eligibility, the reclassification board shall submit to the Superintendent a recommendation for reclassification.

b. The reclassification recommendation shall be affirmed as follows:

"The reclassification board, acting under oath finds, by majority decision, that the members named on the attached recommendation have met or exceeded the minimum eligibility requirements for reclassification to the criminalist classification indicated and recommends said members be reclassified to the indicated criminalist classification"

c. The affirmation shall be filed by the Superintendent and shall be maintained for a minimum period of one year.

§81-3-7. Administrative Support Specialist Reclassifications.

7.1. Eligibility requirements.

7.1.1. All members assigned to Support Specialist positions, are eligible for participation in the Administrative Support Specialist Classification System, provided the members have successfully completed a one-year probationary period within a specific Support Specialist position.

7.1.2. A member may not advance within the Administrative Support Specialist Classification System to a level that exceeds the maximum classification level established for that position by the Superintendent.

7.1.3. A member may file a petition for reclassification to the next applicable classification level following each 24 months of continuous service as a Support Specialist, or when a member receives a promotion by virtue of participation in the Supervisory Field Promotional System.

7.1.4. A member requesting reclassification shall submit a petition for reclassification to the Support Specialist Reclassification Board. The petition shall take the form required by the Superintendent.

7.1.5. A member requesting reclassification shall meet the basic eligibility requirement regarding the General Knowledge examination as required by Subsection 3.5

of this rule.

7.1.6. A member who is denied reclassification or promotional eligibility within the member's permanent career progression system is not eligible for reclassification within the Administrative Support Specialist Classification System until the member achieves eligibility within the permanent system.

7.1.7. A member who receives a reduction in classification or reclassification denial shall re-file a petition for reclassification.

7.2. Creation of Administrative Support Specialist Reclassification Board and its duties.

7.2.1. The Administrative Support Specialist Reclassification Board is created and shall consist of five voting members.

a. The board shall meet, at the direction of the Superintendent, following a reclassification request by a member of the administrative support specialist system.

b. The board members shall be three members of the Senior Staff as selected by the Superintendent, the most senior ranking officer assigned to the training academy and the Personnel Director.

c. If the Personnel Director submits a petition for reclassification or is otherwise unavailable to serve, or if the position of Personnel Director is vacant or eliminated, the Superintendent shall select a member to occupy that board position.

d. Each board member has equal voting privileges and all actions of the reclassification board shall be by majority decision.

e. The most senior highest-ranking officer shall serve as chair.

f. The members of the board selected by the Superintendent shall serve a minimum term of 12 consecutive months unless a member is unable to serve due to illness, injury, promotion, demotion, suspension or other cause.

g. In all instances where a board member cannot fulfill the original term of the board, the Superintendent shall appoint a member of the Senior Staff or a member of the Administrative Support Specialist Classification System to fulfill the term.

h. Prior to assuming the duties of the reclassification board, each member shall be administered the following oath by the Superintendent:

"I, _____, do solemnly swear (or affirm) that I will, without prejudice or partiality, perform the duties hereby imposed upon me as a member of this board."

7.2.2. Duties.

a. The reclassification board shall verify a member's eligibility in the areas of support specialist tenure, General Knowledge examination score and supervisory recommendations.

b. The reclassification board shall review all petitions for reclassification and shall determine eligibility.

c. The Promotional Standard Officer shall individually transmit to every affected member the results of individual eligibility and petition reviews.

d. The reclassification board has responsibility for identifying deficiencies in the Administrative Support Specialist Classification System and for communicating these deficiencies, with suggestions for remedial action, to the selection and review board of the Supervisory Field Promotional System.

7.3. Reclassification recommendations.

7.3.1. Upon verifying a member's eligibility, the reclassification board shall submit to the Superintendent a recommendation for reclassification.

7.3.2. The reclassification recommendation shall be affirmed as follows:

"The reclassification board, acting under oath and having considered the individual members requesting reclassification, finds, by majority decision, that the members named on the attached recommendation have met the eligibility requirements for reclassification to the Support Specialist classification indicated and recommends said members be reclassified to the indicated Support Specialist classification.

7.3.3. The affirmation shall be filed by the Superintendent and shall be maintained for a minimum period of one year.

§81-3-8. Creation of Career Progression Review Committee and its Duties.

8.1. The Career Progression Review Committee is created and shall consist of six members.

8.2. The committee shall meet annually at the direction of the Superintendent.

8.3. The committee members shall consist of two members chosen by the Su-

perintendent, two members chosen by the trade or professional organization that has the largest number of members of the State Police within its membership, and two members selected by blind lot from the entire membership of the State Police.

8.4. Each member of the committee has equal voting privileges and all actions of the committee shall be by majority decision.

8.5. The committee members shall serve a minimum of 12 consecutive months unless a member is unable to serve due to illness, injury or other cause.

8.6. In instances where a member cannot fulfill their original term on the committee, that member shall be replaced by another member in accordance with Subsection 8.3 of this rule.

8.7. Duties.

8.7.1. The committee shall review, evaluate, and coordinate any recommendations for system improvements received from any source.

8.7.2. The Superintendent shall solicit from the committee a written review of the West Virginia State Police Career Progression System, including any operational policy and procedures, to be completed once every 12 months. The review shall identify specific problems with the system's procedures and shall include recommendations for remedial action.