

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

Form #2

Do Not Mark In This Box

FILED

2011 MAY 18 PM 2: 07

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: West Virginia State Police TITLE NUMBER: 81

RULE TYPE: Legislative 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: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON June 21, 2011 AT 12:00 P.M. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

F/Lt. Joe White

West Virginia State Police

725 Jefferson Road  
South Charleston, WV 25309

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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.

<b>FISCAL YEAR</b>			
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: May 17, 2014

Signature of Agency Head or Authorized Representative

Colonel CD "Jay" Smith

**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: \_\_\_\_\_

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:  
\_\_\_\_\_

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

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

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

Attached \_\_\_\_\_ No comments received \_\_\_\_\_

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

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- 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 C.R. "Jay" Smithers

Superintendent

West Virginia State Police

725 Jefferson Road

South Charleston, WV 25309

(P) 304-746-2115

(F) 304-746-2246

E-mail - jsmithers@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

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

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b. Date of hearing or comment period:

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

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d. Attach findings and determinations and reasons:

Attached 

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

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

*Summary of Proposal*

**Permanent Rank Promotions, Eligibility Requirements – Subsection 4.1.1.a.**

The proposed changes would allow uniform members of the West Virginia State Police who hold the Non-supervisory Rank of Trooper First Class (TFC) the ability to test for the supervisory rank of Sergeant.

**Permanent Rank Promotions, Eligibility Requirements – Subsection 4.1.1.c.**

The proposed changes would allow uniform members of the West Virginia State Police who hold the supervisory rank of First Sergeant the ability to test for the supervisory rank of First Lieutenant when promotional cycles are initiated by the Superintendent after the First Sergeant completes a mandatory six-month probationary period. In recent years, eligibility to test for the rank of First Lieutenant required that First Sergeants must have been in that rank for a least one year.

**Permanent Rank Promotions, Practical Examination – Subsection 4.2.2.b.**

The proposed changes would reduce the maximum amount of points a supervisory promotional candidate could receive for the oral assessment (interview) phase of the practical examination from 20 points to 15 points.

**Physical Fitness Tests – Section 3.6 and Subsections 4.2.2.e, 5.1.3 and 7.1.6.**

Subsection 4.2.2.e. – The proposed changes would enhance the value of points received for the physical fitness test administered by the West Virginia State Police, which contributes to the final composite score for a supervisory promotional candidate. Currently, candidates for supervisory promotional consideration receive one half point for each event (pushups, sit ups and one and one half mile run) successfully completed for a maximum total of 4.5 points a candidate could receive toward their final composite score. The proposed changes would allow one point for each successfully completed event for a total of 9 points to be awarded to a candidate for promotional consideration.

Subsection 5.1.3 and 7.1.6 – The proposed changes would require members participating in the Non-supervisory Rank Classification System and certain members appointed to the Administrative Support Specialist Classification System to successfully complete and pass physical fitness tests to be eligible for reclassification within each system.

**Removal of Old Language – Legislative Rule 81CSR3**

There are several sections and subsections within the rule that refers to procedures to be followed prior to January 1, 2012. These sections and subsections have strikethroughs.

TITLE 81  
LEGISLATIVE RULE  
WEST VIRGINIA STATE POLICE

SERIES 3  
WEST VIRGINIA STATE POLICE CAREER  
PROGRESSION SYSTEM

*Statement of Circumstances*

**Permanent Rank Promotions, Eligibility Requirements – Subsection 4.1.1.a.**

The proposed changes would allow uniform members of the West Virginia State Police who hold the Non-supervisory Rank of Trooper First Class (TFC) the ability to test for the supervisory rank of Sergeant. In recent years, eligibility to test for the rank of Sergeant has been limited to those holding the Non-supervisory rank of Corporal or TFC with nine years of service. This practice has limited the Department's ability to identify an adequate amount of qualified supervisory candidates to fill vacancies within the agency. Allowing all TFC's to test for Sergeant will enhance the applicant pool, which will allow the Superintendent to adequately fill first level supervisory vacancies.

**Permanent Rank Promotions, Eligibility Requirements – Subsection 4.1.1.c.**

The proposed changes would allow uniform members of the West Virginia State Police who hold the supervisory rank of First Sergeant the ability to test for the supervisory rank of First Lieutenant when promotional cycles are initiated by the Superintendent after the First Sergeant completes a mandatory six-month probationary period. In recent years, eligibility to test for the rank of First Lieutenant required that First Sergeants must have been in that rank for a least one year. This practice has limited the Department's ability to identify an adequate amount of qualified candidates to fill First Lieutenant vacancies within the agency. Allowing non-probationary First Sergeants to test for First Lieutenant will enhance the applicant pool, which will allow the Superintendent a greater ability to fill First Lieutenant vacancies when they occur.

**Permanent Rank Promotions, Practical Examination – Subsection 4.2.2.b.**

The proposed changes would reduce the maximum amount of points a supervisory promotional candidate could receive for the oral assessment (interview) phase of the practical examination from 20 points to 15 points. The oral assessment process is the most subjective part of the promotional testing process because the candidate's score is based upon the educated and collective opinion of the assessment panel grading the candidate's oral communication skills. A significant percentage of the overall assessment process is found in the oral assessment phase. A reduction in points in this area from 20 to 15 would still provide a significant percentage of the overall composite score, but not to the extent it currently does.

**Physical Fitness Tests – Section 3.6 and Subsections 4.2.2.e, 5.1.3 and 7.1.6.**

Subsection 4.2.2.e. – The proposed changes would enhance the value of points received for the physical fitness test administered by the West Virginia State Police, which contributes to the final composite score for a supervisory promotional candidate. Currently, candidates for supervisory promotional consideration receive one-half point for each event (pushups, sit-ups and one and one half mile run) successfully completed for a maximum total of 4.5 points a candidate could receive toward their final composite score. The proposed changes would allow one point for each successfully completed event for a total of 9 points to be awarded to a candidate for promotional consideration.

Subsection 5.1.3 and 7.1.6 – The proposed changes would require members participating in the Non-supervisory Rank Classification System and certain members appointed to the Administrative Support Specialist Classification System to successfully complete and pass physical fitness tests to be eligible for reclassification within each system.

The West Virginia State Police believes physical fitness is a necessary component to the overall wellness of its Troopers and is a critical job skill to possess that enhances officer safety, reduces stress and increases productivity. The proposed changes would help foster a culture of physically fit officers that will benefit both the agency and the citizens it serves.

**Removal of Old Language – Legislative Rule 81CSR3**

There are several sections and subsections within the rule that refers to procedures to be followed prior to January 1, 2012. These sections and subsections have strikethroughs.

TITLE 81  
LEGISLATIVE RULE  
WEST VIRGINIA STATE POLICE

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WEST VIRGINIA  
DEPARTMENT OF STATE

SERIES 3  
WEST VIRGINIA STATE POLICE CAREER PROGRESSION SYSTEM

**§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 reclassifications.

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

1.3. Filing Date. -- ~~March 31, 2010.~~

1.4. Effective Date. -- ~~March 31, 2010.~~

**§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. "In-basket Exercise" means a practical examination that evaluates a candidate's ability to prioritize work and proofread and edit documents relevant to a supervisory rank position.

2.5. "Oral Assessment" means a practical examination that evaluates a candidate's oral communication skills through a structured interview and evaluation process.

2.6. "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.

2.7. "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.

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

2.9. "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 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.

2.10. "Practical Examination" means an oral assessment or an in-basket evaluation that evaluates the candidate's ability to perform tasks relevant to a supervisory rank position.

2.11. "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.

2.12. "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.

2.13. "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.

2.14. "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.

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

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

2.17. "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.

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

2.19. "Written Examination" means a series of multiple choice, true or false, or similar questions that evaluates a candidate's knowledge of policies, procedures and other directives relevant to a supervisory rank position.

**§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 will consist of the following four sub-systems:

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 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 will appoint a member to the position of Promotional Standards Officer who will have the authority and responsibility for administering the Career Progression System. His or her duties will 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 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 will 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 subsection 4.1.1 of in 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, ~~and;~~

3.5.3. Achievement of a final rating of "Meets Expectations" or higher final rating for the most recent Employee Performance Appraisal evaluation.

~~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.~~

3.6. In addition to the requirements set forth in Section 3.5 of this rule, members in the Non-Supervisory Rank Classification System and the Administrative Support Specialist Classification System must successfully complete the semi-annual physical fitness test in accordance with the provisions of this rule.

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. If the Superintendent initiates a promotional cycle pursuant to this section, 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.

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

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

4.1.1.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.

4.1.1.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 will meet the basic eligibility requirements as required by Subsection 3.5 and ~~3.6~~ 4.1.1-of this rule.

4.1.3. The Promotional Standards Officer will notify all members of the requisite rank or classification when a promotional cycle has been initiated and will provide to those members forms to request promotional consideration. Members on permanent rank probation or members who do not meet the provisions of ~~Section Sections 3.5 and 4.1.1.b. and 4.1.1.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 will receive a composite score as determined by a competitive process including both written and practical examinations, as well as the member's State Police tenure, educational background, physical fitness test and time-in-grade.

4.2.2. ~~The maximum attainable composite score for First Sergeant and Lieutenant Candidates will be 115 points. The maximum attainable composite score for Sergeant Candidates will be 108. Effective January 1, 2012, and continuing thereafter, the~~ The maximum attainable composite score for First Sergeant and Lieutenant candidates will be 113.5-113.0 points. The maximum attainable composite score for Sergeant Candidates-candidates will be 106.5- 106.0 points with the determination of points made as follows:

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

4.2.2.b. Practical examination -- The member may receive up to ~~20-15~~ points for an oral assessment and may receive up to 10 points for an in-basket exercise, not to exceed ~~30~~25 cumulative points.

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

4.2.2.d. Education -- The member will 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 will 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; doctorate - two points. Points for educational degrees are not cumulative and multiple degrees will not earn additional points. The cumulative points awarded for education will not exceed 12.

~~4.2.2.e. Physical fitness test -- The member will 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.~~

4.2.2.f. Physical fitness test -- ~~Effective January 1, 2012, and continuing thereafter, the~~ The member will receive 0.5~~1.0~~ point, not to exceed a total of ~~4.5~~9.0 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. Points will be awarded for the three highest scoring semi-annual tests achieved by the member during the two-year period; the lowest test score will be eliminated. Medical deferrals and waivers will not be recognized. Points for the physical fitness test will only be awarded to those members who successfully complete the individual sections of the assessment. Members on military leave during these semi-annual tests will be given the physical fitness test within 30 days following the completion of the absence to be awarded the applicable promotional points. Should a member miss more than one physical fitness test while on military leave, the score for the physical fitness test taken within the 30 day time period will be used for all physical fitness tests missed.

4.2.2.g. Time in Grade -- First Sergeant and Lieutenant candidates will 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:

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

4.3.1.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

4.3.1.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 will initiate a promotional cycle for the ranks of Sergeant, First Sergeant, and Lieutenant. The provisions of this Section will end on December 31, 2011.~~

4.3.32. Beginning on January 1, 2012, and every two years thereafter on January 1<sup>st</sup>, the Superintendent will 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 will consist of six voting members and a chairperson who will only vote in cases of tie.

4.4.1.a. The board will meet at the direction of the Superintendent.

4.4.1.b. The voting members will 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 will 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 will also include two members of the First or Second Lieutenant rank who will be drawn from a list of all Lieutenants in the Department.

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

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

4.4.1.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 will be recused from any deliberations concerning that issue.

4.4.1.f. The voting members of this board will 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.

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

4.4.1.h. Prior to assuming the duties of the board, each member will 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."

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

4.4.2. Duties.

4.4.2.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.

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

4.4.2.c. Following the board's evaluation of applicant members' eligibility for supervisory rank promotions, the board will individually transmit to every affected member the results of his or her individual eligibility review. The transmittals will 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 will 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 final rank ordered lists will 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 will be removed from the rank ordered list and eliminated from further promotional consideration.

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

4.5.4. Identical composite scores and tiebreakers.

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

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

4.5.4.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 will be ranked ahead of any First Sergeant, then time-in-grade and then longevity will be used as the tiebreaker. If all factors are identical, members will be ranked according to their score on the written examination.

4.5.5. The rank ordered promotional list will 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."

4.5.6. The rank ordered promotional list will be filed by the Superintendent who will 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 will 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 will only be made by the Superintendent when there is a vacant supervisory field position. When making promotions, the Superintendent will 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 will 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 will be classified as Troopers following receipt of a field assignment.

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

5.1.3. In addition to the provisions of 5.1.2, members in the Non-Supervisory Rank Classification System must successfully complete each component of the semi-annual physical fitness test with a passing score on each of the three components during four of the six most recent tests offered prior to the date of reclassification.

5.1.34. The Non-supervisory Rank Reclassification Board will 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:

5.1.34.a. Senior ~~T~~rooper - three years;

5.1.34.b. Trooper ~~F~~irst ~~e~~Class - six years;

5.1.34.c. Corporal - nine years.

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

5.1.56. The Superintendent will 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 will consist of five voting members.

5.2.1.a. The board will meet at the direction of the Superintendent.

5.2.1.b. The board members will 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 will 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 will select a member to occupy that board position.

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

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

5.2.1.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 will be recused and replaced by an alternate during the affected candidate's review.

5.2.1.f. The members of the board, except the Personnel Director who will be a permanent member, will 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.

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

5.2.1.h. Prior to assuming the duties of the reclassification board, each member will 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.

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

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

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

5.2.2.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 will 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 will be filed by the Superintendent and will 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 Classification System, and all members with less than one year of service within the forensic laboratory will be classified as Criminalist I.

6.1.2. To participate in the Criminalist Classification System the member will meet the basic eligibility requirements as required by Subsection 3.5 of this rule, and the member will 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 will be inclusive of the member's basic training.

6.1.3.a. Criminalist II -- one (1);

6.1.3.b. Criminalist III -- three (3);

6.1.3.c. Criminalist IV -- five (5);

6.1.3.d. Criminalist V -- eight (8); and

6.1.3.e. Criminalist VI -- ten (10).

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

6.1.5. The Superintendent will 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 will 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:

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

6.2.2.b. Additional designations will 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 will consist of five voting members.

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

6.3.1.b. The board members will 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 will 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 will select a member or members to occupy the vacancies.

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

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

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

6.3.1.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 will serve as permanent members, will serve a term of 12 consecutive months unless a member is unable to serve due to illness, injury, promotion, demotion, suspension or other cause.

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

6.3.1.h. Prior to assuming the duties of the reclassification board, each member will 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.

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

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

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

6.3.2.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.

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

6.3.3.b. The reclassification recommendation will 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."

6.3.3.c. The affirmation will be filed by the Superintendent and will 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 or reclassification by virtue of participation in the Supervisory Field Promotional System or Non-Supervisory Rank Classification Systems.

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

7.1.5. A member requesting reclassification will meet the basic eligibility requirement ~~regarding the General Knowledge examination~~ as required by Subsection 3.5 of this rule.

7.1.6. In addition to the provisions of 7.1.5, members assigned as Support Specialists who are appointed as Support Specialist I through IV must successfully complete each component of the semi-annual physical fitness test with a passing score on each of the three components during two of the four most recent tests offered prior to the date of their request for reclassification.

\_\_\_\_ 7.1.67. 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.

7.1.78. A member who receives a reduction in classification or reclassification denial will 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 will consist of five voting members.

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

7.2.1.b. The board members will 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.

7.2.1.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 will select a member to occupy that board position.

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

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

7.2.1.f. The members of the board selected by the Superintendent will 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.

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

7.2.1.h. Prior to assuming the duties of the reclassification board, each member will 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.

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

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

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