

**TITLE 81
LEGISLATIVE RULE
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.

2.1. Superintendent means the superintendent of the West Virginia State Police or his duly authorized agent.

2.2. Senior staff means the 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 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. Personnel director means that employee of the State Police, designated by the superintendent, who is responsible for the activities and operation of the State Police personnel section.

2.5. 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.

2.6. 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.

2.7. 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.

2.8. 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.

2.9. Promotional cycle means one (1) complete series of events required to establish a rank ordered list of eligible promotional candidates within the supervisory field promotional system.

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

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

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.

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

§81-3-3. Career progression system - general requirements.

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

3.2. The career progression system shall consist of the following four (4) sub-systems.

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

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

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

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

3.3. The superintendent shall appoint a member to the position of promotional standards officer who shall have the authority and responsibility for administering the career progression system. His duties shall include:

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

3.3.4. Review any candidate challenges to promotional examination questions;

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

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

3.4. The superintendent shall provide to each member a written manual governing specific procedures for the evaluation and testing of members for promotion or reclassification.

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

3.5.1. Achievement of the required rank or classification as defined in section 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 such examination.

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.

§81-3-4. Permanent rank promotions.

4.1 Eligibility requirements

4.1.1. Participation in the supervisory field promotional system, hereinafter promotional system, shall be 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 subsection 4.3.2, on July 1, 2000, and every two (2) years thereafter on July 1st. If the superintendent initiates a promotional cycle pursuant to subsection 4.3.1, the member must meet all of the applicable eligibility requirements set forth in this rule in order to participate in any phase of the cycle as of the first day of the month following the initiation of the cycle.

a. Senior troopers, troopers first class and corporals may request promotion to the rank of sergeant.

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

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

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 must meet the basic eligibility requirements as required by section 3.5 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 on the date such notification is forwarded are not eligible to receive notification of or to participate in the promotional cycle.

4.2 Composite score.

4.2.1. Members who participate in the promotional system shall receive a composite score as determined by a competitive process, the member's State Police tenure and education and the supervisory self-evaluation.

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

a. Promotional examination -- The member will receive up to fifty-five (55) points for the written examination, which shall consist of no less than fifty-five (55) written multiple choice questions.

b. Supervisory self-evaluation -- Members will receive a maximum total of fifteen (15) points for the supervisory self-evaluation. The validations of first, second and third level supervisors shall be worth seven (7), five (5), and three (3) points respectively when validated by the career progression selection and review board.

c. Longevity -- The member will receive .0833 points for each month of service from sixty-one (61) to three-hundred (300) months, inclusive.

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

4.3. Initiation of promotional cycle.

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

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

b. A number of members, equal to or greater than ten percent (10%) of the number remaining on the current list, reach a tenure requirement that would permit their participation in the promotional system; 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.

4.4. Creation of selection and review board/duties.

4.4.1. The selection and review board is created and shall consist of six (6) voting members and a chairman who shall only vote in cases of tie.

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

b. The voting members shall be two (2) members of the non-supervisory rank classification system and one (1) member of each of the supervisory ranks of sergeant and first sergeant, all of whom shall be drawn by blind lot by the superintendent or a member of the senior staff from a list of members of the applicable classification or supervisory rank determined by the superintendent to be eligible to participate in the promotional system and a 2 members of the first or second lieutenant rank who shall be drawn from a list of all lieutenants in the division.

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

d. The board chairman shall be appointed by the superintendent from the senior staff.

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

f. The voting members of this board shall serve a minimum term of twelve (12) consecutive months unless the member is unable to serve due to illness, injury, promotion,

demotion, suspension or other cause.

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

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

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

i. The personnel director or other persons designated by the superintendent, shall, upon request of the board, provide specific information concerning an individual member's personnel records necessary for determining promotional scores or eligibility.

4.4.2 Duties.

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

b. The board shall communicate with the reclassification boards within the career progression system and shall present annually to the superintendent a review of the career progression system listing identified problems with suggestions for corrective action.

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

4.5. Rank ordered promotional list.

4.5.1. Members participating in the promotional system shall be rank ordered on a promotional list according to the member's composite score as established under section 6 4.2 of this rule.

4.5.2. The selection and review board will submit to the superintendent the rank ordered promotional listing of members eligible for supervisory promotion.

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

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

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

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

4.6. Selection for promotion.

4.6.1. In order to be promoted, a member must indicate on a form provided by the PSO that he/she is willing to be assigned and/or transferred to specific field operations positions

4.6.2. Promotions within the West Virginia State Police shall only be made by the superintendent when there is a vacant supervisory field position. When making promotions, the superintendent shall select a member from the rank ordered promotional list as certified by the selection and review board and whose final composite score is equal to or higher than the final composite score of the third highest ranking member who has indicated that he/she is willing to accept a promotion to the specified vacancy.

4.6.3. Any member selected for and accepting a permanent rank promotion will be required to successfully complete a six (6) month probationary period. The probationary period may be extended by the Superintendent. Probationary members are not eligible to participate in any promotional cycle until non-probationary status is granted.

§81.3.5. Non-supervisory rank reclassifications.

5.1. Eligibility requirements.

5.1.1. All members permanently assigned to the field operations force and who have completed the basic state police entry-level training program shall be 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 must meet the basic eligibility requirements as required by section 3.5 of this rule.

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

- a. Senior trooper - three (3) years
- b. Trooper first class - eight (8) years
- c. Corporal - fourteen (14) years

5.1.4. A member who receives a reduction in classification or reclassification denial will be required to file a petition for reclassification.

5.1.5. Members who participate within the non-supervisory rank classification system and who meet or exceed the minimum established reclassification and tenure requirements will be reclassified.

5.2. Creation of non-supervisory rank reclassification board/duties.

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

- a. The board shall meet at the direction of the superintendent.
- b. The board members shall be two (2) members of the senior staff as selected by the superintendent; the personnel director; and two (2) members and two (2) alternates, drawn by blind lot by the superintendent, with two(2) members and 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 the personnel director be unavailable to serve or if the position of personnel director should be 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 serve as chairman.
- e. In instances where a board member drawn from the commissioned or non-commissioned officer ranks is within a candidate's direct supervisory chain, that board member will be recused and replaced by an alternate during the affected candidate's review.
- f. The members of the board, except the personnel director who shall be a permanent member, shall serve a minimum term of twelve (12) consecutive months unless a member is unable to serve due to illness, injury, promotion, demotion, suspension or other cause.
- g. The alternate shall fulfill the terms in all instances where a member cannot fulfill the original term of the board.

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

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

5.2.2. Duties.

a. The reclassification board will verify a member's eligibility in the areas of longevity and general knowledge examination.

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

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

d. The reclassification board shall have 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. Such reclassification recommendation shall be affirmed as follows:

"The reclassification board, acting under oath, 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 member(s) be reclassified to the indicated non-supervisory rank."

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

§81-3-6. Criminalist reclassifications.

6.1. Eligibility requirements.

6.1.1. All members permanently assigned to the forensic laboratory shall be 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.

6.1.2. To participate in the criminalist classification system the member must meet the basic eligibility requirements as required by section 3.5 of this rule, and the member must 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. Such 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)

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

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

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 permanent classification. A temporary criminalist classification as authorized by this section may not exceed criminalist VII.

6.3 Creation of criminalist reclassification board/duties.

6.3.1. The criminalist reclassification board is created and shall consist of five (5) voting members.

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

b. The board members shall include the senior staff officer in charge of the forensic laboratory 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 the director of the forensic laboratory and/or the personnel director be unavailable to serve or if either or both positions should be 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 the forensic_laboratory shall serve as chairman.

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

f. The members of the board, except the senior staff officer in charge of the forensic laboratory, the director of the forensic laboratory and the personnel director who shall serve as permanent members, shall serve a term of twelve (12) consecutive months unless 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. Prior to assuming the duties of the reclassification board, each member shall be administered the following oath by the superintendent.

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

6.3.2. Duties.

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

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

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

d. The reclassification board shall have responsibility for identifying deficiencies in the criminalist classification system and for communicating these deficiencies with suggestions for remedial action to the selection and review board of the supervisory field promotional system.

6.3.3. Reclassification recommendations.

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

b. Such reclassification recommendation shall be affirmed as follows:

"The reclassification board, acting under oath 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 member(s) be reclassified to the indicated criminalist classification"

c. Such affirmation shall be filed by the superintendent and shall be maintained for

a minimum period of one (1) year.

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

7.1. Eligibility requirements.

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

7.1.2. A member shall 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 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.

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

7.1.5. A member requesting reclassification must meet the basic eligibility requirement regarding the general knowledge examination as required by section 3.5 of this rule.

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

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

7.2 Creation of administrative support specialist reclassification board/duties.

7.2.1. The administrative support specialist reclassification board is created and shall consist of five (5) voting members.

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

b. The board members shall be three (3) members of the senior staff as selected by the superintendent, the most senior ranking officer assigned to the training academy and the personnel director.

c. Should the personnel director submit a petition for reclassification or otherwise be unavailable to serve, or if the position of personnel director should be 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 serve as chairman.

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

g. In all instances where a board member cannot fulfill the original term of the board, the superintendent shall appoint a member of the senior staff or a member of the administrative support specialist classification system to fulfill the term.

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

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

7.2.2. Duties.

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

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

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

d. The reclassification board shall have responsibility for identifying deficiencies in the administrative support specialist classification system and for communicating these deficiencies, with suggestions for remedial action, to the selection and review board of the supervisory field promotional system.

7.3. Reclassification recommendations.

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

7.3.2. Such reclassification recommendation shall be affirmed as follows:

"The reclassification board, acting under oath and having considered the individual

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 member(s) be reclassified to the indicated support specialist classification.

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

81-3-8. Creation of Career Progression Review Committee/duties.

8.1. The career progression review committee is created and shall consist of six (6) members.

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

8.3 The committee members shall consist of two (2) members chosen by the superintendent, two (2) members chosen by the trade or professional organization which has the largest number of members of the State Police within its membership, and two (2) members selected by blind lot from the entire membership of the State Police.

8.4 Each member of the committee 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/her original term on the committee, then that member shall be replaced by another member in accordance with subsection 7.3.

8.8 Duties.

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

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

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4286

§§64-6-2. State police.

The legislative rule filed in the state register on the thirtieth day of July, one thousand nine hundred ninety-nine, authorized under the authority of section five, article two, chapter fifteen of this code, modified by the state police to meet the objections of the legislative rule-making review committee and refiled in the state register on the thirtieth day of August, one thousand nine hundred ninety-nine, relating to the state police (West Virginia state police career progression system, 81 CSR 3), is authorized.