

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #4

Aug 30 1 12 PM '99

OFFICE OF THE SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: West Virginia State Police TITLE NUMBER: 81

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

AMENDMENT TO AN EXISTING RULE: YES  NO

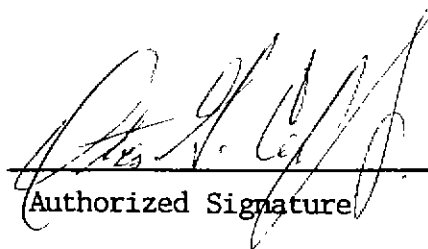
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

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

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

  
\_\_\_\_\_  
Authorized Signature

TITLE 81  
LEGISLATIVE RULE  
~~DIVISION OF PUBLIC SAFETY~~ WEST VIRGINIA STATE POLICE

SERIES 3  
WEST VIRGINIA STATE POLICE CAREER PROGRESSION SYSTEM

**§81-3-1. General.**

1.1. Scope -- This rule governs the process by which all permanent promotions, all non-supervisory reclassifications, all criminalist reclassifications and all administrative support reclassification shall be achieved.

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

1.3. Filing Date. -

1.4. Effective Date. -

~~1.5. Repeal of former rule. -- This legislative rule repeals and replaces West Virginia legislative rule, West Virginia State Police, §81 CSR 3, filed April 8, 1991.~~

**§81-3-2. ~~For the purposes of this rule.~~ Definitions.**

2.1. Superintendent means the superintendent of the ~~Division of Public Safety~~ West Virginia State Police or his or her duly authorized agent.

2.2. Senior staff means the ~~eleven (11)~~ eighteen (18) principle supervisory positions appointed by the superintendent as authorized by W. Va. Code §15-2-4.

2.3. Member means an employee of the ~~division~~ 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.

~~2.4. Inspector means that member of the division, designated by the superintendent, who is responsible to the superintendent for insuring that all members and civilian employees of the division adhere to all policy and procedures governing the operation of the division, the inspection of all division facilities and divisional records and reports.~~

~~2.5.~~ 2.4. Personnel director means that ~~member~~ employee of the ~~division~~ State Police, designated by the superintendent, who is responsible for the activities and operation of the ~~division's~~ State Police personnel section.

~~2.6.~~ 2.5. Permanent rank means that grade awarded to or achieved by a member within the supervisory field promotional system, inclusive of the ranks of sergeant, first sergeant, second lieutenant and first lieutenant.

~~2.7.~~ 2.6. Non-supervisory rank means the grade awarded to or achieved by a member within the non-supervisory rank classification system, inclusive of the classifications of trooper, senior trooper, trooper first class and corporal.

~~2.8.~~ 2.7. Criminalist classification means the grade awarded to or achieved by a member within the criminalist classification system, inclusive of the classifications of criminalist I-VII.

~~2.9.~~ 2.8. Support specialist means the temporary grade awarded to or achieved by a member within the administrative support specialist classification system, inclusive of 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.

~~2.10.~~ 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.

~~2.11.~~ 2.10. General knowledge examination means a written examination of general questions, relevant to the non-supervisory rank positions.

~~2.12.~~ 2.11. Promotional examination means a written examination of questions relevant to the supervisory rank positions.

~~2.13.~~ ~~Productivity evaluation means the numerical representation of a member's activity relative to hours worked within the field operations force or the forensic laboratory.~~

~~2.14.~~ 2.12. 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.

~~2.15.~~ 2.13. Petition for reclassification means a petition filed with the promotional standards officer requesting that a member be considered for reclassification.

~~2.16.~~ ~~Petition of justification means a petition, with accompanying justification, filed with an appropriate board requesting that a member retain eligibility status for promotion or reclassification even though the member's productivity~~

~~evaluation is below the required level.~~

2.14. Promotional system means the supervisory field promotional system.

**§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, which is a permanent rank system established to identify rank those members of the field operations force who ~~possess the skills, knowledge and abilities necessary~~ desire to perform within designated supervisory positions within the field operations force and to provide a mechanism for the ranking and selection of qualified individuals for promotion;

3.2.2. The non-supervisory rank classification system, which is a permanent classification system established to identify those members of the field operations force that meet minimum required levels of ~~achievement~~ in productivity, demonstrated job knowledge and division State Police tenure and to provide a series of progressive non-supervisory rank classifications for members who meet the minimum requirements ~~and who cannot participate within the supervisory field promotional system or who elect to remain within the non-supervisory rank positions~~;

3.2.3. The criminalist classification system, which is a permanent classification system established to identify those members of the forensic laboratory that meet minimum required levels of ~~achievement~~ in productivity, 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, which is 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~~ has the authority and responsibility for administering the career progression system. His or her duties shall include:

3.3.1. ~~The maintaining of~~ 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. ~~Receive~~ 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. ~~Review~~ Reviewing any candidate challenges to promotional examination questions;

3.3.5. ~~Coordination~~ Coordinating of the activities of all career progression system sub-systems ~~and the system's appeal procedures;~~ and

3.3.6. Providing direct contact to all ~~division~~ State Police members concerning the career progression system~~;~~.

~~3.3.7. Development and implementation of Career Progression System Evaluation Board procedures; and~~

~~3.3.8. Reviewing, evaluating and coordinating any recommendations for system improvements as provided by the Selection and Review Board.~~

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 shall include:

3.5.1. ~~Compliance with the physical fitness requirements as provided for by section 4~~ Achievement by the member 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; and.

~~3.5.3. Achievement of eligible status as determined in compliance with sections 5.3 and 5.4 of this rule.~~

3.6. The promotional standards officer may establish minimum and/or maximum advance notification limits for the submission of requests for promotional consideration and/or petitions for reclassification.

~~3.7. The superintendent shall solicit from the supervisory field promotional system selection and review board a written review of the West Virginia State Police Career Progression System to be completed once every twelve (12) months. Such review shall identify specific problems with the system's procedures and shall include recommendations for remedial action.~~

~~§81-3-4. Physical fitness.~~

~~4.1. The superintendent shall adopt a comprehensive physical fitness program to establish minimum levels of physical fitness performance.~~

~~4.2. A member must meet or exceed the minimum levels established for and applicable to him in order to be eligible for promotion or reclassification within the career progression system.~~

~~4.3. Until a comprehensive physical fitness program has been adopted, all members, otherwise eligible, shall be considered to have met the physical fitness standards as required by any section of this rule.~~

~~§81-3-5. Disciplinary action.~~

~~5.1. For purposes of the career progression system only, the following limitations will apply:~~

~~5.1.1. Reprimands will be considered only when the reprimand is issued by the superintendent.~~

~~5.1.2. Demotions will be considered as any reduction in rank or classification within the member's permanent system.~~

~~5.1.3. Suspensions will be considered as any ordered absence from duty that results from a violation of any rule of conduct as verified through a division investigation. An ordered absence prior to a division investigation shall only be considered as a valid suspension if the investigation sustains the allegation.~~

~~5.2. The superintendent shall establish a disciplinary file containing disciplinary action applicable under the provisions of the career progression system. Such disciplinary file will be purged by the following schedule:~~

~~5.2.1. A reprimand shall be purged upon expiration of~~

~~twelve (12) calendar months from the date of issue.~~

~~5.2.2. A demotion or suspension shall be purged upon expiration of twenty four (24) calendar months from the effective date of such demotion or suspension.~~

~~5.3. A valid letter of reprimand shall temporarily eliminate a member's promotional or reclassification eligibility for a period of time as defined by section 5.2.1 of this rule when such reprimand is issued for a violation of the division rules of conduct as identified under section 10, 81 CSR 1, except when issued for violations of the following sections of said rule:~~

- ~~10.2 10.14 10.21~~
- ~~10.3 10.15a 10.22~~
- ~~10.5 10.15b 10.23~~
- ~~10.8a 10.15c 10.24~~
- ~~10.8b 10.15d 10.26a~~
- ~~10.8c 10.18 10.26b~~
- ~~10.10 10.19b 10.26d~~
- ~~10.12 10.19c~~

~~5.4. A valid demotion or suspension, as identified by this section, shall temporarily eliminate a member's promotional or reclassification eligibility for a period of time as defined by section 5.2.2 of this rule when such demotion or suspension results from a violation of division rules of conduct as identified under section 10, 81 CSR 1, except when resulting from a violation of the following sections of said rule.~~

- ~~10.15c~~
- ~~10.15d~~

~~5.5. In all cases, a letter of reprimand, a demotion or suspension, as identified by this section, will result in the reduction of a member's composite promotional score as defined by section 6.2 of this rule according to the following schedule:~~

~~5.5.1. Any written reprimand issued as a result of a division motor vehicle accident - one (1) point~~

~~5.5.2. All other written reprimands - three (3) points~~

~~5.5.3. Any suspension or demotion - five (5) points~~

~~5.6. A member's reclassification tenure will include any service period where a disciplinary action has resulted in the temporary elimination of reclassification eligibility.~~

~~5.7. Upon the expiration of a temporary elimination period, a member may request elevation to any classification level for which the member meets the tenure requirement provided the member~~

~~has occupied each preceding classification level for a minimum period of twelve (12) consecutive calendar months.~~

~~§81-3-6~~ 81-3-4. Permanent rank promotions.

~~6.1.~~ 4.1 Eligibility requirements

~~6.1.1~~ 4.1.1. Participation in the ~~supervisory field promotional system, hereinafter~~ promotional system, ~~shall be~~ is restricted to those members who have achieved and hold the permanent classification or rank of senior trooper, 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 1<sup>st</sup>. If the superintendent initiates a promotional cycle pursuant to subdivision 4.3.1, the member shall 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. Senior troopers, troopers first class and corporals may request promotion to the rank of sergeant.

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

c. Non-probationary ~~F~~first sergeants may request promotion to the rank of second or first lieutenant.

d. Non-probationary ~~S~~second lieutenants may request promotion to the rank of first lieutenant.

~~6.1.2.~~ 4.1.2. To participate in the promotional system, the member ~~must~~ shall meet the basic eligibility requirements as required by set forth in section subsection 3.5 of this rule. Additionally, ~~any senior trooper, trooper first class or corporal must obtain a minimum score of .75 on productivity evaluations completed for the twelve (12) month period preceding the initiation of a promotional cycle or must submit a petition of justification if a score of .75 is not achieved or the member is assigned to a support specialist position.~~

~~6.1.3.~~ 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~~ 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.

~~6.2.~~ 4.2 Composite score.

~~6.2.1.~~ 4.2.1. Members who participate in the promotional system shall receive a composite score as determined by a competitive process, the member's level of achievement in division State Police tenure and education and the ~~recommendation or/ supervisory self-evaluation by the member's supervisors.~~

~~6.2.2.~~ 4.2.2. The maximum attainable composite score ~~shall be 99.98~~ is 100 points with the determination of points made as follows:

~~a. Evaluation board -- The member may receive up to thirty-five (35) points for his performance before the evaluation board process.~~

~~b a.~~ a. Promotional examination -- ~~The A member will shall receive one (1) up to fifty-five (55) points for each whole percentile achieved over seventy-five (75%) percent on the written examination, which shall consist of no less than fifty-five (55) written multiple choice questions.~~

~~c b.~~ b. Supervisory self-evaluation or/ recommendation -- ~~Members who hold the rank of sergeant, first sergeant or second lieutenant and who serve in supervisory positions will receive 1.5 points for each evaluation point awarded over twenty-two (22) on the supervision section of the member's most recent semi-annual evaluation report. A Members member who hold the rank of senior trooper, trooper first class or corporal will shall receive a maximum total of fifteen (15) points for the supervisory self- evaluation. The recommendations review and validation of the supervisory self-evaluation by of first, second and third level supervisors are worth seven (7), five (5), and three (3) points respectively when reviewed and validated by the career progression selection and review board.~~

~~d c.~~ c. Longevity -- ~~The A member will shall receive one (1) .0833 points for each year month of service from six (6) to twenty (20) years sixty-one (61) to three-hundred (301) months, inclusive, for a maximum of twenty (20) points.~~

~~e d.~~ d. Education -- The member will receive .075 point, not to exceed ~~9.98~~ 10 points, for each certified college semester hour or each five (5) cumulative days of successfully completed schools authorized or sanctioned by division State Police special order.

~~6.3.~~ 4.3. Initiation of promotional cycle.

~~6.3.1.~~ 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 division 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; and/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.

~~6.4.~~ 4.4. Creation of selection and review board/~~duties~~, duties of the board.

~~6.4.1.~~ 4.4.1. The selection and review board is created and shall consist of six (6) voting members, ~~a non-voting recorder~~ 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 ~~and second lieutenant~~, 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 a 2 members of the first or second lieutenant rank who shall be drawn from a list of all ~~first~~ lieutenants in the ~~division~~ State Police.

c. Each voting member ~~shall have~~ 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, ~~and a recorder shall be selected at the direction of the superintendent to record the actions of the board.~~

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 such that issue.

f. The voting members of this board shall serve a minimum term of twelve (12) consecutive months unless ~~the~~ a 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 ~~and the inspector, or those or other persons~~ designated by the superintendent, shall ~~appear before the board,~~ upon request of the board, ~~for the purpose of providing~~ specific information concerning an individual member's personnel ~~and disciplinary~~ records necessary for determining promotional scores or eligibility.

#### ~~6.4.2.~~ 4.4.2 Duties.

a. The board shall ~~have responsibility for selecting three (3) members of each evaluation board as provided for by section 6.5.1. of this rule,~~ review the eligibility of applicants for promotion, ~~determining~~ determine individual promotional category scores, ~~reviewing applicant petitions of justification,~~ review all supervisory recommendations and non-recommendations and ~~determining~~ determine 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 career progression review committee a review of the career progression system listing identified problems with suggestions for corrective action.

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

#### ~~6.5.~~ Evaluation boards.

~~6.5.1. The superintendent shall determine the number of required evaluation boards and such evaluation boards shall meet at the direction of the selection and review board and shall~~

~~individually and independently score each eligible candidate appearing before the board.~~

~~a. Each evaluation board shall consist of five (5) members.~~

~~b. Two (2) members shall be appointed by the superintendent and shall hold the permanent rank of first lieutenant or the appointed rank of captain or greater.~~

~~c. One (1) member shall be selected by the selection and review board and shall be equal in rank to the position under consideration and must be eligible to participate in the promotional system as determined by the superintendent.~~

~~d. One (1) member shall be selected by the selection and review board and shall be recruited from a state police or highway patrol agency from another state, and such member shall hold a supervisory rank equal to or greater than that under consideration.~~

~~e. One (1) member shall be selected by the selection and review board and shall be recruited from a non-law enforcement profession.~~

~~f. Each evaluation board shall serve a term as determined by the selection and review board.~~

~~g. No evaluation board member may serve for consecutive promotional cycles for any single rank.~~

~~6.6.~~ 4.5. Rank ordered promotional list.

~~6.6.1.~~ 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 6 4.2 of this rule.

~~6.6.2.~~ 4.5.2. The selection and review board ~~will~~ shall submit to the superintendent the rank ordered promotional listing of members eligible and qualified for supervisory promotion following notification from any supervisory field promotions appellate board as established under section 10 of this rule that any and all appeals have been completed.

~~6.6.3.~~ 4.5.3. Identical composite scores/tiebreakers.

a. If two (2) members requesting consideration for promotion to the rank of sergeant have achieved identical composite scores, the member with the highest rank classification ~~will~~ shall be ranked highest. If both members are of the same

classification, the length of time in classification and then length of time in service ~~will~~ shall be used as a tiebreaker. If all factors are identical, members will 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 have achieved identical composite scores, time in rank and then time in service ~~will~~ 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 have achieved identical composite scores, any second lieutenant shall be ranked ahead of any first sergeant, then time in rank and time in service ~~will~~ shall be used as the tiebreaker. If all factors are identical, members shall be ranked according to their score on the promotional examination.

~~6.6.4. 4.5.4. Such~~ The rank ordered promotional list shall be affirmed as follows:

~~"The selection and review board, acting under oath, and having considered the individual qualifications and accomplishments of all applicants, finds, by majority decision, that the member(s) named on the attached rank ordered promotional list are qualified to assume the duties and responsibilities of the rank indicated and recommends said~~ that the member(s) named on the attached rank ordered promotional list be considered for promotion to the indicated rank."

~~6.6.5. 4.5.5. Such~~ The rank ordered promotional list shall be filed by the superintendent and shall not be maintained expired until such time as the list is expired by the superintendent and until a new list is created as provided in this rule.

~~6.7. 4.6. Selection for promotion.~~

~~6.7.1. 4.6.1. In order to be promoted, a member must shall indicate on a form provided by the Promotional Standards Officer that he or she is willing to be assigned and/or transferred to specific field operations positions be available for any assignment anywhere in the State that the superintendent determines will be in the best interest of the division.~~

~~6.7.2. 4.6.2. Promotions within the West Virginia State Police shall only be made by the superintendent when there is a vacant supervisory field positions become vacant. 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 and available to accept such a promotion to the specified vacancy.

~~6.7.3. Should a member elect to not accept a promotion when offered, the member shall remain on the rank ordered promotional list and will remain eligible for subsequent promotions, subject to the provisions of section 6.7.2 of this rule, without penalty for the duration of the rank ordered promotional list.~~

~~6.7.4.~~ 4.6.3. Any member selected for and accepting a permanent rank promotion ~~will be required to~~ shall 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.

~~§81-3-7.~~ 81.3.5. Non-supervisory rank reclassifications.

~~7.1.~~ 5.1. Eligibility requirements.

~~7.1.1.~~ 5.1.1. All members permanently assigned to the field operations force and who have completed the basic state police entry-level training program ~~shall be~~ are eligible for participation in the non-supervisory rank classification system and ~~will~~ shall be classified as troopers following receipt of a field assignment.

~~7.1.2.~~ 5.1.2. To participate in the non-supervisory rank classification system, the member ~~must~~ shall meet the basic eligibility requirements as required by subsection 3.5 of this rule. ~~Additionally, the member must obtain a minimum score of .75 on productivity evaluations completed for the twelve (12) month period preceding reclassification consideration or must submit a petition of justification if a score of .75 is not achieved or the member is assigned to a support specialist position.~~

~~7.1.3.~~ 5.1.3. A member's eligibility for reclassification ~~will~~ shall be automatically considered following Upon completion of the following years of cumulative service ~~to~~ with the division state police, a member's eligibility for reclassification shall be automatically considered; provided the member has not received a reduction in classification or reclassification denial.

- a. Senior trooper - three (3) years
- b. Trooper first class - eight (8) years

c. Corporal - fourteen (14) years

~~7.1.4.~~ 5.1.4. A member who receives a reduction in classification or reclassification denial is required to file a petition for reclassification.

~~7.1.5.~~ 5.1.5. ~~A Members~~ member shall be reclassified ~~who~~ when he or she ~~participate~~ participates within the non-supervisory rank classification system and ~~who~~ when he or she ~~meet~~ meets or ~~exceed~~ exceeds the minimum established reclassification and tenure requirements ~~will be reclassified.~~

~~7.1.6.~~ A member who does not meet the minimum established reclassification requirements will be required to wait a minimum of six (6) months before filing a petition for reclassification, provided that if reclassification was denied due to tenure, a member may file a petition immediately upon achieving the required tenure.

~~7.2.~~ 5.2. Creation of non-supervisory rank reclassification board/~~duties~~ , duties of the board.

~~7.2.1.~~ 5.2.1. The non-supervisory rank reclassification board is created and shall consist of five (5) voting members ~~and a non-voting recorder.~~

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)~~ two (2) members and ~~one (1)~~ two (2) 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. ~~Should~~ If the personnel director be is unavailable to serve or if the position of personnel director ~~should be~~ is vacant or eliminated, the superintendent shall select a member to occupy that board position.

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

d. The most senior highest ranking officer ~~will~~ shall serve as chairman, ~~and a recorder shall be selected at the direction of the superintendent to record the actions of the board.~~

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 A board member will shall be recused and replaced by an alternate during the affected candidate's review in instances where a board member drawn from the commissioned or non-commissioned ranks is within a candidate's direct supervisory chain.~~

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 superintendent shall appoint one or both of the alternates as necessary to serve on the board shall fulfill the terms in all instances where a member or members cannot fulfill the his or her original term of on the board.~~

~~h. The inspector, or other person designated by the superintendent, shall appear before the reclassification board for the purpose of providing specific information concerning individual members' disciplinary records necessary for determining eligibility.~~

~~i. 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.~~ 5.2.2. Duties.

a. The reclassification board ~~will~~ shall verify a member's eligibility in the areas of longevity, ~~productivity evaluation,~~ and the general knowledge examination, ~~physical fitness and discipline.~~

b. The reclassification board ~~will~~ shall review all petitions for reclassification and ~~all petitions of justification and will~~ shall determine eligibility.

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

d. The reclassification board ~~shall have~~ has the 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.

~~7.3.~~ 5.3 Reclassification recommendations.

~~7.3.1.~~ 5.3.1. Upon verifying a member's eligibility, the reclassification board ~~will~~ shall submit to the superintendent a recommendation for reclassification.

~~7.3.2.~~ 5.3.2. ~~Such~~ The reclassification recommendation shall be affirmed as follows:

"The reclassification board, acting under oath ~~and having considered the individual qualifications and accomplishments of all member(s) submitted to this board,~~ finds, by majority decision, that the member(s) named on the attached list have met or exceeded the minimum eligibility requirements for reclassification to the non-supervisory rank indicated and recommends ~~said~~ the member(s) be reclassified to the indicated non-supervisory rank."

~~7.3.3.~~ 5.3.3. ~~Such~~ The affirmation shall be filed by the superintendent and shall be maintained for a minimum period of one (1) year.

~~§81-3-8.~~ 81-3-6. Criminalist reclassifications.

~~8.1.~~ 6.1. Eligibility requirements.

~~8.1.1.~~ 6.1.1. All members permanently assigned to the forensic laboratory ~~shall be~~ are eligible for participation in the criminalist classification system, and all such members with less than one (1) year service within the forensic laboratory shall be classified as criminalist I.

~~8.1.2.~~ 6.1.2. To participate in the criminalist classification system the member must meet the basic eligibility requirements as required by subsection 3.5 of this rule, and the member must receive ~~a valid~~ the recommendation for reclassification from each applicable supervisory level as determined by the reclassification board. ~~Additionally, the member must obtain a minimum score of .75 on productivity evaluations completed for the twelve (12) month period preceding reclassification consideration or must submit a petition of justification if a score of .75 is not achieved or the member is assigned to a support specialist position.~~

~~8.1.3.~~ 6.1.3. A member may file a petition for reclassification upon completion of the following years of cumulative service within the forensic laboratory. ~~Such~~ 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)
- e. Criminalist VI - ten (10)

~~8.1.4.~~ 6.1.4. A member who receives a reduction in classification or a reclassification denial is required to refile a petition for reclassification.

~~8.1.5.~~ ~~A member who does not meet the minimum established reclassification requirements will be required to wait a minimum of six (6) months before refiling a petition for reclassification, provided that if reclassification was denied due to tenure, a member may file a petition immediately upon achieving the required tenure.~~

~~8.1.6.~~ 6.1.5. Members who participate within the criminalist classification system and who meet or exceed the minimum established reclassification and tenure requirements will ~~shall~~ be reclassified.

~~8.2.~~ 6.2. Section heads Unit Supervisors.

~~8.2.1.~~ 6.2.1. A member may be appointed as ~~section head~~ unit supervisor by the superintendent to assume direct supervisory and administrative responsibility for a specific laboratory ~~section~~ unit. A member ~~so~~ appointed ~~will~~ shall receive a temporary criminalist classification designation that is one level above his or her permanent classification. A temporary criminalist classification as authorized by this section may not exceed criminalist VII.

~~8.3.~~ 6.3 Creation of criminalist reclassification board/duties ,duties of the board.

~~8.3.1.~~ 6.3.1. The criminalist reclassification board is created and shall consist of five (5) voting members ~~and a non-voting recorder.~~

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 ~~support services,~~ 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. ~~Should If~~ the director of the forensic laboratory and/or the personnel director ~~be are~~ unavailable to serve or if either or both positions ~~should be are~~ vacant or eliminated, the superintendent shall select a member or members to occupy any ~~such~~ 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 support services the forensic laboratory shall serve as chairman and a recorder shall be selected at the direction of the superintendent to record the actions of the board.

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

f. The members of the board, except the senior staff officer in charge of support services 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 the 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. The inspector or other person designated by the superintendent shall appear before the reclassification board with specific information concerning individual members' disciplinary records necessary for determining eligibility.~~

~~i. 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."

~~8.3.2.~~ 6.3.2. Duties.

a. The reclassification board ~~will~~ shall verify a member's eligibility in the areas of criminalist tenure, ~~productivity evaluation, the~~ general knowledge examination score, ~~physical fitness, discipline~~ and supervisory recommendations.

b. The reclassification board ~~will~~ shall review all petitions for reclassification ~~and all petitions of justification~~ and ~~will~~ shall determine eligibility.

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

d. The reclassification board ~~shall have responsibility~~ is responsible 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.

~~8.3.3.~~ 6.3.3. Reclassification recommendations.

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

b. ~~Such~~ The reclassification recommendation shall be affirmed as follows:

"The reclassification board, acting under oath ~~and having considered the individual qualifications and accomplishments of the member(s) requesting reclassification,~~ finds, by majority decision, that the member(s) named on the attached recommendation have met or exceeded the minimum eligibility requirements for reclassification to the criminalist classification indicated and recommends ~~said~~ the member(s) be reclassified to the indicated criminalist classification"

c. ~~Such~~ The affirmation shall be filed by the superintendent and shall be maintained for a minimum period of one (1) year.

~~§81-3-9.~~ 81-3-7. Administrative support specialist reclassifications.

~~9.1.~~ 7.1. Eligibility requirements.

~~9.1.1.~~ 7.1.1. All members assigned to support specialist positions, ~~shall be~~ are eligible for participation in the administrative support specialist classification system, provided ~~such members~~ they have successfully completed a one (1) year probationary period within a specific support specialist

position.

~~9.1.2.~~ 7.1.2. A member ~~shall~~ 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.

~~9.1.3.~~ 7.1.3. A member may file a petition for reclassification to the next applicable classification level following each twelve (12) 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, or non-supervisory rank reclassification.

~~9.1.4.~~ 7.1.4. A member requesting reclassification ~~must~~ shall submit a petition for reclassification to the support specialist reclassification board. ~~Such~~ The petition shall ~~take~~ be ~~in the~~ form ~~as~~ required by the superintendent.

~~9.1.5.~~ 7.1.5. A member requesting reclassification ~~must~~ shall meet the basic eligibility requirements regarding the general knowledge examination as required by subsection 3.5 of this rule.

~~9.1.6.~~ 7.1.6. A member who is denied reclassification or promotional eligibility within the member's permanent career progression system ~~shall~~ is not be eligible for reclassification within the administrative support specialist classification system until such time as the member achieves eligibility within the permanent system.

~~9.1.7.~~ 7.1.7. A member who receives a reduction in classification or reclassification denial is required to refile a petition for reclassification.

~~9.1.8.~~ ~~A member who does not meet the minimum established reclassification requirements will be required to wait a minimum of six (6) months before refiling a petition for reclassification, provided that if reclassification was denied due to tenure, a member may file a petition immediately upon achieving the required tenure.~~

~~9.2.~~ 7.2 Creation of administrative support specialist reclassification board/~~duties~~ , duties of the board.

~~9.2.1.~~ 7.2.1. The administrative support specialist reclassification board is created and shall consist of five (5) voting members ~~and a non-voting recorder.~~

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. ~~Should~~ If the personnel director submit a petition for reclassification or otherwise ~~be is~~ is unavailable to serve, or if the position of personnel director ~~should be is~~ is vacant or eliminated, the superintendent shall select a member to occupy that board position.

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

e. The most senior highest ranking officer ~~will~~ shall serve as chairman, ~~and a recorder shall be selected at the direction of the superintendent to record the actions of the board.~~

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. The inspector, or other person designated by the superintendent, shall appear before the reclassification board for the purpose of providing the board with specific information concerning individual member's disciplinary records necessary for determining eligibility.~~

~~i.~~ 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."

~~9.2.2.~~ 7.2.2. Duties.

a. The reclassification board ~~will~~ shall verify a member's eligibility in the areas of support specialist tenure, the general knowledge examination score, ~~physical fitness,~~

discipline and supervisory recommendations.

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

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

d. The reclassification board ~~shall have responsibility~~ is responsible 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~~ career progression review committee.

~~9.3-~~ 7.3. Reclassification recommendations.

~~9.3.1-~~ 7.3.1. Upon verifying a member's eligibility, the reclassification board ~~will~~ shall submit to the superintendent a recommendation for reclassification.

~~9.3.2-~~ 7.3.2. ~~Such~~ The reclassification recommendation shall be affirmed as follows:

"The reclassification board, acting under oath and having considered the individual ~~qualifications and accomplishments of~~ the member(s) requesting reclassification, finds, by majority decision, that the member(s) named on the attached recommendation have met the eligibility requirements for reclassification to the support specialist classification indicated and recommends ~~said~~ the member(s) be reclassified to the indicated support specialist classification.

~~9.3.3-~~ 7.3.3. ~~Such~~ The affirmation shall be filed by the superintendent and shall be maintained for a minimum period of one (1) year.

~~§81-3-10.~~ ~~Career progression appeals.~~

~~10.1.~~ ~~General provisions.~~

~~10.1.1.~~ ~~Members shall have the right to review and appeal any adverse decision concerning their eligibility for promotion or reclassification within any sub-system of the career progression system by appearing before or submitting written argument to the applicable appellate board.~~

~~10.1.2.~~ ~~In instances where a member is denied participation in the supervisory field promotional system or~~

~~denied reclassification eligibility in any other sub-system due to a deficient productivity evaluation, the member may relinquish his right to appeal and may file a petition of justification.~~

~~10.1.3. Members who participate within any sub-system of the career progression system that requires a written examination shall be permitted to review the examination answer key immediately following the scoring and recording of the examination. Such review shall be conducted by the test administrator or other person designated by the superintendent.~~

~~10.1.4. Members who participate within the supervisory field promotional system shall be notified in writing of their individual numerical values awarded for promotional consideration and shall be entitled to review and appeal any numerical value presented by the selection and review board as representation of the member's individual score for longevity, educational achievement, supervisory evaluation or recommendation, or evaluation board score.~~

~~10.1.5. A member must file a notice of intent to appeal with the applicable appellate board within fifteen (15) days following any decision issued by a selection and review or reclassification board, and the appellate board must render a decision within five (5) days following the review of any appeal. Any such notice must include the member's standing for appeal.~~

~~10.2. Creation of appellate boards/duties:~~

~~10.2.1. Separate and distinct appellate boards shall be created to address member appeals generated within each sub-system of the career progression system.~~

~~a. The supervisory field promotions appellate board and the non-supervisory rank reclassifications appellate board shall each be comprised of five (5) members. Each board shall be drawn by blind lot by the superintendent or a member of the senior staff, with one (1) member being drawn from each of the supervisory ranks of sergeant, first sergeant, second lieutenant and first lieutenant and one (1) member being drawn from the non-supervisory ranks of senior trooper, trooper first class and corporal, with one alternate drawn for each board position, provided that members participating within the criminalist classification system shall not be eligible for selection to this board.~~

~~b. The criminalist reclassifications appellate board shall be comprised of three (3) members and one (1) alternate drawn by blind lot by the superintendent or a member of the senior staff from all members of the criminalist system.~~

~~c. The administrative support specialist reclassification appellate board shall be comprised of five (5) members and two (2) alternates drawn by blind lot by the superintendent of a member of the senior staff from the administrative support specialist classification system, provided that any member shall be withdrawn from such board and replaced by an alternate, if the member receives a transfer that results in the loss of support specialist designation.~~

~~d. Each board member shall have equal voting privileges and all actions of any board shall be by majority decision.~~

~~e. Each appellate board shall select a member to serve as board chairman and a recorder shall be selected at the direction of the superintendent to record the actions of the board.~~

~~f. Any member submitting an appeal to any appellate board to which he has been selected shall be prohibited from participation on such board and will be replaced by an alternate for the duration of the board's term.~~

~~g. All members who are responsible for completing or reviewing any recommendation, evaluation, examination or other such issue that directly effects the eligibility for reclassification or promotion of any member submitting an appeal to any appellate board to which he has been selected shall be temporarily recused from the appellate board and replaced by the alternate for any board deliberations or other actions concerning that appeal.~~

~~h. In any instance where a board chairman is removed, recused or otherwise unable to serve for all or part of any appellate board term, the affected board shall select a member of the board to act as board chairman in the chairman's absence.~~

~~i. Should there be insufficient alternates available to comprise a complete appellate board, the superintendent shall select the necessary alternates from the appropriate ranks or classifications.~~

~~j. Prior to assuming the duties of any appellate board, created under the provisions of this section, the following oath shall be administered by a notary public:~~

~~"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 appellate board."~~

~~10.2.2. Duties.~~

~~a. Each appellate board shall review all appeals submitted to it and shall determine the merit of the appeal and will dismiss, as provided for by section 10.3.2.a of this rule, any appeal found to be without standing.~~

~~b. The appellate boards will review every appeal found to be meritorious and shall determine the validity of arguments or evidence presented.~~

~~c. The board will make a determination as provided for by section 10.3.2.b or 10.3.2.c of this rule as to the correctness of the decision or issue of appeal after weighing the facts presented and will issue a decision to sustain or reverse the original decision or issue.~~

~~10.3. Authority of appellate boards/determination to be made.~~

~~10.3.1. Each appellate board shall have the authority to review all appeals submitted to it and to issue summary dismissal of any and all such appeals that are absent standing for appeal or are otherwise determined by the board to be invalid and without merit.~~

~~10.3.2. A written determination by the appellate board shall be issued following each review, and such determination shall specify one (1) of three (3) decisions as follows:~~

~~a. The appeal has been summarily dismissed (in which case, the reason for dismissal shall be indicated);~~

~~b. The decision of the selection and review board or reclassification board, as appropriate, has been sustained (in which case, the member's eligibility status or promotional score will remain unchanged); or~~

~~c. The decision of the selection and review board or reclassification board, as appropriate, has been reversed (in which case, the member's eligibility is reinstated or promotional score is changed to reflect the findings of the appellate board).~~

~~10.3.3. All decisions of the appellate board shall be final and not subject to appeal for judicial review.~~

**81-3-8. Creation of Career Progression Review Committee, duties of the Committee.**

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 shall have 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.

8.7 In instances where a member cannot fulfill his or her original term on the committee, then that member shall be replaced by another member in accordance with subsection 7.3 of this rule.

8.7.1 Duties.

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

b. 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, which is 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.

c. The committee shall develop, compile, and update the career progression manual pursuant to subsection 3.4 of this rule.

81-3-9. Grievances, written examination answer key review, and examination question challenges.

9.1 A member who desires to allege that any provision of either this rule or the career progression operational policies and procedures promulgated by the Superintendent has been violated, misapplied or misinterpreted by either the Superintendent or his or her designee, may file a grievance pursuant to the provisions of 81-8-1 et seq. (West Virginia State Police Grievance Procedure).

9.2 A member who participates within any subsystem of the career progression system that requires a written examination shall be permitted to review the examination answer key

immediately following the scoring and recording of the examination and file written challenges to the veracity of any question and/or corresponding answer. The review shall be conducted by the test administrator or other person designated by the Superintendent.