

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

2007 JUN 25 AM 10:00

OFFICE OF THE
SECRETARY OF STATE

**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: §15-2-5; §15-2-25

AMENDMENT TO AN EXISTING RULE: YES NO

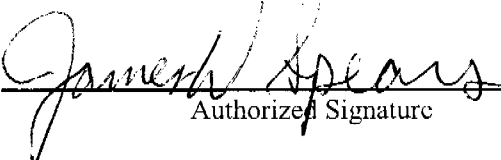
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

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

Office
of The Secretary
JUN 19 2007
Dept. of MAPS

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: June 19, 2007

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 _____
§15-2-5; §15-2-25

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
May 9, 2007

b. What other notice, including advertising, did you give of the hearing?
None

c. Date of Public Hearing(s) *or* Public Comment Period ended:
June 8, 2007

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached X No comments received _____

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

June 25, 2007

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

Captain David W. Skeen
725 Jefferson Road
South Charleston, WV 25309

Phone: 746-2193

Fax: 746-2281
email: dskeen@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)

N/A

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:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

**West Virginia State Police
Title 81
Series 3**

Summary of Proposed Rule

This rule as proposed serves to better enhance the West Virginia State Police Career Progression System by adjusting the eligibility requirements for the permanent rank of sergeant, allowing members with 7 years of service holding the rank of trooper first class to test for sergeant. The rule also restricts participation in the permanent rank promotion system for the supervisory rank of lieutenant by placing the requirement of a bachelor's degree for members testing for this rank. The rule also provides additional points for possession of college degrees (bachelor's, master's and PhD) by members. These modifications to the rule will allow the department to improve its ability to identify the best candidate for a given position.

**West Virginia State Police
Title 81
Series 3**

Circumstances Requiring Filing of Rule

The Superintendent of the West Virginia State Police is required to promulgate this administrative rule pursuant to *W. Va. Code* §15-2-5 (b) & (c). The proposed amendments came about due to an effort by the administration to improve the Career Progression Systems in terms of both efficiency and its ability to identify the best candidate for a given position.

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 Charleston, WV 25309

Attn: Captain David W. Skeen

Phone Number: 746-2193 Email: dskeen@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.

There is no impact on the cost or revenue of state government by this measure.

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	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

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.

None

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.

The proposed amendment changes eligibility requirements of certain members within the state police career progression system. There is no cost to the state by these modifications.

Date: May 9, 2007

Signature of Agency Head or Authorized Representative

James W. Spears

TITLE 81
LEGISLATIVE RULE
WEST VIRGINIA STATE POLICE

SERIES 3
WEST VIRGINIA STATE POLICE CAREER
PROGRESSION SYSTEM

2007 JUL 25 AM 10:00
OFFICE OF THE
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 reclassification.

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

1.3. Filing Date. -- ~~April 26, 2005.~~

1.4. Effective Date. -- ~~May 16, 2005.~~

§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, 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 that 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 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 a written and/or oral evaluation of the candidate's performance of tasks relevant to the supervisory rank positions.

2.9. Promotional cycle means one (1) complete series of events required to

establish a rank ordered list of eligible promotional candidates within the supervisory field promotional system.

2.10. Promotional examination means a written examination of questions relevant to the supervisory rank positions.

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 to which the member is willing to accept promotion.

2.14. Senior staff means the eighteen (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 effect upon a member's permanent rank, non-supervisory rank or criminalist classification.

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

3.1. This rule is promulgated for the purpose of insuring 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 (4) sub-systems:

3.2.1. The supervisory field promotion 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 division 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 that 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 or 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. Maintaining individual status files for every member within the system;

3.3.2. Providing notice as required on behalf of the superintendent or any system board;

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

3.3.4. Reviewing any candidate challenges to promotional examination questions;

3.3.5. Coordinating of the activities of all career progression system sub-systems; and

3.3.6. Providing direct contact to all division members concerning the career progression system.

3.4. The superintendent shall provide to each member a written manual governing specific procedures for the evaluation and testing of 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% 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 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 subdivision 4.3.2, on July 1, 2000, and every two (2) years thereafter on July 1st. If the superintendent initiates a promotional cycle pursuant to subdivision 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 seven (7) years service, or Corporals may request promotion to the rank of sergeant.

b. Non-probationary sergeants may request promotion to the rank of first sergeant.

c. Non-probationary first sergeants may request promotion to the rank of second or first lieutenant. Effective July 1, 2012 and continuing thereafter, a first sergeant must possess a post-secondary education bachelor's degree in order to be eligible for promotion to the rank of second lieutenant 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 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 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 (promotional examination and practical examination), the member's State Police tenure, education, employee performance appraisal and physical fitness.

4.2.2. The maximum attainable composite score shall be ~~106~~ 110 points with the determination of points made as follows:

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

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 for each month of service from sixty-one (61) to three-hundred (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 (5) cumulative days of successfully completed schools authorized or sanctioned by division special order. A member shall receive additional points for completion of a post-secondary educational degree as follows: bachelor's degree - two (2) points, master's degree - three (3) points, PhD - four (4) points. Points for educational degrees are not cumulative and multiple degrees do not earn additional points. The maximum total points possible for education is fourteen (14).

e. Physical fitness test -- The member shall receive 0.5 point, not to exceed six (6) points total, for each section of the semi-annual physical fitness test passed by the member during the two (2) year period prior to the initiation of the

promotional cycle.

f. Practical examination – The member may receive up to fifteen (15) points for the written and/or oral practical examination results.

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 (10%) 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 twelve (12) calendar months.

4.3.2. Beginning on July 1, 2000, and every two (2) years thereafter on July 1st, the superintendent shall initiate a promotional cycle for the ranks of sergeant, first sergeant, and lieutenant.

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

4.4.1. The selection and review board is created and shall consist of six (6) voting members and a chairman 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 (2) members of the non-supervisory rank classification system and one (1) member of each of the supervisory ranks of sergeant and first sergeant, all of whom 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 and (2) members of the first or second lieutenant rank who shall be drawn from a list of all lieutenants in the division.

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

d. The board chairman 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 twelve (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. The personnel director or other

person designated by the superintendent, shall, upon request of the board, 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.

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 (2) members requesting consideration for promotion to the rank of sergeant achieve identical composite scores, 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 examination.

b. If two (2) members requesting consideration for promotion to a position with a designated rank of first sergeant or second lieutenant achieve identical composite scores, 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 examination.

c. If two (2) 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 and 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 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 and shall not be expired by the superintendent until a new 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 (PSO) 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 and 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 accepting a permanent rank promotion shall be required to successfully complete a six (6) 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 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 years cumulative service to the division, provided the member has not received a reduction in classification or reclassification denial:

- a. Senior trooper - three (3) years;
- b. Trooper first class - six (6) years; and
- c. Corporal - nine (9) 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 (5) voting members.

- a. The board shall meet at the direction of the superintendent.

b. The board members shall be two (2) members of the senior staff as selected by the superintendent; the personnel director; and two (2) members and two (2) alternates, drawn by blind lot, by the superintendent, with one (1) members and one (1) alternates drawn from the commissioned ranks of first lieutenant and second lieutenant and one (1) member and one (1) 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 or 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 chairman.

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 twelve (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 terms 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 (PSO) 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 (1) 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 classification system, and all members with less than one (1) year 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 refile 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 administrative 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 (2) 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 (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 (5) 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 and two (2) members and two (2) 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 chairman.

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 twelve (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 (PSO) 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 (1) 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 (1) 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 twenty-four (24) months of continuous service as a support specialist, or when a member receives a promotion by virtue of participation in the supervisory field promotion 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. Effective July 1, 2012 and continuing thereafter, a member must possess a post-secondary education bachelor's degree in order to be eligible for reclassification to administrative support specialist VII or VIII.

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 such time as the member achieves eligibility within the permanent system.

7.1.7. A member who receives a reduction in classification or reclassification denial shall refile 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 (5) 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 (3) 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

f. The members of the board selected by the superintendent shall serve a minimum term of twelve (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 (PSO) shall individually transmit to every affected member the results of individual eligibility and petition reviews.

decision.

e. The most senior highest ranking officer shall serve as chairman.

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 (1) 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 (6) members.

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

8.3. The committee members shall consist of two (2) members chosen by the superintendent, two (2) members chosen by the trade or professional organization which has the largest number of members of the State Police within its membership, and two (2) 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 twelve (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 his/her original term on the committee, then 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 twelve (12) months. The review shall identify specific problems with the system's procedures and shall include recommendations for remedial action.



Local 2019

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RECEIVED

JUN 06 2007

Marketing Research

June 5, 2007

David L. Lemmon, Colonel
West Virginia State Police
725 Jefferson Road
South Charleston, WV 25309

Hand Delivered

Dear Colonel Lemmon:

The West Virginia Troopers Association strongly opposes the proposed changes to the West Virginia State Police Career Progression, **Title 81 Series 3**. The West Virginia State Police Career Progression was established to provide a standard for the promotion of Troopers and to assure that all Troopers have a fair and equal chance for promotion. The Department has proposed to change the career progression to require any Trooper testing for the rank of Lieutenant to have a Bachelor's degree. This change could potentially create a promotional system where the vacancy for the position of Lieutenant exceeds the number of eligible members due to the minimum requirement of a post-secondary education bachelor's degree.

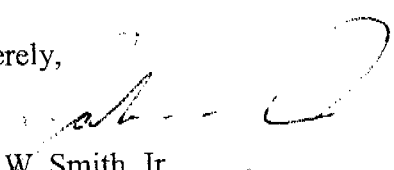
This makes little to no sense for several reasons. The first is that the proposed change does not require the twenty-five positions above a Lieutenant, which are the appointed ranks of Captain, Major, Lieutenant Colonel and Colonel to have a Bachelor's degree. The second would be that a Lieutenant is a middle management position. Lieutenants at the Troop level are assigned to Executive Officer, Logistics, and Internal Investigator positions. This causes the Lieutenants to have little to no direct supervisor role. A third reason that the Troopers Association would oppose the change is because all Troopers receive an Associates degree from Marshall University upon completing the Academy and the required probationary period. This, plus the experience gained while being a Trooper, then Sergeant, then First Sergeant, prepares a Trooper to be a Lieutenant. The West Virginia State Police is not a business and managing Troopers is something that is learned on the job, not out of a book. The Troopers Association believes that education is a very important part of being a professional police officer. The Troopers Association also believes that management education provided to Troopers through yearly in-service, the FBI Academy, and other training received during a career are more geared to providing a Trooper with the tools needed to be an effective leader

David L. Lemmon, Colonel
June 5, 2007
Page Two

and manager. The Troopers Association believes that a leader must be judged on all of his/her abilities not solely on the fact that he/she has a Bachelor's degree. Fourth, the career progression currently allows for promotion points for college credits. The Troopers Association believes that the current career progression system provides a fair and equal chance at promotion for the Troopers, which is what it was intended for.

I welcome any questions concerning this proposed rule and will gladly answer the same.

Sincerely,



John W. Smith, Jr
Vice President, WVTA

cc: West Virginia Secretary of State

**West Virginia State Police
Title 81
Series 3**

Response to Comments Received

The West Virginia State Police received one comment letter from the West Virginia Troopers Association concerning the proposed amendment to the rule. After reviewing the received comment letter, the West Virginia State Police makes no changes to the rule as proposed.

The response to the comment letter is as follows:

COMMENT

"...the proposed change does not require the twenty-five positions above Lieutenant, which are the appointed ranks of Captain, Major, Lieutenant Colonel to have a Bachelor's degree."

RESPONSE

West Virginia Code §15-2-4 authorizes the Superintendent to appoint a Deputy Superintendent, who will hold the rank of Lieutenant Colonel and seventeen principal supervisors who will hold the temporary rank of Captain, Major or Lieutenant Colonel. These positions are at the will and pleasure of the Superintendent who may determine any educational or other criteria necessary for appointment to these positions at his/her discretion. These positions are not subject to the provisions of the West Virginia State Career Progression System.

COMMENT

"Lieutenants at the Troop level are assigned to Executive Officer, Logistics, and Internal Investigator positions. This causes the Lieutenants to have little or no direct supervisor role."

RESPONSE

Lieutenant positions within the West Virginia State Police are considered both administrative and supervisory positions. There is no relevance to the Career Progression System or the proposed amendments in this comment.

COMMENT

"...all Troopers receive an Associates degree from Marshall University upon completing the Academy and the required probationary period. This, plus the experience gained while being a Trooper, then Sergeant, then First Sergeant, prepares a Trooper to be a Lieutenant. The West Virginia State Police is not a business and managing Troopers is something that is learned on the job, not out of a book. The Troopers Association believes that education is a very important part of being a professional police officer. The Troopers Association also believes that

management education provided to Troopers through yearly in-service, the FBI Academy, and other training received during a career are more geared to providing a Trooper with the tools needed to be an effective leader and manager. The Troopers Association believes that a leader must be judged on all of his/her abilities not solely on the fact that he/she has a Bachelor's degree."

RESPONSE

The Department does not disagree with this comment. As proposed, the amendment would require all Lieutenant candidates to possess a Bachelor's Degree in order to be eligible to participate in a promotional cycle. The educational requirement does not eliminate or alter the competitive process used for determination of promotional lists but does set an additional eligibility requirement for the rank of Lieutenant.

COMMENT

...the career progression currently allows for promotion points for college credits. The Troopers Association believes that the current career progression system provides a fair and equal chance at promotion for the Troopers, which is what it was intended for."

RESPONSE

The proposed amendments still award points for college credit but also awards additional points for actual completion of degree programs. The Department believes this is still a fair and equal system and further that it provides incentive for members to complete a degree program which is beneficial to them and the Department.