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

Form #3

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OFFICE WEST VIRGINIA SECRETARY OF STATE

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

AGENCY: West Virginia Division of Personnel TITLE NUMBER: 143

CITE AUTHORITY: West Virginia Code § 29-6-10

AMENDMENT TO AN EXISTING RULE: YES X NO ____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Administrative Ruleo f the West Virginia Division of Personnel

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ____

TITLE OF RULE BEING PROPOSED: ____

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

Authorized Signature

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

STATE PERSONNEL BOARD
Jason Pizatella, Chairman
Mark Carbone + Sharon Lynch
Eugene Stump + Elizabeth Walker
Erica Mani

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

MEMORANDUM

TO: Members of the State Personnel Board

FROM: Sara P. Walker, Director
Division of Personnel

DATE: July 21, 2015

RE: **Proposed Amendments to the *Administrative Rule of the West Virginia Division of Personnel***

Your approval is requested for the filing of the agency-approved proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, 143CSR1, with the Legislative Rule-Making Review Committee and the Secretary of State's Office.

In accordance with the provisions of W. VA. CODE § 29A-3-1 *et seq.*, a copy of the proposed amendments and notice of public comment were filed with the Secretary of State's Office with notice also provided to state agencies and other interested parties. The draft response to the written comments is included with your materials along with a summary of changes made to the proposed amendments based on comments and/or other information received.

Thank you for your consideration of this request.

APPROVED:

Jason Pizatella, Chairman
State Personnel Board
July 21, 2015

SPW/jft

Attachment

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Administrative Rule of the West Virginia Division of Personnel

Type of Rule: [X] Legislative [ ] Interpretive [ ] Procedural

Agency: West Virginia Division of Personnel

Address: 1900 Kanawha Boulevard, East
Building 6, Room 416
Charleston, WV 25305

Phone Number: 304-558-3950, ext. 57290 Email: joe.f.thomas@wv.gov

Fiscal Note Summary

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

It is not anticipated that these amendments will have a measurable impact on the costs and revenues of State government.

Fiscal Note Detail

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

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Administrative Rule of the West Virginia Division of Personnel

Rule Title: Administrative Rule of the West Virginia Division of Personnel

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

It is not anticipated that these amendments will have a measurable impact on the costs and revenues of State government.

MEMORANDUM

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

Date: July 21, 2015

Signature of Agency Head or Authorized Representative

Sara P. Walker

QUESTIONNAIRE

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

DATE: July 21, 2015

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:(*Agency Name, Address & Phone No.*) West Virginia Division of Personnel
1900 Kanawha Boulevard, East
Building 6, Room 416
Charleston, WV 25305
304-558-3950, extension 57290

LEGISLATIVE RULE TITLE:

Administrative Rule of the West Virginia Division of Personnel

1. Authorizing statute(s) citation

West Virginia Code § 29-6-10

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

Filed with Secretary of State for public comment period on May 19, 2015.

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

The announcement was posted on the Division of Personnel web site and communicated via email to State agencies, county health departments, wvOASIS, and other interested parties.

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

Public comment period ended June 30, 2015.

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

Attached X No comments received _____

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

Filed with the Secretary of State July 22, 2015.

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

Joe Thomas, Assistant Director
1900 Kanawha Boulevard, East
Building 6, Room 416
Charleston, WV 25305
Phone: 304-558-3950, extension 57290
Fax: 304-957-0395

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

(SAME)

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

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

N/A

b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A

SUMMARY OF AMENDMENTS

The following is a summary of proposed amendments to the *Administrative Rule* of the West Virginia Division of Personnel (143CSR1). This summary does not include technical amendments which merely correct errors in spelling, grammar, punctuation, and/or other such corrections. There are also many minor revisions reflecting the Division of Personnel's commitment to implementing more efficient means of communicating with applicants (i.e., electronically). Reference is made to the sections of the Rule which have been amended. The reference number reflects the current proposed number, unless otherwise specified.

REFERENCE	SUMMARY
2.	Amended language to more accurately reflect the purpose of the Division of Personnel. Added language to encompass classified employees of local health departments.
3.	Added six definitions and deleted four, primarily due to the defined terms not being used in the Rule. This also required renumbering. The referenced changes are listed with their new numbers, unless otherwise specified.
3.3.	Amended language to provide more precise and easily understood terminology and remove unnecessary verbiage.
3.4.	Added "Affiliation" definition since term is found throughout the Rule.
3.4. (old)	Amended the definition "Agency" to make consistent with W. Va. Code § 5F-2-1, *Transfer and incorporation of agencies and boards; funds.*
3.7. (old)	Amended language to provide more precise and easily understood terminology and clarify that appeals are not limited to instances of injustice or error.
3.10. (old)	Deleted the definition for "Assembled Examination" and created a more comprehensive definition for "Examination".
3.12.	Amended language to remove unnecessary verbiage.
3.19.	Amended language to provide more precise and easily understood terminology.
3.21.	In consultation with the Higher Education Policy Commission, updated the language to reflect the current composition of the higher education governing bodies.
3.24.	Replaced the term "pay" with "compensation" to make the terminology consistent throughout the Rule and to accommodate any future revisions to the Division of Personnel classified and classified exempt pay plans. Specific details in regard to a compensation range will be appropriately addressed in policy
3.26.	In consultation with the Consolidated Public Retirement Board (CPRB), amended language to provide more precise and easily understood terminology, and incorporate language pertaining to workers' compensation. Language

	pertaining to the CPRB and Social Security Administration was also removed - this language was added in the 2012 revisions and had unintended consequences in that an employee may be approved for disability benefits but choose to continue working.
3.27.	Amended language to provide more precise and easily understood terminology and to make use of the term "physician/practitioner" consistent throughout the Rule.
3.28.	Amended language to provide more precise and easily understood terminology. Expanded the definition by adding existing language from subsection 11.4 and removing it from that subsection.
3.29. (new)	Added a new definition for "Department" based upon W. Va. Code § 5F-1-2.
3.32. (old)	Amended language to provide more precise and easily understood terminology and clarify that the Rule includes specific reasons for dismissal.
3.35. (old)	Added the term "Eligible" to make the terminology consistent with other relevant sections of the Rule and amended language for consistency with current practices regarding the examination process.
3.38. (new)	Added a new definition for "Examination" since the term is used frequently throughout the Rule.
3.38. (old)	Deleted the definition of "Existing Employee" since the term is not used in the Rule.
3.50. (old)	Replaced the terminology "pay grade" with "compensation range" throughout the Rule. See 3.24 above.
3.52. (old)	Deleted the definition of "Local Office" since the term is not used in the Rule.
3.62. (new)	Added a new definition for "Pay Plan" since the term is used frequently throughout the Rule.
3.62. (old)	Replaced the term "pay" with "compensation" throughout the Rule. See 3.24 above. Added a clarifying sentence to address the move from bi-monthly to bi-weekly pay as part of the implementation of the statewide Enterprise Resource Planning (ERP) system.
3.66. (old)	Deleted the definition of "Policymaking Positions" since the term is not used in the Rule.
3.68.	Amended language to remove unnecessary verbiage.
3.69.	Amended language to remove unnecessary verbiage.
3.72.	Amended language to clarify that reallocations may occur to address existing misclassifications.

3.73. (new)	Added a new definition for "Recall" since the term is used throughout the Rule.
3.73. (old)	Replaced the terminology "pay grade" with "compensation range" throughout the Rule. See 3.24 above.
3.74. (old)	Amended language to clarify that registers may be created for specific positions and to reflect terminology consistent with current practices regarding the examination process.
3.77. (old)	Replaced the terminology "pay grade" with "compensation range" throughout the Rule. See 3.24 above.
3.78. (old)	Amended language to reflect terminology consistent with current practices regarding the compensation process.
3.80. (old)	Replaced the terminology "pay grade" with "compensation range" throughout the Rule. See 3.24 above.
3.82. (old)	Amended language to provide more precise and easily understood terminology and clarify that sick leave should only be used for health related reasons.
3.83. (old)	Amended language to provide more precise and easily understood terminology and clarify that there are both disciplinary and non-disciplinary suspensions and that non-disciplinary suspensions must not be for a set period of time.
3.84.b.	Removed the term "non-punitive".
3.84. (old)	Amended language to reflect statutory changes in W. Va. Code § 29-6-4(c)(11) as a result of passage of House Bill 3028 during the 2013 regular session of the legislature.
3.89. (old)	Amended language to eliminate unnecessary verbiage by citing, rather than repeating, the statutory language. This will also avoid necessary revisions if the statute is amended in the future.
3.90. (old)	Moved the struck through language to subdivision 6.6.b since it was more appropriate for the body of the Rule rather than the definition section.
3.93. (new)	Added a new definition for "Work Day" since the term is used frequently throughout the Rule.
4.1.	Language amended to provide more precise and easily understood terminology and to remove verbiage on matters covered in other sections of the Rule.
4.2.	Language amended to clarify and more accurately describe the process.
4.3. (old)	Language deleted and replaced by a more descriptive and easily understood reference in 4.7 Position Reallocation.
4.4. (old)	Language reorganized to clarify and more accurately describe the process. The language is now found in new subdivision 4.3.b.

4.4.a. (old)	Language is now referenced in new subdivision 4.3.c.
4.4.b. (old)	Modified language on this matter is now referenced in new subsection 4.4.
4.4.d. (old)	Added language previously found in old subdivision 4.4.a.
4.4.e. (old)	Amended language to provide more precise and easily understood terminology and to incorporate language previously found in old subdivision 4.4.a.
4.4.f. (old)	Deleted the language in the first half of the section and added it as new subdivision 4.3.e. Made grammatical revisions to the second half of the subdivision.
4.3.e. (new)	Added a new section containing the language previously found in old 4.4.f.
4.4., a, b, and c (new)	Created a new subsection 4.4 to address classification of positions primarily using language previously found in other sections and adding new language to more accurately describe the process.
4.5.c.	Amended language to provide more precise and easily understood terminology and remove unnecessary verbiage.
4.5.g. (new)	Falsification addressed separately to emphasize importance.
4.6.a.	Amended language to provide more precise and easily understood terminology, remove unnecessary verbiage, and incorporate language previously found in subdivision 4.6.b.
4.6.b. (old)	Language incorporated into to subdivision 4.6.a.
4.6.c. (old)	Language amended to remove unnecessary verbiage and provide clarifying information consistent with current practice. Added language regarding incumbents who do not meet the minimum qualifications consistent with the language previous found in old subsection 4.3 regarding incumbents of reallocated positions.
4.6.d. (old)	Amended language to provide more precise and easily understood terminology and remove unnecessary verbiage.
4.7.	Amended language to provide more precise and easily understood terminology, remove unnecessary verbiage, and add clarifying language consistent with current practice.
4.7.a. (new)	Created a new subdivision to provide clarifying language regarding temporary assignment of duties consistent with current practice.
4.7.b. (new)	Created a new subdivision to incorporate language previously found in subsection 4.3.

4.8.	Replaced the terminology "pay grade" with "compensation range" throughout the Rule. See 3.24 above.
4.8.a and b. (new)	Divided subsection 4.8 into subdivisions for clarification and added language regarding temporary upgrade and classified status.
4.8.c. (new)	Divided subsection 4.8 into subdivisions, added clarifying language consistent with current practice, and removed unnecessary verbiage.
4.8.d. (new)	Divided subsection 4.8 into subdivisions and added clarifying language consistent with current practice.
4.9.	In consultation with the Higher Education Policy Commission, updated the language to reflect the current composition of the higher education governing bodies.
4.9.a.	Removed unnecessary verbiage as a result of the revisions to subdivision 4.9.c.
4.9.c.	Amended the language to clarify current practices and remove unnecessary verbiage.
4.9.d.	Amended language to provide more precise and easily understood terminology and remove unnecessary verbiage.
4.9.e.	Amended language to provide more precise and easily understood terminology and remove unnecessary verbiage.
5.	Added policy implementation language to the introductory statement for emphasis.
5.1.	Reworded to simplify and improve form and grammar.
5.2.	Reworded to simplify, improve form and grammar, and to remove language limiting the data used for market rate determination to that which applies to southeastern state governments only.
5.3.	Language added to accommodate any possible revisions.
5.4.	Added language to describe which Plan is referenced.
5.4.a.	Replaced the terminology "pay grade" with "compensation range" (See 3.24 above) and amended language to reflect terminology consistent with current practices regarding the compensation process.
5.4.b.	Reworded to simplify, improve form and grammar, and remove language regarding pay increments and months of experience from the Rule in order to address them more specifically in the Pay Plan Implementation Policy.
5.4.c.	Reworded to simplify, improve form and grammar, and remove unnecessary verbiage.

5.4.d.	Reworded to simplify, improve form and grammar, and remove unnecessary verbiage.
5.4.e.	Reworded to simplify and improve form and grammar.
5.4.f.1.	Added language to more clearly describe the purpose of the section.
5.4.f.1.A.	Added language to clarify and to reflect terminology consistent with industry standard regarding the compensation process
5.4.f.1.B.	Replaced the terminology "pay grade" with "compensation range" throughout the Rule. See 3.24 above.
5.4.f.1.C.	Replaced the terminology "pay grade" with "compensation range" throughout the Rule (see 3.24 above) and removed unnecessary verbiage.
5.4.f.2.A. (old)	Removed verbiage no longer needed as a result of revisions to the remainder of the section.
5.4.f.2.A.1. (old)	Amended to incorporate language previously found in the old subdivisions 5.4.f.2.A.2, 5.4.f.2.B.1, and 5.4.f.2.B.2.
5.4.f.2.A.2. (old)	Language moved to the new 5.4.f.2.A.
5.4.f.2.B. (old)	Removed verbiage no longer needed as a result of revisions to the old 5.4.f.2.A.1.
5.4.f.2.B.1 and 2. (old)	Language moved to the new 5.4.f.2.A.
5.4.f.2.C. (old)	Reworded to simplify, improve form and grammar, and remove unnecessary verbiage.
5.4.f.3.	Replaced general reference to "salary regulations" with more specific reference regarding provisions of the Rule.
5.4.f.4.	Reworded to simplify, improve form and grammar, and remove unnecessary verbiage citing examples.
5.4.f.5.	Reworded to simplify, improve form and grammar, and remove unnecessary verbiage.
5.5.a.	Reworded to simplify, improve form and grammar, and remove limiting language from the Rule to allow more flexibility; more specific guidelines are established in the Pay Plan Implementation Policy
5.5.b.1.	Replaced the terminology "pay grade" with "compensation range" throughout the Rule. See 3.24 above.
5.5.b.2.	Replaced the terminology "pay grade" with "compensation range" throughout the Rule (See 3.24 above) and incorporated reallocation into the section.

5.5.b.3.	Added language to address situations which may result in employees receiving compensation above the maximum in the compensation range.
5.5.c.	More accurately described authorization for additional increase and removed six month limitation on experience requirement
5.6.a and b.	Reworded to simplify, improve form and grammar, require at least a one increment pay reduction for demotion with prejudice, and remove language to be addressed more specifically in the Pay Plan Implementation Policy.
5.7.	Replaced the terminology "pay grade" with "compensation range" throughout the Rule. See 3.24 above.
5.8.	Referenced 5.4.b of the Rule regarding entry salary to eliminate unnecessary repetition.
5.9.	Summarized language found in subdivisions for clarification.
5.9.a, b, c, d, and e. (old)	Removed language from the Rule to be addressed more specifically in the Pay Plan Implementation Policy.
5.10.	Amended language to provide more precise and easily understood terminology.
6.1.a.	Amended language to provide more precise and easily understood terminology.
6.1.b.	Amended language to provide more precise and easily understood terminology and to reaffirm the Division of Personnel's commitment to merit principles.
6.2.a.	Amended language to eliminate unnecessary verbiage and achieve consistency with terminology.
6.3.a.	Amended language to achieve consistency with current practices regarding the application process. The majority of applications are now received online through the web site.
6.4.a.	Amended the language to clarify that disqualifications may be temporary and that such disqualifications apply to multiple types of appointments consistent with current practice.
6.4.a.1.	Amended language to eliminate unnecessary verbiage and achieve consistency with terminology.
6.4.a.3.	Removed constrictive and ambiguous terminology.
6.4.a.4.	Added language to clarify that false statements may also be made by omission.
6.4.a.11.	Reduced the threshold for disqualification from three (3) to two (2) statements from former employers regarding reemployment or performance.
6.4.a.12.	Amended language to provide more precise and easily understood terminology.

6.4.b.	Removed unnecessary verbiage and clarified that such applicants may be disqualified for other reason.
6.4.c. (old)	Removed language permitting applicants who lack qualifications to be certified to a register.
6.4.d. (old)	Removed unnecessary verbiage.
6.4.e. (old)	Consolidated the language into old subdivision 6.4.d and removed language permitting a disqualified applicant to participate in an examination pending the results of an appeal.
6.4.f. (old)	Consolidated the language into old subdivision 6.4.d.
6.6.b.1 and 2.	Moved part of the language in subsection 6.6.b into a new subdivision 6.6.b.1 and incorporated language previously found in the definition of "Veterans' Preference Points" into a new subdivision 6.6.b.2.
6.6.c.	Amended language to reflect terminology consistent with current practices regarding the examination process.
6.7.	Amended language to reflect terminology consistent with current practices regarding the examination process.
7.1.b.	Amended language to reflect terminology consistent with current practices regarding layoff.
7.2.b.	Added language clarifying the period of preference register eligibility.
7.3.c.	Amended language to reflect terminology consistent with current practices regarding the examination process.
7.3.e.	Extended the appeal response time to accommodate the monthly meeting schedule of the State Personnel Board.
8.2.a.1.	Added language to clarify current practices regarding the certification process.
8.2.a.3.	Reworded to simplify, improve form and grammar, and remove unnecessary verbiage.
8.2.b.	Amended language to more accurately reflect current practices regarding the certification process.
8.2.c.	Amended language to more accurately reflect current practices regarding the certification process.
8.2.d.	Reworded to simplify, improve form and grammar, and remove unnecessary verbiage.

8.4.a.	Amended language to more accurately reflect current practices regarding the certification process, clarify existing language, and to require appointing authorities to make only conditional offers of employment pending approvals.
8.4.b., b.1, and b.2.	Amended language to clarify current practices regarding the certification process.
8.4.c.	Amended language to clarify current practices regarding the certification process and to ensure that unqualified employees may not remain in a position if he or she constitutes an undue risk or has been otherwise disqualified as provided in the Rule.
9.1.a.	Amended language to clarify current practices regarding the addition of positions to the classified service.
9.1.c.	Amended language requiring only incumbents employed in his or her position for less than six (6) months to submit to a qualifying examination.
9.1.d.	Removed language no longer needed based on revisions to 9.1.c and incorporated existing language from old subdivision 9.1.e.
9.4.	Added language clarifying that temporary employees may be retained during periods in which he or she is received workers' compensation benefits connected to their state employment.
9.5.a.	Added language clarifying the type of demotion and removed unnecessary verbiage pertaining to matters addressed in subdivision 9.5.f.
9.5.f.	Amended language to clarify current practices regarding vacancy posting requirements.
9.5.g.	Amended language to clarify current practices regarding vacancy posting requirements.
10.1.c.	Amended language to clarify current practices regarding extension of the probationary period.
10.4.	Removed language permitting transfer of an employee during his or her probationary period.
11.2.a.	Amended language to more accurately reflect current practices regarding the promotional examination process.
11.2.c.	Removed unnecessary verbiage.
11.4., a, b, and c.	Amended the language to relocate verbiage to the definition of "Demotion" and reformat the language into subdivisions consistent with subdivision 12.2.a pertaining to dismissal.
11.5.	Replaced the terminology "pay grade" with "compensation range" throughout the Rule. See 3.24 above.

11.6.a.	Amended language to reflect changes made to subsection 10.4 and to clarify that posting requirements apply.
12.1.b.	Removed language repeated in old subdivision 12.1.c.
12.1.c.	Incorporated language into subdivision 12.1.b and added language clarifying the process pertaining to resignation in lieu of dismissal.
12.2.a, a.1, and a.3.	Amended the language to relocate verbiage previously found in the unnumbered, dangling paragraph beneath subdivision 12.2.a.3.
12.2.b.	Added language to clarify eligibility for severance pay when notice is withheld.
12.2.c.	Amended the language to address employees absent without approval and added language clarifying that a predetermination conference is not required as job abandonment is synonymous with resignation.
12.2.d.	Amended the language to limit reference obligations to State government entities to reduce liability which may result from providing negative employment references.
12.3.a, a.1 and a.3. (new)	Amended language to provide more precise and easily understood terminology and clarify that there are both disciplinary and non-disciplinary suspensions. Also amended the language to relocate verbiage previously found in the unnumbered, dangling paragraph beneath old subdivision 12.3.c.
12.3.b. (new)	Added new language to clarify that there are both disciplinary and non-disciplinary suspensions, clarify that non-disciplinary suspensions must not be for a set period of time, permit use of annual leaving during non-disciplinary suspension, and provide specific procedural language pertaining to the conclusion of the non-disciplinary suspension.
12.4.b.	Amended terminology to more accurately reflect current practices regarding structure of organizational units.
12.4.f.	Amended language to more accurately reflect current practices regarding layoff and to clarify that reduction in work hours is considered a reduction in force.
12.4.f.1.	Added language to permit employees to volunteer to be laid off in the place of another employee.
12.4.f.2.	Added statutory language to clarify current practices regarding layoff.
12.4.g.	Amended language to more accurately reflect current practices regarding layoff and to clarify that reduction in work hours is considered a reduction in force.
12.4.i.	Amended language to more accurately reflect current practices regarding layoff and to clarify that reduction in work hours is considered a reduction in force.
12.4.j.	Amended language to provide more precise and easily understood terminology.

12.6.a.	Added language to limit reinstatement based on prior employment in the occupational group and to require reinstated employees to serve a probationary period.
12.6.b and c.	Added the term "classified" to address classified employees not employed by the State.
14.	Removed specific State code citations to avoid unintended omission of relevant citations and need for future revision based on legislative action.
14.1.a.	Amended language to address inconsistency with statutory language and provide more precise and easily understood terminology.
14.1.b.	Amended language to more accurately reflect current practices regarding holiday eligibility and observance.
14.1.d.	Amended language to more accurately reflect current practices regarding holiday eligibility and to add language to address employees who fail to report to work on a holiday as scheduled.
14.3.a.	Amended language to clarify current practices regarding annual leave accrual. Added a clarifying sentence to address the move from bi-monthly to bi-weekly accrual as part of the implementation of the ERP system.
14.3.c.	Amended language to remove unnecessary verbiage and to address unplanned annual leave.
14.3.d.4.	Added the term "permanent" to achieve consistency in terminology throughout the Rule.
14.3.e.	Added language to address proration of annual leave as provided in subdivision 14.3.a..
14.3.f.1.	Removed language providing that an employee may remain "on the payroll" while exhausting terminal annual leave. This amendment is being recommended to facilitate payment of final wages, permit agencies to fill vacant positions, and reduce other post-employment benefits (OPEB) liability. *NOTE: If the proposed revision is not approved, "semi-monthly" will have to be changed to "biweekly" and the last sentence must be struck through as it is inconsistent with Consolidated Public Retirement Board regulations.*
14.3.f.3. (old)	Amended language to more accurately reflect current practices and to address incremental changes regarding retirement benefits based on date of employment.
14.3.h.	Amended language to provide more precise and easily understood terminology and make terminology consistent with other relevant sections of the Rule.

14.4.a.	Amended language to clarify current practices regarding sick leave accrual. Also added a clarifying sentence to address the move from bi-monthly to bi-weekly accrual as part of the implementation of the ERP system.
14.4.c.	Added language to address proration of sick leave as provided in subdivision 14.4.a.
14.4.d.	Amended language to clarify current practices regarding exhaustion of sick leave entitlement.
14.4.e.2.	Removed language providing that employees may reinstate sick leave accrued during previous employment. This is another recommendation aimed at reducing OPEB liability.
14.4.f.	Amended language to provide more precise and easily understood terminology, make terminology consistent with other relevant sections of the Rule, and address unplanned sick leave.
14.4.f.2.	Amended language to clarify current practices regarding leave used for death in the immediate family and to make terminology consistent with other relevant sections of the Rule.
14.4.f.5.	Amended language to clarify current practices regarding travel time for dental and medical appointments consistent with 14.4.f.6.
14.4.f.6.	Amended language to increase family sick leave allowance from 40 to 80 hours per year and to address proration of leave for part-time employees.
14.4.g.1.	Added language to provide caution regarding certification and recertification restrictions in the federal Family and Medical Leave Act (FMLA) as the Act is more restrictive than the provisions found in the Rule.
14.4.g.2.	Amended language to clarify current practices regarding physician's/practitioner's statements and to require that such statements be provided immediately upon return to work.
14.4.g.3.	Amended language to clarify that pay must be docked even if not in the following pay period and to make terminology consistent with other relevant sections of the Rule.
14.4.h.2. (new)	Added language authorizing an appointing authority to require an employee to return at less than full duty in connection with a workers' compensation injury.
14.4.h.2. (old)	Amended language to remove the necessity for the Director of Personnel to approve denial of an employee to return at less than full duty or with restrictions. The Division of Personnel believes it should not substitute its judgment for that of an appointing authority with more comprehensive knowledge of the requirements of the position and the employee's capabilities.

14.4.h.3. (old)	Amended language to clarify that return to work with restrictions may be denied and to make terminology consistent with other relevant sections of the Rule.
14.4.j.	Reworded to simplify, improve form and grammar, and remove the requirement for hospitalization.
14.5.	Amended language to clarify current practices pertaining to misuse of leave and to provide additional examples.
14.6.	Amended language to clarify that pay must be docked even if not in the following pay period.
14.8.a.	Amended language to clarify current practices pertaining to personal leave and to remove unnecessary verbiage.
14.8.b.	Removed the terminology "by formal action" to make terminology consistent throughout the Rule.
14.8.c.1.A.1.	Amended language to limit consideration of paid leave to that used for military service or while receiving temporary total disability benefits when calculating hours of work for medical leave of absence eligibility determination. This recommendation is being made in an effort to achieve consistency with FMLA regulations.
14.8.c.1.D.	Removed language requiring the verification be made on the prescribed form and to provide caution regarding FMLA eligibility.
14.8.c.3.	Added language to clarify when medical leave of absence may be taken intermittently.
14.8.c.4.	Added language to clarify current practices pertaining to approval of medical leave for employees receiving temporary total disability benefits.
14.8.d.3.	Added language to clarify current practices pertaining to payment of severance pay to employees who are dismissed for failure to return from leave.
14.9.a and b.	Removed reference to statutory provisions to eliminate possibility of inconsistency and necessity for revision based on legislative action. Added county and municipal government consistent with statutory language and made terminology consistent with other relevant sections of the Rule.
14.9.c.1.	Language removed to reflect the statutory changes in W. Va. Code § 15-1F-1 (a) and (b) enacted in the 2011 regular session of the legislature providing that temporary employees are not eligible for paid military leave as provided in the Rule.
14.10.c.	Added language to address employees required to report to jury or witness service prior to the beginning of the scheduled work day consistent with existing language regarding release prior to the end of the work day.

14.13.	Changed the term "regulations" and "rules" to "policies" as most classified agencies lack authority to promulgate leave regulations.
14.15.	Amended language to clarify current practices pertaining to verification of the accuracy of leave records.
16.2.	Added language as a result of passage of the Hatch Act Modernization Act of 2012.
18.	Amended language to address individuals in the classified service not employed by the State and to clarify current practices pertaining to payroll.
19.2.	Added language to address individuals in the classified service not employed by the State.
21 and 21.1.	Added language to address individuals in the classified service not employed by the State.
21.3.b.	Added language to address individuals in the classified service not employed by the State.
22.	Amended language to make it consistent with statutory language.
23.2.a and b.	Amended language to clarify current practices pertaining to training and development.

SUMMARY OF AMENDMENTS
MADETO THE PROPOSED RULE AS A RESULT OF
PUBLIC COMMENTS OR OTHER INFORMATION RECEIVED

The following is a summary of proposed amendments to the *Administrative Rule* of the West Virginia Division of Personnel (143CSR1) made in response to comments received during the public comment period or other information received. This summary does not include technical amendments which merely correct errors in spelling, grammar, punctuation, and/or other such corrections. Reference is made to the sections of the Rule which have been amended. The reference number reflects the current proposed number, unless otherwise specified.

REFERENCE	SUMMARY
3.	Old definition 3.10 for "assembled Examination" was deleted but was still assigned a number in error. This required the numbers for all following definitions to be renumbered in the agency approved version of the Rule.
3.24.	Replaced the term "pay" with "compensation" throughout the Rule to accommodate any future revisions to the Division of Personnel classified and classified exempt pay plans. Specific details in regard to a compensation range will be appropriately addressed in policy.
3.62. (old)	Replaced the term "pay" with "compensation" throughout the Rule. See 3.24 above. Added a clarifying sentence to address the move from bi-monthly to bi-weekly pay as part of the implementation of the statewide Enterprise Resource Planning (ERP) system.
3.84.b.	Removed the term "non-punitive" as it was vague terminology.
4.6.a.	Added clarifying language regarding who receives the description and that they are only required for affected positions.
4.7.	Deleted the last sentence in the paragraph. It was moved to 4.7.a as a new subsection but was erroneously left in the previous paragraph.
5.1.	Removed the term "adequate" as it is an ambiguous and unnecessary term.
5.5.b and 5.5.b.3.	Moved the proposed language found in 5.5.b to a new subsection 5.5.b.3.
5.6.a and b.	Separated the subsection back into two (2) subdivisions.
5.10.	Removed the terminology "by formal action" to make terminology consistent throughout the Rule.
6.2.a.	Moved the language to subsection 6.2 rather than leaving it as subdivision 6.2.a since there was no subdivision 6.2.b.
6.3.a.	Reinserted language requiring applicants to sign applications since DOP still receives many paper applications.

6.6.b.1 and 2.	Moved part of the language in subsection 6.6.b into a new subdivision 6.6.b.1 and incorporated language previously found in the definition of "Veterans' Preference Points" into a new subdivision 6.6.b.2.
11.2.a.	Amended language to provide more precise and easily understood terminology, remove unnecessary verbiage, and achieve consistency.
11.4., a, and c.	Amended the language to relocate verbiage previously found in the unnumbered, dangling paragraph beneath subdivision 11.4.c.
11.6.a.	The proposed language relating to classified employees of local government agencies was retracted and the original language restored. The Division of Personnel believes that the memorandum of understanding signed with the Department of Health and Human Resources, Bureau for Public Health, and the corresponding service level agreements signed with each respective local health department, will adequately address any concerns that may arise pertaining to merit system standards.
12.2.a, a.1, and a.3.	Amended the language to relocate verbiage previously found in the unnumbered, dangling paragraph beneath subdivision 12.2.a.3.
12.2.c.	Amended the language to clarify that a predetermination conference is not required as job abandonment is synonymous with resignation.
12.3.a, a.1 and a.3. (new)	Amended the language to relocate verbiage previously found in the unnumbered, dangling paragraph beneath old subdivision 12.3.c.
12.3.b.	Amended the language to relocate proposed verbiage previously found in the unnumbered, dangling paragraph beneath new subdivision 12.3.b.2.
12.4.j.	See 11.6.a above.
12.6.a.	See 11.6.a above.
14.1.d.	Removed the proposed terminology "or receive approval for paid leave" since the provision is only applicable if the employee was scheduled and expected to be at work.
14.3.a.	Added a clarifying sentence to address the move from bi-monthly to bi-weekly accrual as part of the implementation of the statewide Enterprise Resource Planning (ERP) system.
14.3.g.1.	See 11.6.a above.
14.4.a.	Added a clarifying sentence to address the move from bi-monthly to bi-weekly accrual as part of the implementation of the ERP system.
14.4.i.1.	See 11.6.a above.
14.8.b.	Removed the terminology "by formal action" to make terminology consistent throughout the Rule.

STATEMENT OF CIRCUMSTANCES REQUIRING AMENDMENT TO THE ADMINISTRATIVE RULE OF THE WEST VIRGINIA DIVISION OF PERSONNEL

The existing Rule is being amended to clarify certain sections of the Rule, to improve the internal consistency of the Rule, to address statutory revisions, and, generally, to improve the Rule.

TITLE 143
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF PERSONNEL

FILED
2015 JUL 21 P 2:08
OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 1
ADMINISTRATIVE RULE OF THE
WEST VIRGINIA DIVISION OF PERSONNEL

§ 143-1-1. General.

1.1. Scope. -- This rule implements the provisions set forth in W. Va. Code § 29-6-1 et seq. regarding classification plans, pay plans, open competitive examinations, promotions, layoff and recall, appointments, dismissals, demotions and other matters consistent with W. Va. Code § 29-6-1 et seq.

1.2. Authority. -- This rule is issued under the authority of W. Va. Code § 29-6-10.

1.3. Filing Date. -- ~~April 20, 2012~~ XXXX XX, 2016.

1.4. Effective Date. -- ~~July 1, 2012~~ July 1, 2016.

§ 143-1-2. Preamble.

The general purpose of the Division of Personnel is to attract, develop, and retain to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state or classified employment. All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliations or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or State law.

§ 143-1-3. Definitions.

3.1. Accrue. -- ~~To increase or accumulate~~ The process of increasing or accumulating periodically or by increment.

3.2. Accrual Rate. -- The grouping by the cumulative years of eligible employment which is used to determine the rate of accrual of annual leave benefits.

3.3. Administrator. -- Any person who fills a statutorily created position within or related to an agency or board (other than a board member) and who is designated by statute as the head of the agency or board ~~commissioner, deputy commissioner, assistant commissioner, director, chancellor, chief, executive director, executive secretary, superintendent, deputy superintendent or other administrative title, however designated~~.

3.4. Affiliation. -- Adoption of employees of state agencies or parts of state agencies to the classified service by action of the legislature, executive order of the Governor with the consent of the Board and the appointing authority concerned, and when additional county or municipal agencies are added to the classified service through agreement between the local government and the Director with the approval of the Board.

~~3.4.~~ 3.5. Agency. -- Any ~~administrative department of state government, including any authority, board, bureau, commission, committee, council, division, section, office, or any county health department~~ authority, board, bureau, commission, division or other entity of state government, however designated, transferred to or incorporated in one of the departments created in W. Va. Code § 5F-1-2, as well as any affiliated county health department. Provided, that individual districts, offices, regions, sections and units within the same agency, however designated, shall not be considered a separate agency.

~~3.5.~~ 3.6. Allocation. -- The assignment of a position to a class by the Director of Personnel based on ~~the basis of~~ the duties performed and responsibilities ~~assumed~~ assigned.

~~3.6.~~ 3.7. Annual Leave. -- An ~~earned employee~~ accrued benefit of paid time off from work that is earned by an employee to be used with prior approval of the appointing authority or designee.

~~3.7.~~ 3.8. Appeal. -- ~~The complaint to~~ A request made to the Director or ~~State Personnel~~ Board to ~~correct or reverse an alleged injustice done or error committed~~ reconsider a decision.

~~3.8.~~ 3.9. Appointing Authority. -- The executive or ~~administrative~~ head of ~~an~~ a department or agency who is authorized by statute to appoint employees in the classified or classified-exempt service. By written notification to the Director of Personnel, the appointing authority may delegate specific powers authorized by this rule to persons who satisfy the definition of employee as established in this rule.

~~3.9.~~ 3.10. Appointment. -- The act of hiring an applicant for employment.

~~3.10. Assembled Examination. -- An examination which, due to the testing process used, necessitates that applicants come to a testing location.~~

3.11. Available. -- The indication, by an eligible applicant, of the ~~employment location and~~ conditions under which employment would be accepted including, but not limited to, location, salary, and starting date of employment.

3.12. Board. -- The State Personnel Board as provided for in W. Va. Code § 29-6-6 ~~whose members are appointed by the Governor with the advice and consent of the Senate~~.

3.13. Business Necessity. -- The reason or cause for any of a variety of personnel actions based upon the condition of the agency, in whole or in part, or specific program component(s) which may include, but is not limited to, lack of funds or work; abolishment of positions; material changes in mission, duties or organization; loss of budgeted, allocated or available positions; reinstatement of eligible employees returning from military duty or temporary total disability; reinstatement of an employee in compliance with a legal order; and for recall of employees previously laid off.

3.14. Carry Forward Days. -- The maximum number of annual leave days which can be accredited for use as of the first day of January based on an employee's length of service category.

3.15. Certification. -- The official list of eligible applicants given to an appointing authority for filling vacancies in the classified service.

3.16. Class or Class of Positions. -- One or more positions sufficiently similar in duties, training, experience and responsibilities, as determined by specifications, that the same title, the same qualifications, and the same schedule of compensation and benefits may be equitably applied to each position in the class.

3.17. Classification Action. -- The actions of allocation, reallocation, classification, and reclassification.

3.18. Classification Plan. -- The plan by which positions in the classified service and classified-exempt service have been allocated by class.

3.19. Class Specification. -- The official description of a class of positions ~~position which describes~~ for the purpose of describing the nature of work, ~~provides~~ providing examples of work performed, and identifying the ~~knowledges~~ knowledge, skills, and abilities, required while stating ~~and states~~ the generally accepted minimum qualifications required for employment.

3.20. Classified Employee. -- An employee who occupies a position allocated to a class in the classified service.

3.21. Classified-Exempt Service. -- As established by statute, those positions which satisfy the definitions for "class" and "classify" but which are not covered under the Division

of Personnel merit system standards or employment standards of the higher education ~~governing boards~~ systems.

3.22. Classified Service. -- Those positions which satisfy the definitions for "class" and "classify" and which are covered under the Division of Personnel merit system standards.

3.23. Classify. -- The process of ascertaining, analyzing, and evaluating the duties and responsibilities of positions to determine the number and kind of classes existing in the service and to group the positions in classes.

3.24. Compensation Plan. -- The official schedule of pay rates, the compensation range assigned to each class of positions and the salary regulations used in pay administration in the classified service.

3.25. Daily Rate. -- The usual rate of pay for the pay period divided by the total number of workdays plus paid holidays in the pay period for an employee whose position is assigned to a monthly pay rate.

3.26. Date and Time of Separation. -- ~~Date~~ Last date and time ~~last~~ worked ~~of employees separating~~ by an employee separated from employment due to dismissal, voluntary resignation, voluntary retirement, layoff, or ~~sudden~~ death; the date of death of employees who die while on paid or unpaid leave; the date and time ~~of~~ notification is received by employees resigning or retiring while on military leave, or while receiving workers' compensation temporary total disability benefits as a result of a personal injury or illness received in the course of and resulting from covered employment with the State or its political subdivisions in accordance with W. Va. Code § 23-4-1, or due to disability as verified by a ~~physician~~ physician/practitioner~~; or the date the determination of permanent disability is made by the Consolidated Public Retirement Board and/or the United States Social Security Administration~~.

3.27. Day. -- Unless otherwise specified, ~~the use of "day" means~~ an interval of 24 hours as represented by a calendar day.

3.28. Demotion. -- A change in the status of an employee from a position in one class to a position in ~~another~~ a lower job class ~~of lower rank~~ as measured by ~~salary~~ compensation range, minimum qualifications, or duties, or a reduction in an employee's pay to a lower rate in the ~~pay~~ compensation range assigned to the class. There are two (2) types of demotion:

3.28.a. Demotion with Prejudice. -- A disciplinary action resulting in the reduction in pay and a change in job class to a lower job class.

3.28.b. Demotion without Prejudice. -- A reduction in pay and/or a change in job class to a lower job class due to business necessity or as a result of an employee being selected for a vacant, posted position for which he or she applied.

3.29. Department. -- The departments of the executive branch of state government provided in W. Va. Code § 5F-1-2.

~~3.29.~~ 3.30. Director. -- The Director of Personnel, as provided in W. Va. Code § 29-6-7 and § 29-6-9, who serves as the executive head of the Division of Personnel, or his or her designee.

~~3.30.~~ 3.31. Disability. -- A physical or mental impairment which substantially limits one or more of a person's major life activities, a record of such impairment, or regarded as having such an impairment.

~~3.31.~~ 3.32. Discretionary. -- Open to individual choice or judgment.

~~3.32.~~ 3.33. Dismissal. -- Involuntary separation of employment of a classified employee initiated by an appointing authority ~~ending the employer-employee relationship of a classified employee~~ for any reason specified in this rule or for good cause; involuntary separation of employment ~~or~~ of a classified-exempt employee with or without cause.

~~3.33.~~ 3.34. Division of Personnel. -- The division of the Department of Administration responsible for the system of personnel administration for the classified and classified-exempt service.

~~3.34.~~ 3.35. Effective Date. -- The established date an action takes place.

~~3.35.~~ 3.36. Eligible Applicant or Eligible. -- An applicant accepted for a Division of Personnel examination who ~~receives a final passing score~~ meets all minimum requirements and whose name is listed on the register established for the class of position.

~~3.36.~~ 3.37. Employee. -- Any person who lawfully occupies a position in an agency and who is paid a wage or salary and who has not severed the employee-employer relationship.

3.38. Examination. -- The process of assessing or measuring and evaluating the relative skills, abilities and fitness of applicants by job-related procedures. Examples include, but are not limited to: application evaluation, written test, performance test, physical agility test, interview or oral assessment, psychological or behavioral assessment, drug screening, and background evaluation. Examinations may further be defined as follows:

3.38.a. Assembled Examination. – Any assessment procedure requiring applicants to appear at a specified time and place.

3.38.b. Unassembled Examination. – An appraisal of job-related training, experience or any other job qualifications without the necessity for the applicant's personal appearance at a specified place.

~~3.37.~~ 3.39. Exempt Service. -- All positions specifically exempted from the classified service by statute or statutory authority.

~~3.38. Existing Employee. -- Any person employed by an agency for permanent employment in a classified or classified-exempt position.~~

~~3.39.~~ 3.40. Fitness. -- Suitability to perform all essential duties of a position by virtue of meeting the established minimum qualifications and being otherwise qualified.

~~3.40.~~ 3.41. Full-time Employee. -- Any employee who works the full work schedule established for the agency.

~~3.41.~~ 3.42. Hourly Rate. -- The total annual salary (excluding annual increment) divided by 2,080 hours for full-time permanent and temporary salaried employees or divided by the actual number of hours worked annually for part-time permanent employees, and temporary salaried employees. For hourly employees, the hourly rate is the actual rate established by the ~~State Personnel~~ Board.

~~3.42.~~ 3.43. Immediate Family. -- Consists of the parents, children, siblings, spouse, parents-in-law, children-in-law, grandparents, grandchildren, ~~step-parents~~ stepparents, ~~step-brothers, step-sisters~~ stepsiblings, stepchildren, foster children, individuals in an *in loco parentis* relationship, and individuals in a legal guardianship relationship.

~~3.43.~~ 3.44. Incapacity. -- An illness of, or injury to, an employee which temporarily prevents him or her from performing the essential duties of his or her position.

~~3.44.~~ 3.45. Incumbent. -- Any employee occupying a position.

~~3.45.~~ 3.46. Intra-Agency Transfer. -- Any transfer within a single agency.

~~3.46.~~ 3.47. Inter-Agency Transfer. -- Any transfer from one agency to another.

~~3.47.~~ 3.48. Job Abandonment. -- The absence from work under such conditions as to be synonymous with resignation.

~~3.48.~~ 3.49. Last Date and Time on Payroll. -- The calendar date and hour an employee's pay ceases.

~~3.49.~~ 3.50. Last Day of Work. -- The last calendar date and hour an employee is physically on the job.

~~3.50.~~ 3.51. Lateral Class Change. -- The movement of any employee from one class to another class in the same ~~pay grade~~ compensation range.

~~3.51.~~ 3.52. Layoff. -- A reduction in the number of employees resulting in involuntary separation from employment or reduction in work schedule due to business necessity.

~~3.52. Local Office. -- Any unit of an agency which provides services to a specified section of the State and has employees reporting to locations other than the state office headquarters.~~

3.53. Minimum Qualifications. -- The least experience and/or training required by the ~~State Personnel~~ Board for employment in a class of position and admission to an examination for that class of position.

3.54. Month. -- Any of the twelve parts into which the calendar year is divided.

3.55. Occupational Group. -- A category of job classes grouped by similarity of occupation or profession.

3.56. Open Competitive Examination. -- An examination which permits the competition of all persons who meet the publicly announced minimum requirements for a class of position.

3.57. Original Appointment. -- Initial employment of an individual into the classified service as a result of selection from a certification of names from a register established by open competitive examination or from a preference register.

3.58. Part-time Employee. -- Any person who works less than the full-time work schedule established for an agency.

3.59. Part-time Professional. -- Any classified-exempt employee engaged in professional services without administrative duties and who works no more than half the agency's full-time work schedule.

3.60. Pay Differential. -- A type of salary adjustment specifically approved by the Board to address circumstances ~~such as~~ including, but not limited to, class-wide recruitment and/or retention problems, regionally specific geographic pay disparities, apprenticeship program requirements, shift differentials for specified work periods, and temporary upgrade programs.

3.61. Pay Increment. -- The percentage increase amounts established by the ~~State Personnel~~ Board to implement pay practices including hiring rates, salary advancements, and pay on promotion.

3.62. Pay Plan. -- A compensation schedule for the classified service consistent with merit principles.

~~3.62.~~ 3.63. Pay Rate. -- One of the monthly or hourly rates within the ~~pay~~ compensation range established by the ~~State Personnel~~ Board for each class included in the approved pay plan; the usual rate of pay. Though pay may be expressed in terms of a monthly rate, employees may be paid on a bi-weekly basis.

~~3.63.~~ 3.64. Per Diem. -- A daily rate of pay.

~~3.64.~~ 3.65. Permanent Employee. -- Any classified employee who was hired from a register and who has completed the probationary period prescribed by the ~~State Personnel~~ Board for the job class, or any classified-exempt employee who was hired to fill a position for an unlimited period of time, notwithstanding the appointing authority's right to terminate the employee for cause or at his or her will.

~~3.65.~~ 3.66. Physician/practitioner. -- A person licensed under the laws of a state to

practice medicine or a medical practitioner approved by the Public Employees Insurance Agency.

~~3.66. Policymaking Positions. -- A position in which the person occupying it: a) acts as an advisor to or formulates plans for the implementation of broad goals for the executive or administrative head of the agency; b) is in charge of a major administrative component of the agency; and c) reports directly and is directly accountable to the administrative or executive head of the agency.~~

3.67. Position. -- An authorized and identified group of duties and responsibilities assigned by the proper authority requiring the full-time or part-time employment of at least one person.

3.68. Position Description. -- The document ~~prepared by the position supervisor or the employing agency, and approved by the appointing authority,~~ which describes the officially assigned duties, responsibilities, supervisory relationships and other pertinent information relative to a position. This document is the basic source of official information in position allocation. ~~Position description forms shall be prescribed by the Director.~~

3.69. Probationary Period. -- A specified trial work period prescribed by the ~~State Personnel Board~~ Director designed to test the fitness of an employee selected from a competitive list of eligibles for the position for which an original appointment has been received.

3.70. Promotion. -- A change in the status of an employee from a position in one class to a vacant position in another class of higher rank as measured by salary range and increased level of duties and/or responsibilities.

3.71. Provisional Appointment. -- The hiring of an employee to fill a position pending the administration of an open competitive examination and the establishment of a register.

3.72. Reallocation. -- Reassignment by the Director of a position from one class to a different class on the basis of a significant change in the kind ~~or~~ and/or level of duties and responsibilities assigned to the position or to address a misalignment of title and duties.

3.73. Recall. – The re-employment from a recall list of a former permanent classified employee separated due to layoff.

~~3.73.~~ 3.74. Reclassification. -- The revision by the ~~State Personnel~~ Board of the specifications of a class or class series which results in a redefinition of the nature of the work performed and a reassignment of positions based on the new definition and may include a change in the title, ~~pay grade~~ compensation range, or minimum qualifications for the classes involved.

~~3.74.~~ 3.75. Register. -- An official list of currently available eligible applicants for a position or job class ~~ranked~~ listed in the order of the final score as a result of the Division of Personnel examination for the ~~class of position for~~ competitive appointment or in ~~seniority~~ tenure order for preference hiring of laid-off permanent classified employees.

~~3.75.~~ 3.76. Reinstatement. -- A type of re-employment of a former permanent classified employee.

~~3.76.~~ 3.77. Resignation. -- Voluntary separation from employment, including job abandonment, by an employee.

~~3.77.~~ 3.78. Salary Adjustment. -- A salary change resulting from a revision of the pay plan, the reassignment of a class to a different ~~pay grade~~ compensation range, a Board approved pay differential, a temporary classification upgrade, a general wage increase mandated by the Legislature or the Governor, or the correction of payroll errors.

~~3.78.~~ 3.79. Salary Advancement. -- A discretionary ~~advancement~~ increase in ~~salary~~ compensation granted in recognition of the quality of job performance.

~~3.79.~~ 3.80. Salary Range. -- The approved monthly and annual salary for a class which includes the minimum, maximum, and intervening steps.

~~3.80.~~ 3.81. Salary Schedule. -- The official schedule of salaries approved by the Governor consisting of multiple ~~pay grades~~ compensation ranges with minimum and maximum rates of pay for each ~~grade~~ range.

~~3.81.~~ 3.82. Seasonal Employment. -- Employment exempt from the classified service in state forests, parks, and recreational areas for less than 1,733 hours per calendar year.

~~3.82.~~ 3.83. Sick Leave. -- An ~~earned employee~~ accrued benefit of paid time off ~~as specified by this rule~~ for illnesses, injuries and other health related circumstances as specified by this rule.

~~3.83.~~ 3.84. Suspension. -- ~~Disciplinary action~~ Action taken by an agency to temporarily relieve an employee of his or her duties and place the employee in unpaid status. There are two (2) types of suspension:

3.84.a. Disciplinary Suspension. -- A disciplinary action for cause.

3.84.b. Non-disciplinary Suspension. – An indefinite period of suspension to perform an investigation regarding an employee's conduct which has a reasonable connection to the employee's performance of his or her job or when the employee is the subject of an indictment or other criminal proceeding.

~~3.84.~~ 3.85. Temporary Employment. -- Employment exempt from the classified service for a period not to exceed ~~720~~ 1,000 work hours per twelve-month period.

~~3.85.~~ 3.86. Terminal Annual Leave. -- The balance of an employee's accrued and unused annual leave as of that employee's last day of work.

~~3.86.~~ 3.87. Termination. -- Separation from employment by the appointing authority as a result of the expiration of a limited term appointment or at the end of the period of need

during limited term employment.

~~3.87.~~ 3.88. Transfer. -- The movement of an employee to a different subdivision of an agency or geographic location of the same or a different agency.

~~3.88.~~ 3.89. Vacancy. -- An unfilled ~~budgetary~~ budgeted position in the classified service to be filled by original appointment, promotion, demotion, lateral class change, transfer, or reinstatement.

~~3.89.~~ 3.90. Veteran. -- Any person who meets the requirements set forth in W. Va. Code § 6-13-1. ~~fulfills the requirements of one of the following conditions:~~

~~3.89.a. Served on active duty anytime between December 7, 1941, and July 1, 1955. However, any person who was a Reservist called to active duty between February 1, 1955 and October 14, 1976, must meet subdivision b., of this subsection;~~

~~3.89.b. Served on active duty anytime between July 2, 1955 and October 14, 1976 or a Reservist called to active duty between February 1, 1955 and October 14, 1976 and who served for more than 180 days;~~

~~3.89.c. Entered on active duty between October 15, 1976 and September 7, 1980 or a Reservist who entered on active duty between October 15, 1976 and October 13, 1982 and received a Campaign Badge or Expeditionary Medal or is a disabled veteran; or,~~

~~3.89.d. Enlisted in the Armed Forces after September 7, 1980 or entered active duty other than by enlistment on or after October 14, 1982 and~~

~~3.89.d.1. completed 24 months of continuous active duty or the full period called or ordered to active duty, or was discharged under 10 U.S.C. 1171, or for hardship under 10 U.S.C. 1173 and received or was entitled to receive a campaign badge or expeditionary medal; or,~~

~~3.89.d.2. is a disabled veteran.~~

~~3.90.~~ 3.91. Veterans' Preference Points. -- An additional five (5) points added to the final passing score on an open competitive examination of any veteran as defined by this rule. An additional five (5) points are available to those veterans who also have a current and compensable service connected disability or who have received a Purple Heart award. ~~To receive veterans' preference points, separation from active duty must have been under honorable conditions. This includes honorable and general discharges. A clemency discharge does not meet the requirement of this subsection. Active duty for training in the military reserve and national guard programs is not considered active duty for purposes of veteran preference. Veterans' preference points are not added to final passing scores on promotional examinations.~~

~~3.91.~~ 3.92. Work Schedule. -- Designation of the periods of time during which work is performed.

3.93. Work Day. -- Unless otherwise specified, the use of "work day" or "working day" means days exclusive of Saturday, Sunday, official holidays and any day in which the employee's workplace is legally closed as provided for by statute, rule, policy or practice.

~~3.92~~ 3.94. Workweek. -- The time period of seven (7) consecutive days, beginning and ending at specified days and times, during which work is performed and work hours reported for compliance with applicable federal and state labor laws.

~~3.93~~ 3.95. Year. -- Twelve (12) consecutive month period, unless otherwise specified.

§ 143-1-4. Classification Plans.

4.1. Preparation of Plans. -- The Board, after conferring with the appointing authorities concerned, shall ~~prepare, maintain, and revise~~ authorize the preparation, maintenance and revisions of a comprehensive classification plan for all positions in the classified and the classified-exempt service. The plan shall be based on an investigation and analysis of the duties and responsibilities of each position~~, and each position shall be allocated by the Director, after consultation with the appointing authority concerned, to its proper class in the classification plan~~. The classification plan shall include an appropriate title for each class ~~of positions an appropriate title, a description of the duties and responsibilities, and the minimum requirements of training, experience, and other qualifications~~.

4.2. Revision of Plans. -- The Board may ~~abolish or change~~ eliminate or modify existing classes of positions, or may add new classes upon the recommendation of the Director ~~in the same manner as the classification plans were originally adopted~~.

~~4.3. Incumbents of Reallocated Positions. -- When a position is reallocated to a different class, the Board shall not consider the incumbent eligible to continue in the position unless he or she would have been eligible for original appointment, promotion, transfer, or demotion, to a position of the new class while serving in the position as previously allocated. If ineligible to continue in the position, he or she may be transferred, promoted, or demoted by appropriate action in accordance with the provision of this rule as the Director may determine to be applicable. In any case in which the incumbent is ineligible to continue in the position, and he or she is not transferred, promoted or demoted, the provisions of this rule regarding separations applies.~~

~~4.4.~~ 4.3. Class Specifications. ~~-- The Director shall consider the class specification in allocating positions and shall interpret it as follows:~~

~~4.4.a. Class specifications are descriptive only and are not restrictive. The use of a particular expression of duties, qualifications, requirements, or other attributes shall not be held to exclude others not mentioned.~~

~~4.4.b. In determining the class to which any position shall be allocated, the specifications for each class shall be considered as a whole. The Director shall give consideration to the general duties, specific tasks, responsibilities required, and relationships to other classes as affording together a picture of the positions that the class intended to include.~~

~~4.4.c.~~ 4.3.a. A class specification is a general description of the kinds of work ~~characteristics~~ characteristic of positions properly allocated to that class and does not prescribe ~~what~~ the duties of any position. ~~are nor~~ It does not limit the expressed or implied authority of the appointing authority to prescribe or alter the duties of any position.

~~4.4.d.~~ 4.3.b. Class specifications are descriptive ~~only~~ and are not restrictive. The fact that all of the actual tasks performed by the incumbent of a position do not appear in the specifications of a class to which the position has been allocated does not mean that the position is necessarily excluded from the class, nor shall any one example of a typical task taken without relation to the other parts of the specification be construed as determining that a position should be allocated to the class.

~~4.4.e.~~ 4.3.c. The statement of minimum qualifications expresses the ~~minimum background in terms~~ lowest acceptable level of education, experience, ~~and/or~~ licensure and/or professional standards generally necessary for ~~a new~~ an employee to successfully perform the required duties of positions in the job class. The use of a particular expression of qualifications, requirements, or other attributes shall not be held to exclude others not mentioned.

~~4.4.f.~~ 4.3.d. ~~The Director shall consider class specifications as a primary source of authority for the content of examinations for the class and for the evaluation of qualifications of applicants for examinations. Supplemental job information, obtained through job analysis, may be used as a further basis for examinations and minimum qualification standards. Provisions for the substitution of related experience, education, or other qualifications for specific education and/or experience requirements may be made in specific examination announcements for particular positions, even though these provisions are not part of the class specification.~~ In cases of recruitment difficulties or unique position requirements, the Director, in ~~cooperation~~ collaboration with the appointing authority, may use his or her discretion in interpreting minimum experience, training ~~and/or~~ licensure and/or professional standards ~~requirements and in accepting equivalent experience, training and/or licensure~~.

4.3.e. The Director shall consider class specifications as a primary source of authority for the content of examinations for the class and for the evaluation of qualifications of applicants. Supplemental job information may be used as a further basis for examinations and minimum qualification standards. Provisions for the substitution of related experience, education, or other qualifications for specific education and/or experience requirements may be made in specific examination announcements for particular positions, even though these provisions are not part of the class specification.

4.4. Classification of Positions. -- The Director has the sole authority for the classification process.

4.4.a. The Director shall consider the class specifications to determine the class to which any position shall be allocated, and give consideration to the general duties, specific tasks, and responsibilities required and relationship to other classes.

4.4.b. The classification of a position shall not be based upon the individual characteristics or performance level of the employee occupying the position nor upon the classification of other positions.

4.4.c. The Director may authorize job audits for the purpose of position classification and for maintaining the integrity of the classification system.

4.5. Position Descriptions.

4.5.a. Position description forms shall be prescribed by the Director.

4.5.b. The position description is an official record of the duties and responsibilities assigned to a position and shall be used by the Division of Personnel to allocate the position to its proper class.

4.5.c. The position description shall include a current description of ~~assigned~~ specific duties, ~~and~~ responsibilities and other pertinent information ~~concerning a~~ about the position. ~~In contrast to general definitions of the level of work and responsibilities, the position description shall include specific duties and responsibilities~~ as assigned ~~to a position~~ by the appointing authority.

4.5.d. The position description shall not be construed in any way to limit the expressed or implied authority of the appointing authority to prescribe or alter the duties of any position.

4.5.e. Position descriptions shall be kept current by the appointing authority for each position under his or her jurisdiction. When the appointing authority significantly alters the duties and responsibilities of a position, the appointing authority shall ~~prepare and forward~~ provide a revised position description to the Director, certifying with signature its accuracy and completeness.

4.5.f. If an appointing authority fails to notify the Director of significant alterations in the duties and responsibilities of a position, the incumbent in the position may file with the Director a written request for a review of his or her position.

4.5.g. Falsification of information on position description forms may be grounds for disciplinary action.

4.6. Reclassification.

4.6.a. Upon its own initiative, or at the request of an appointing authority, the Board may reclassify positions by the creation or ~~abolishment~~ elimination of classes~~,~~ or by ~~the~~ revision of the definition of the work ~~of the classes brought about by changing work methods, new technology or reorganization~~. The appointing authority shall provide to the Director a current description of the duties and responsibilities assigned to each position affected.

~~4.6.b. For each position affected the appointing authority shall provide a current~~

~~description of the duties and responsibilities assigned.~~

~~4.6.c.~~ 4.6.b. The employee in the position at the time of a reclassification is entitled to continue to serve in that position, provided that the employee meets ~~any licensure or certification~~ the minimum requirements. If ineligible to continue in the position, he or she may be transferred, promoted, or demoted by appropriate action in accordance with the provisions of this rule as the Director may determine to be applicable. In any case in which the incumbent is ineligible to continue in the position, and he or she is not transferred, promoted or demoted, the provisions of this rule regarding separations applies.

~~4.6.d.~~ 4.6.c. Any incumbent in a reclassified position ~~reclassified under this subdivision~~ has the right to appeal ~~a reconsideration of the action by the Director~~. After filing with the Director a written request for reconsideration ~~in a manner and form prescribed by the Director~~, the employee and appointing authority shall be given a reasonable opportunity to be heard by the Director. ~~The interested appointing authority shall be given the same opportunity to be heard.~~

4.7. Position Reallocation. -- Whenever significant changes occur in the duties and responsibilities permanently assigned to a position, the Director shall reallocate the position to its proper class. The incumbent or the appointing authority may seek a reconsideration of the decision ~~allocation action~~ by submitting a written request to the Director within fifteen (15) working days of the notification of the decision ~~of the effective date of the action~~. ~~The Director shall not reallocate a position based on temporary changes in the duties and responsibilities assigned to the position.~~

4.7.a. The Director shall not reallocate a position based on temporary changes in the duties and responsibilities assigned to the position.

4.7.b. When a position is reallocated to a different class, the incumbent shall not be considered eligible to continue in the position unless he or she meets the minimum qualifications for the classification. If ineligible to continue in the position, he or she may be transferred, promoted, or demoted by appropriate action in accordance with the provision of this rule as the Director may determine to be applicable. In any case in which the incumbent is ineligible to continue in the position, and he or she is not transferred, promoted or demoted, the provisions of this rule regarding separations applies.

4.8. Temporary Classification Upgrade. -- With the approval of the Director, an appointing authority may temporarily upgrade the classification of an employee temporarily performing the duties of a position in a higher ~~pay grade~~ compensation range due to a separation or an extended leave of absence, for a short-term project, or in an emergency situation.

4.8.a. A temporary classification upgrade ~~shall be within the same service, classified or classified-exempt, and~~, except for classes allocated to the approved hourly pay schedule, shall be for a continuous period of no less than thirty (30) days and no more than six (6) months.

4.8.b. Classified-exempt employees may only be upgraded within the classified-

exempt service. A classified employee may serve in an acting capacity on a temporary basis in an exempt and/or appointive position without loss of his or her classified status.

4.8.c. The Director, at his or her discretion, may extend the period of a temporary classification upgrade upon written request from the appointing authority justifying the need for the extension ~~period by increments of three months or less. The Board shall establish salary, qualification, and administrative standards for implementation of this subsection.~~

4.8.d. Employees in the classified service approved for temporary upgrade to a classified position shall have attained permanent status and meet the minimum requirements for the position to which they will be temporarily upgraded.

4.9. Classification Plan for the Classified-Exempt Service. -- All ~~employment~~ positions not in the classified service, with the exception of positions under the authority of the higher education ~~governing boards~~ systems, are included in a classification plan known as the classified-exempt service.

4.9.a. Upon the recommendation of the Director, the Board shall adopt and make effective a classification plan for the classified-exempt service. ~~This plan shall be developed and maintained so that all positions sufficiently similar with respect to type, difficulty, and responsibility of work are included in the same class. The plan shall be based on an analysis of the duties and responsibilities of each position, and each position shall be allocated by the Director to its proper class in the plan.~~

4.9.b. Each appointing authority shall report to the Director the establishment of new positions or any material changes in the duties and responsibilities of existing positions in the classified-exempt service. The Director may at any time require the appointing authority to submit a statement of the duties and responsibilities of incumbents of any position in the classified-exempt service.

4.9.c. ~~The appointing authority shall, on the appropriate specified forms, report to the Director any changes in class title, pay, and status of any employee in the classified-exempt service.~~ The Director shall allocate classified-exempt positions in the same manner as classified positions.

4.9.d. ~~If an~~ An appointing authority ~~wishes to~~ may request names of applicants for consideration for employment in the classified-exempt service~~, he or she shall make the request on appropriate forms specified by the Director~~. In no event shall a classified service vacancy be filled from a certification prepared for a classified-exempt service vacancy.

4.9.e. ~~The employee affected by the allocation of a position to a class may file with the Director a written request for reconsideration and shall be given a reasonable opportunity to be heard by the Director. The appointing authority shall be given like opportunity to be heard. The employee shall submit the request for reconsideration of a classification action in writing within fifteen (15) working days of the effective date of the classification action.~~ Any incumbent within the classified-exempt service in an allocated position has the right to appeal. After filing with the Director a written request for reconsideration, the employee and appointing authority shall be given a reasonable

opportunity to be heard by the Director. The incumbent or the appointing authority may seek a reconsideration of the decision by submitting a written request to the Director within fifteen (15) working days from the notification of the decision.

§ 143-1-5. Pay Plan and Salary Administration.

Pursuant to the provisions of the W. Va. Code § 29-6-10(2), the following salary regulations in this section apply to classified employees. The Director, upon approval of the Board, shall establish a policy to implement the provisions of this section.

5.1. Purpose and Intent. -- ~~To~~ The purpose and intent of the pay plan is to attract and retain qualified employees ~~and retain them~~ in the classified service, the Board shall ~~endeavor to~~ provide through the pay plan ~~adequate~~ compensation based on ~~the principles of~~ equal pay for equal work and market rates as compared to compensation trends in other public and private organizations ~~among the various agencies and on comparability to pay rates established in other public and private agencies and businesses~~.

5.2. Preparation of the Pay Plan. -- After consultation with the appointing authorities and State fiscal officers and after a public hearing, the Director and the Board shall prepare and submit the pay plan to the Governor ~~for his or her approval any revision of the pay plan~~. The pay plan shall include salary schedules containing multiple ~~pay grades~~ compensation ranges with minimum and maximum rates of ~~pay~~ compensation for each ~~grade~~ range and a plan of implementation. ~~The pay plan shall also include a market rate for each grade which shall be established by the Director to approximate the market midpoint pay level among southeastern state governments selected by the Director~~. The Board may make periodic amendments to the pay plan in the same manner.

5.3. Adoption of the Pay Plan. -- The plan or revised plan becomes effective only after it has been approved by the Governor. The approved pay plan constitutes the official schedule of salaries for the classified service.

5.4. Implementation of the Pay Plan.

5.4.a. Assignment of Classes. -- The Board shall assign each class of positions to an appropriate ~~pay grade~~ range of compensation consistent with the duties outlined in the class specification. No salary range shall be approved by the Director unless it conforms to sound compensation practices ~~one of the pay rates in the pay grade assigned to the employee's class of position~~.

5.4.b. Entry Salary. -- The entry salary for any employee shall be ~~at~~ no less than the minimum ~~salary~~ of the compensation range for the job classification ~~class including any applicable Board approved pay differential~~. ~~However,~~ The Director may authorize appointment above the minimum for an individual possessing pertinent training or experience above the minimum required for the class, ~~as determined by the Director, may be appointed at a pay rate above the minimum, up to the market rate of the salary range, unless otherwise prescribed by the Board. For each pay increment above the minimum, the individual must have in excess of the minimum requirements at least six (6) months of pertinent experience or equivalent pertinent training.~~ The Director may authorize

appointment at a rate above the market rate where the appointing authority can substantiate severe or unusual recruiting difficulties for the job class.

5.4.c. Standard Rates of Pay. -- The pay plan provides standard compensation rates for ~~applies to~~ all classes of positions in the classified service unless specifically excepted by statute or statutory authority. ~~It provides standard pay rates for full-time employees for regularly established working hours in all offices and departments~~. The salary or wage paid is determined by the ~~pay grade~~ compensation range to which the class of the position has been allocated. All employees, including those serving in positions on a part-time basis, shall be paid in proportion to the actual time worked.

5.4.d. Additional Pay. -- ~~Except~~ Appointing authorities shall make no additions to the regular salary of any employee except for authorized overtime, Board approved pay differentials and monetary incentives, or other statutorily required and/or authorized payments~~, appointing authorities shall make no pay in addition to the regular salary to any employee. Additional duties imposed or volunteered are not an exception to this rule~~.

5.4.e. Availability of Funds. -- ~~Before an agency makes salary adjustments and advancements in accordance with this rule, its fiscal officer shall certify that funds for this purpose are available~~ The appointing authority and its fiscal officer will certify that funds for salary adjustments are available.

5.4.f. Salary Adjustments.

5.4.f.1. Establishment of a New Pay Plan.

5.4.f.1.A. Upon adoption of a new pay plan the Board shall require and may approve or modify a plan of implementation which ~~assures as nearly as possible that all~~ ensures incumbents in the classified service receive equal treatment ~~in terms of pay~~ based on sound compensation practices.

5.4.f.1.B. An incumbent whose salary falls below the minimum rate of the new compensation range shall have his or her salary adjusted to the new minimum.

5.4.f.1.C. An incumbent whose salary falls above the maximum rate of the new compensation range shall maintain his or her current salary ~~and is ineligible for salary advancements~~.

5.4.f.2. Pay on Reclassification.

~~5.4.f.2.A. Higher Minimum.~~

~~5.4.f.2.A.1.~~ 5.4.f.2.A. When a class is reassigned by the Board to a ~~salary~~ compensation range having a higher minimum, the salaries of those incumbents below the new minimum shall be adjusted to the new minimum. Where the salary of the incumbent coincides with a pay rate in the new range, the salary shall remain unchanged. When a class is reassigned by the Board to a compensation range having a lower minimum, the salaries of those incumbents which are within the new range shall remain unchanged.

Where the salary of the incumbent is above the maximum rate of the new range, the salary shall remain unchanged and the incumbent is ineligible for salary advancements.

~~5.4.f.2.A.2. Where the salary of the incumbent coincides with a pay rate in the new range, the salary shall remain unchanged.~~

~~5.4.f.2.B. Lower Minimum.~~

~~5.4.f.2.B.1. When a class is reassigned by the Board to a salary range having a lower minimum, the salaries of those incumbents which are within the new range shall remain unchanged.~~

~~5.4.f.2.B.2. Where the salary of the incumbent is above the maximum rate of the new range, the salary shall remain unchanged and the incumbent is ineligible for salary advancements.~~

~~5.4.f.2.C.~~ 5.4.f.2.B. The Board~~, by formal action,~~ may approve or modify a plan of implementation on reclassification ~~other than those described in subparagraphs 5.4.f.2.a. and 5.4.f.2.b. of this rule~~ based on documented recruitment and/or retention difficulties or consideration ~~of equal treatment in terms~~ of pay equity for reclassified employees.

5.4.f.3. Pay on Position Reallocation. -- When a position is reallocated to a different class, the salary of the incumbent shall be adjusted in accordance with ~~salary regulations~~ the provisions of this rule for promotion, demotion and lateral class change.

5.4.f.4. Pay Differentials. -- The Board~~, by formal action,~~ may approve the establishment of pay differentials ~~to address circumstances such as class-wide recruitment and retention problems, regionally specific geographic pay disparities, shift differentials for specified work periods, monetary incentive programs, and temporary upgrade programs. In all cases, pay differentials shall~~ to address circumstances which apply to reasonably defined groups of employees ~~[i.e., by job class, by participation in a specific program, by regional work location, etc.], not individual employees~~.

5.4.f.5. Separation from Employment. -- ~~Salary adjustments are not given to employees separating from State employment~~ Employees whose last day of work occurs prior to the effective date of a new pay plan are not eligible for salary adjustments ~~and who are continued on the payroll beyond that date for payment of terminal annual leave~~.

5.5. Pay on Promotion. -- When an employee is promoted, the employee's pay shall be adjusted as follows:

5.5.a. Minimum Increase. -- Any employee promoted will be compensated to at least the minimum of the compensation range of the job class to which he or she is promoted. An employee whose salary is within the range shall receive an increase of one (1) increment or a maximum established by the Board, except where an employee accepts a lesser increase within the compensation range to obtain the position. In no case shall any employee receive an increase which causes the employee's pay to exceed the maximum of

the range except as provided in subdivision 5.5.b of this rule. ~~at the minimum rate for the pay grade of the current class shall receive an increase to the minimum rate of the pay grade for the job class to which the employee is being promoted. An employee whose salary is within the range of the pay grade for the current class shall receive an increase of one pay increment, as established by the State Personnel Board, per pay grade advanced to a maximum of three (3) pay grades, or an increase to the minimum rate of the pay grade for the job class to which the employee is being promoted, whichever is greater. In no case shall an employee receive an increase which causes the employee's pay to exceed the maximum for the pay grade to which he or she is being promoted.~~

5.5.b. Exceptions.

5.5.b.1. If the salary of an employee being promoted is at or above the maximum rate of the ~~pay grade~~ compensation range to which the employee is being promoted, or, if his or her salary is within one (1) pay increment, as established by the ~~State Personnel~~ Board, of the maximum rate of the ~~pay grade~~ compensation range to which he or she is being promoted, the employee shall receive an increase of one (1) pay increment with the promotion.

5.5.b.2. If an employee has been demoted or reallocated to a class at a lower ~~pay grade~~ compensation range and is promoted or reallocated within the next twenty-four (24) months within the same agency, the following procedure shall be used when calculating pay on promotion as provided in subdivisions 5.5.a~~.~~ and 5.5.b~~.~~, of this rule~~:~~. The promotional increase shall be calculated based on the ~~pay grade~~ compensation range of the employee's position prior to the demotion or reallocation, using the employee's current rate of pay plus any amount by which the employee's pay was reduced at the time of the demotion or reallocation. If, based on this procedure, no promotional increase is due, the employee's pay shall be increased by the amount his or her pay was reduced, if any, at the time of the demotion or reallocation.

5.5.b.3. Employees may receive compensation above the maximum of the compensation range of their job class as a result of legislative mandates or other exceptions approved by the Board.

5.5.c. Additional Increase. -- The ~~appointing authority may grant~~ Director may authorize additional incremental increases, as established by the ~~State Personnel~~ Board, to an employee being promoted if the employee has sufficient qualifications in excess of the minimum required for the new class. The employee must possess ~~at least six (6) months of~~ pertinent experience or an equivalent amount of pertinent training for each additional incremental increase granted. In no case shall the additional incremental increase cause the employee's pay to exceed the maximum for the ~~pay grade~~ compensation range ~~to which he or she is being promoted~~.

5.6. Pay on Demotion.

5.6.a. Demotion Without Prejudice. -- The appointing authority has the discretion to reduce or not reduce the pay rate of any employee who is demoted without prejudice if the employee's pay rate is within the ~~pay~~ compensation range of the job class to which the

employee is demoted.

5.6.b. Demotion With Prejudice. -- The appointing authority shall reduce the pay rate of an employee who is demoted with prejudice by at least one (1) increment as established by the Board and the employee's pay rate shall not exceed the maximum of the new compensation range ~~if the employee's current pay rate is above the maximum pay rate for the job class~~ to which the employee is demoted. ~~The reduction may be to any pay rate within the pay range of the job class to which the employee is demoted as long as the pay rate does not exceed the maximum pay rate of the pay range. If the demotion is to a formerly held job class and the employee's current pay rate is above the maximum pay rate for the job class, the reduction may be to any pay rate within the pay range of the job class to which the employee is demoted or to his or her last pay rate in the formerly held job class, even if the last pay rate is above the maximum pay rate for the job class.~~

5.7. Pay on Lateral Class Change. -- Any employee who receives a lateral class change shall be paid the same salary received prior to the change except in cases where the change is to an agency or job class for which the Board has approved, or the Legislature has authorized, a higher ~~pay~~ compensation range for the ~~pay grade~~ job class.

5.8. Pay on Reinstatement. -- The salary for an employee who is reinstated shall be established in accordance with subdivision 5.4.b of this rule. ~~at the minimum salary for the class including any applicable Board approved pay differential. However, an individual possessing pertinent training or experience above the minimum required for the class, as determined by the Director, may be appointed at a pay rate above the minimum, up to the market rate of the salary range, unless otherwise prescribed by the Board. For each pay increment above the minimum, the individual must have in excess of the minimum requirements at least six (6) months of pertinent experience or equivalent pertinent training. The Director may authorize reinstatement at a rate above the market rate where the appointing authority can substantiate severe or unusual recruiting difficulties for the job class, or where the reinstated employee's last salary as a classified employee was above the market rate.~~

5.9. Salary Advancements. -- Salary advancements are limited to permanent employees and shall not exceed the increase amount established by the Board and administered by the Director.

~~5.9.a. Basis. -- All salary advancements shall be based on merit as evidenced by performance evaluations and other recorded indicators of performance.~~

~~5.9.b. Eligibility. -- Salary advancements are limited to permanent employees.~~

~~5.9.c. Amount. -- Salary advancements are limited to a maximum established and subject to change by the State Personnel Board, and shall not cause the new salary to exceed the maximum of the pay grade to which the employee's class is allocated. The State Personnel Board shall establish the maximum for salary advancements by policy on implementation of the pay plan [i.e., as of 5/1/94, no more than 10% in any twelve-month period] as specified in subsection 5.2. of this rule.~~

~~5.9.d. Exceptions. — An employee with seven years or more of total state service who has attained the maximum or above in the range or for whom a salary advancement would result in his or her salary exceeding the maximum in the range for the class is eligible for a salary advancement. The salary advancement is limited to the difference between two pay increments [i.e., as of 5/1/94, two pay increments equal 10% and the total percentage of all other increases in pay in the immediately preceding twelve-month period except general wage increases mandated by the Legislature.~~

~~5.9.e. Effective Dates. — Salary advancements for permanent employees are effective on or after the date on which the employees become eligible for the salary advancements.~~

5.10. Annual Increment Increase. -- The Board~~, by formal action,~~ may establish uniform procedures which shall be followed by all State agencies and spending units for ~~compensating eligible employees of the State and its spending units for the~~ providing an annual increment increase provided for in W. Va. Code § 5-5-2.

§ 143-1-6. Applications and Examinations.

6.1. Character of Examinations.

6.1.a. ~~Examinations~~ Examination procedures for appointment to a position in the classified service shall be conducted on an open competitive basis. ~~Examinations~~ Examination procedures shall be ~~constructed~~ developed to reveal the capacity of the applicant ~~for the particular~~ to perform the duties of the position or job class for which he or she is competing.

6.1.b. Examinations shall, to the extent possible, be developed on the basis of objective analysis of the job and with the participation of appropriate job experts in the affected agencies and may include: written tests, performance tests, ratings of training and experience, oral examinations, ~~job simulations,~~ or other assessment procedures ~~shown to be~~ related to the content of the job ~~and/or to be predictive of successful~~ duties and job performance and will be administered without prejudice to all applicants in consideration for the position.

6.1.c. All examination scoring and weighting procedures shall be consistently applied and based on objective job criteria.

6.2. Notice of Examinations. -- ~~6.2.a.~~ The Director shall give public announcement of all open competitive examinations at least fifteen (15) days in advance of the closing date for receipt of applications. ~~He or she shall make every reasonable effort to attract qualified persons to compete in these examinations.~~ Notices of examinations and other publicity may be restricted to the places where additional ~~eligibles~~ eligible applicants are needed. Public announcement of examinations shall specify the title and ~~salary~~ compensation range of the class of position, the duties to be performed, the minimum qualifications required, the final date on which applications will be accepted, and all other conditions of competition. The announcement shall also include any special minimum or substitute position qualification standards which will be used in evaluating applicants. The Director shall develop all

announced qualifications for examination on the basis of information contained in class specifications, job description, and/or ~~as well as~~ job analysis information obtained with the participation of appropriate job experts in affected agencies.

6.3. Filing Applications.

6.3.a. All applications shall be made on forms prescribed by the Director and must be filed with the Division of Personnel on or prior to the closing date specified in the announcement. The applications shall be completed in full and may require the inclusion of documents verifying pertinent education, training, licensure, eligibility for veterans' preference points, or any other information which the Director may consider necessary. All applications shall be signed ~~and sworn to~~ or affirmed by the applicant. The Director may require electronic completion and submission of applications. Electronic applications shall require the applicant's agreed affirmation prior to submission in place of applicant signature. For electronic applications, applicant affirmation agreement and application submission shall be equivalent to affirmation and signature. The Director may verify any information provided on or with an application.

6.3.b. The Director may provide for continuous receipt of applications and for ~~holding~~ conducting examinations as needed.

6.4. Disqualification of Applicants.

6.4.a. The Director may temporarily or permanently prohibit the reinstatement, appointment, temporary employment, promotion, reallocation, demotion, lateral class change, temporary upgrade, transfer, or examination of an applicant, or after examination, may disqualify the applicant or remove his or her name from a register or certification, or refuse to certify any eligible on a register if:

6.4.a.1. he or she is found to lack any of the ~~preliminary~~ requirements established for the ~~examination or by statute for the class of position~~ position/class;

6.4.a.2. he or she has a disability and is incapable of performing the essential functions of positions in the class with or without reasonable accommodation;

6.4.a.3. he or she has been convicted of ~~an infamous crime or other crime involving moral turpitude~~ a crime which has a reasonable connection to the position/class for which he or she is applying;

6.4.a.4. he or she has made a false statement or omission of material fact or has misrepresented his or her qualifications in his or her application;

6.4.a.5. he or she has previously been dismissed, or resigned in lieu of dismissal, from any public service for delinquency, misconduct, or other similar cause;

6.4.a.6. he or she has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;

6.4.a.7. he or she has directly or indirectly obtained information regarding examinations to which he or she was not entitled;

6.4.a.8. he or she has failed to submit his or her application correctly or within the prescribed time limits;

6.4.a.9. he or she has taken part in the compilation, administration, or correction of the examination;

6.4.a.10. he or she has taken the same exact examination within the prescribed re-test waiting period;

6.4.a.11. at least ~~three~~ two (2) former employers state that they would not re-employ him or her, or otherwise indicate that his or her services as an employee were unsatisfactory;

6.4.a.12. the register from which he or she is certified is for a class for which oral skills are essential ~~and an oral examination was not a part of the examination process~~, and at least two agencies have interviewed him or her and report that he or she is not considered to be suitable for a position in the class for which he or she ~~was~~ interviewed ~~for~~;

6.4.a.13. he or she is not eligible to work in the United States;

6.4.a.14. he or she fails to comply with any other reasonable requirements established by the Director for the position;

6.4.a.15. sufficient evidence has revealed that, if employed in the classification or position applied for, the applicant is a significant risk to the safety or security of information or persons; or,

6.4.a.16. he or she has otherwise violated provisions of this rule.

6.4.b. Applicants who have previously been dismissed or resigned in lieu of dismissal ~~from employment~~ for failure to return to work from medical leave of absence without pay, maintain required licensure, or meet performance expectations during probationary employment shall not be disqualified from employment except as provided in subdivision 10.5.b of this rule.

~~6.4.c. In order to be scored for an open competitive examination, an applicant shall have satisfied all publicly announced minimum qualifications of the position for which he or she has requested an examination, except that he or she may be admitted if he or she is qualified in all respects except for: (1) a deficiency of no more than six (6) months of qualifying training and, at the time of application, he or she is engaged in educational pursuits that will qualify him or her; or (2) a deficiency of no more than one month of qualifying experience and, at the time of application, he or she is employed in work that will qualify him or her. An applicant admitted to an examination with deficiencies in minimum qualifications who passes the examination, is not eligible for employment until the minimum qualifications have been satisfied. The applicant is responsible for furnishing evidence of~~

~~subsequently satisfying the minimum qualifications.~~

~~6.4.d.~~ 6.4.c. The Director shall notify a disqualified applicant of his or her disqualification. ~~The Director may permanently disqualify from reinstatement, appointment, temporary employment, or examination any applicant disqualified under the provisions of paragraphs 6.4.a.3, 4, 5, 6, 7, 14, and 15 of this rule. 6.4.e.~~ Any applicant whose application for examination has been rejected may request that the Director reconsider his or her qualifications. The Director shall consider the request if it is submitted in writing and received not later than fifteen (15) ~~calendar~~ days following the date the rejection notice was sent. ~~The Director may admit an applicant to an examination pending the outcome of the written request for reconsideration. Admission to an examination under these circumstances shall not constitute assurance of a passing grade with respect to any portion of the examination process.~~ ~~6.4.f.~~ Within thirty (30) ~~calendar~~ days after a properly submitted request for reconsideration is received, the Director shall report his or her decision in writing to the applicant. The Director shall determine that uniform rating or review procedures have been applied. A rating in any part of an examination shall not be changed unless the Director finds that an error has been made. Any correction resulting from the reconsideration shall not affect a certification or appointment that has already been made from a register.

~~6.4.g.~~ 6.4.d. An appointing authority may petition the Director, in writing, to reinstate an applicant to the register who has been disqualified under the provisions of subdivision 6.4.a~~.~~ of this rule; provided the appointing authority was the employing agency from which the employee was dismissed or resigned in lieu of dismissal. Approval of such request shall be at the discretion of the Director.

6.5. Conduct of Examinations.

6.5.a. Written tests shall be conducted in as many places as are practicable for proper administration, and when found necessary by the Director to administer more effectively a continuous recruitment program as provided for in subdivision 6.3.b~~.~~ of this rule. The Director may designate such monitors as may be necessary to conduct examinations under instructions prescribed by him or her, and may also arrange for the use of public buildings in which to conduct the examinations. The Director shall provide for the compensation of monitors and assistants in accordance with the approved budget for that purpose.

6.5.b. Applicants taking competitive assembled examinations shall present personal identification which includes a signature ~~or~~ and photograph prior to admission to an examination. Applicants without proper identification shall not be admitted to examinations.

6.6. Scoring Examinations.

6.6.a. The Director shall determine a final score for each applicant's examination, computed in accordance with the weights established for the several parts. Failure in any part of an examination may disqualify the applicant in the entire examination and may disqualify him or her from participation in subsequent parts of the examination. All applicants for the same position shall be accorded uniform and equal treatment in all phases

of the examination procedures.

6.6.b. Any veteran (as defined in Section 3. of this rule) who claims ~~veteran's~~ veterans' preference and who has made a passing grade in an open competitive examination shall have five (5) points added to his or her final earned score. An additional five (5) points shall be added to the augmented earned score of any veteran with a compensable service-connected disability or who has been awarded the ~~purple heart~~ Purple Heart.

6.6.b.1. Any person claiming ~~veteran's~~ veterans' preference or disability preference shall submit satisfactory proof of his or her service or disability to the Director. Veterans' preference points are not added to final passing scores on promotional examinations.

6.6.b.2. To receive veterans' preference points, separation from active duty must have been under honorable conditions. This includes honorable and general discharges. A clemency discharge does not meet the requirement of this subsection. Active duty for training in the military reserve and national guard programs is not considered active duty for purposes of veteran preference.

6.6.c. The Director shall utilize appropriate ~~scientific~~ professional standards, techniques and procedures in rating the results of examinations and in determining the final scores of competitors.

6.7. Rating Training and Experience. -- If training and experience form a part of the total examination, the Director shall determine a procedure for the evaluation of the training and experience qualifications of the various applicants. The ~~formula~~ procedure and standards used in the evaluation shall be job-related and consistently applied to all applicants.

6.8. Oral Examinations. -- When an oral examination forms part of a total examination for a position, the Director shall appoint one or more oral examination boards as needed. Any person holding political office shall not serve as a member of any of the boards.

6.9. Notice of Examination Results. -- Each applicant passing all parts of the examination shall be notified of his or her final score as soon as practical after the scoring of the examination has been completed and the register established. The Director shall notify an applicant who fails any part of the examination or the total examination.

6.10. Special Examination. -- The Director may modify examination procedures to afford reasonable accommodation to otherwise qualified disabled applicants. The modifications may include changes in the existing testing procedures or the use of specific evaluations of the applicants' observable job skills and/or the applicants' record of past performance, experience and training.

6.11. Correction of Errors. -- If, within thirty (30) days after receipt of his or her score notice, an applicant notifies the Director of a manifest error in the scoring of an examination or other evaluation of the applicant's qualifications, the Director shall, after verification of the

error, promptly correct that error. The Director shall send formal written notice of the correction to the applicant. These corrections of errors shall not invalidate any certifications or appointments made prior to corrections of the errors.

6.12. Examination Records. -- The Director is responsible for the maintenance of all records pertinent to the examination program in accordance with official retention schedules and shall hold the records in confidence as specified in W. Va. Code § 29B-1-1 et seq. and § 5A-8-21 and § 5A-8-22.

§ 143-1-7. Registers.

7.1. Establishment of Registers.

7.1.a. Competitive Registers. -- After each examination, the Director shall prepare a register of persons with passing grades. The names of these persons shall be placed on the register in the order of their final ratings starting with the highest.

7.1.b. Preference Registers. -- After the layoff of permanent classified employees, the Director shall prepare registers of qualified permanent classified employees who have been laid off. The names of these employees shall be arranged on the appropriate registers in order of ~~seniority~~ tenure upon which the order of layoffs was based.

7.2. Duration of Registers.

7.2.a. Competitive Registers. -- The life of scores on a register shall be adequate to meet the recruitment needs of the agency. If the Director reduces the life of a register, he or she shall notify each eligible remaining on the register to this effect.

7.2.b. Preference Registers. -- A laid off permanent classified employee is eligible for employment from a preference register for no longer than one (1) year after placement on the preference register and the eligibility ceases immediately upon employment in a classified position.

7.2.c. Notice of Vacancies. -- It is the duty of the appointing authority to notify the Director as far in advance as possible of vacancies which may occur in the agency. The Director is responsible for determining the adequacy of existing registers and for the establishment and maintenance of appropriate registers for all positions to be filled, exclusive of exempt positions.

7.2.d. The Director shall nullify a register for any of the following reasons:

7.2.d.1. Changes in the minimum qualifications or classification standards of a class of positions;

7.2.d.2. ~~Abolishment~~ Elimination of the class for which the register was established; or,

7.2.d.3. Substantial revision of the examination used to establish the register.

7.2.e. When a register is declared null and void by the Director, he or she shall notify the affected persons of the action.

7.3. Removal of Names from Registers.

7.3.a. Competitive Registers. -- The Director may remove the name of an eligible from a register:

7.3.a.1. for any of the causes stipulated in subdivision 6.4.a~~.~~ of this rule;

7.3.a.2. on evidence that the eligible cannot be located;

7.3.a.3. on receipt of a statement from the eligible declining an appointment and stating that he or she no longer desires consideration for an appointment; or,

7.3.a.4. if he or she declines an offer of a probationary appointment for the class for which the register was established in a location for which he or she has declared himself or herself available.

7.3.b. Preference Registers. -- The Director may remove the name of an eligible from a preference register:

7.3.b.1. for any of the causes stipulated in subdivision 7.3.a~~.~~ of this rule;

7.3.b.2. upon appointment of the eligible to a classified position; or,

7.3.b.3. on evidence that the eligible does not meet the applicable standards of qualifications and fitness for a position.

7.3.c. The Director shall notify the eligible that his or her name has been removed from the register and the reasons for the removal. ~~All notices of changes of address shall be filed in writing by eligibles with the Director or in such manner as prescribed by the Director~~ The applicant is responsible for updating his or her contact information or notifying the Director of changes.

7.3.d. Any person whose name has been removed from a register allegedly for reasons specified in this rule may appeal to the Board for reconsideration. The appeal must be filed in writing with the Director within fifteen (15) ~~calendar~~ days after the date on which notification to the applicant was sent. The appeal shall state the reasons why the applicant should not be removed from the register.

7.3.e. The Board shall review all relevant information to determine if the action appealed was taken in accordance with this rule. Within ~~thirty (30)~~ sixty (60) ~~calendar~~ days after a properly submitted appeal is received, the Director shall report the Board's decision in writing to the applicant.

7.4. Reinstatement to Register.

7.4.a. A person who has had his or her name withdrawn from a register at his or her request may have his or her name reinstated on the currently effective register for the same position class provided that the original register is still in effect and that his or her examination score is still valid. His or her rank on the register shall be determined by his or her final earned examination score.

7.4.b. Reinstatement to a register as provided ~~for~~ in the previous subdivision is subject to the following conditions:

7.4.b.1. The person petitioning ~~the~~ for reinstatement shall make his or her request to the Director in writing and shall furnish whatever information the Director may require.

7.4.b.2. No person may be reinstated to a register who does not satisfy the current minimum qualifications for the position class for which the register is maintained. The Director may require that he or she pass an appropriate examination in the case of position classes requiring special skills.

7.4.b.3. No person may be reinstated to a register from which he or she has been disqualified under subsections 6.4~~.~~, 7.3~~.~~, or 8.2~~.~~ of this rule.

§ 143-1-8. Certification of Eligibles.

8.1. Request for Certification. -- If a vacancy occurs in any position in an agency or if new positions are established and new employees are needed, requisitions shall be submitted by the appointing authority to the ~~Director~~ Division of Personnel in the manner prescribed by the Director. This requisition shall state the number of positions to be filled in each class, identifying each class title and all other pertinent information.

8.2. Certification Methods.

8.2.a. Nothing in this subdivision shall be construed as altering the exhaustion point of a register as described in subdivision 7.2.a~~.~~ of this rule.

8.2.a.1. Upon receipt of a requisition, the Director shall first certify and submit the names of all available eligibles from the appropriate preference register. If no appropriate preference register exists or there are no available qualified eligibles on the appropriate preference register, then the Director shall certify and submit to the appointing authority the top ten (10) names or the names of any persons scoring at or above the ninetieth percentile on the open competitive examination for the class of position. The certification shall include any person tied with the last person in the top ten or ninetieth percentile group. The Director may certify additional names at his or her discretion to compensate for possible unavailable eligibles in the top group.

8.2.a.2. If the competitive register established as a result of a Division of Personnel examination for a specific class of position is exhausted, the Director may certify names from the register, or registers, most appropriate. If there is no register which the

Director considers appropriate, then the Director may certify and submit names from a register established as described in subsection 7.1. of this rule.

8.2.a.3. Appointments may be made from a certification anytime within six (6) months of the date of the certification, after which. ~~Six months after the date of the certification,~~ the certification shall be null and void.

8.2.b. If an eligible receives a probationary or permanent appointment, the appointment constitutes ~~for its duration,~~ a waiver of his or her right to certification from any other register on which his or her name appears for a class of position, the salary of which is either equal to or lower than that salary covered by his or her appointment~~, unless he or she requests in writing that his or her name be retained for certification from the register or registers~~. If a laid-off permanent classified ~~state~~ employee receives a probationary or permanent appointment to a classified position, that employee is no longer eligible for appointment from any preference register.

8.2.c. The name of each employee whose name appears on a register for a class of position ~~with a higher salary range than the salary range of his or her present class of position~~ shall be certified and submitted by the Director and given consideration by the agency for the higher class of position if his or her name is reached.

8.2.d. If, in the exercise of his or her choice provided under subsection 9.2. of this rule, the appointing authority passes over the name of an eligible on a competitive register in connection with three (3) separate appointments he or she has made from the register, written request may be made of the Director that the name of the eligible be omitted from any subsequent certification of the same agency from the same competitive register for a period of no less than one (1) year from the date of the request. The name of the eligible shall thereafter not be certified to the appointing authority from that register for future vacancies in that job class ~~of position~~, or from subsequent registers established for that class of position. If, ~~subsequently~~ after that one (1) year period, the eligible is again certified for the same class of position, and passed over in connection with one appointment, the agency may again request that the name of the eligible be omitted from any subsequent certification as stated above.

8.2.e. An eligible may be considered not available by the Director if he or she fails to reply to electronic communication [i.e., telephone or electronic mail] or a written inquiry by mail after five (5) days in addition to the time required for the transmission of the inquiry to his or her last-known address and the reply to the inquiry.

8.3. Selective Certification. -- Any certification may limit consideration to only those individuals who possess specific qualifications determined to be essential for performance of the duties of a specific position. Selective certification must be approved by the Director.

8.3.a. If a specific position requires special qualifications that are not common to all positions in that class, the appointing authority may request that certification be limited to candidates possessing those qualifications. Eligibles shall have adequate opportunity for special qualification consideration. The specific criteria for the restriction of certification shall be based on the duties of the position as verified by job analysis or by an official

position description and written justification.

8.3.b. The Director may approve a request for selective certification by gender if the appointing authority provides written justification which clearly shows that only persons of the required gender can perform the duties of the position and the Director has conferred with the Human Rights Commission.

8.3.c. The Director may limit certification to candidates available to work at the location of the job. The Director may further limit certification geographically when the duties of the position require rapid response to unscheduled emergencies during off duty hours. The appointing authority shall provide written justification of any request for geographic selective certification based on essential duties of the position. The Director shall establish the boundaries of the acceptable geographic areas based on the specific location and demands of the job. The appointing authority shall consider candidates living outside the boundary if they are willing to relocate to the area.

8.3.d. Except for preference certifications, the Director may determine, for certain unskilled or semiskilled job classes for which no previous education, training, or experience is required, that eligibles may be selected for certification by lot. In those cases, all eligibles shall have equal opportunity for certification. No rank order shall be established for the register. Selection for certification by lot will be determined as vacancy requests are received. Once the certification has been made for a particular vacancy, a new certification shall not be issued for the same class and location for sixty (60) days. The employing agency shall offer opportunities for interviews to candidates in the order in which they appear on the certification. It is the responsibility of the employing agency to ~~insure~~ ensure, to the extent practicable, that appointments from the certifications are made based on job-related merit and fitness.

8.4. Corrections of Errors.

8.4.a. In the event that a name is certified in error and the error is discovered before a personnel transaction has been finalized and one of the named applicants is notified that he or she is appointed, the Director shall withdraw the erroneous certification and make a correct certification. If a certification is to fill more than one position, the Director shall withdraw only that portion of it pertaining to positions for which personnel transactions have not been finalized and applicants have not been notified that they are appointed. Appointing authorities shall only make conditional offers of employment to applicants until such time the personnel transaction to appoint has received all necessary approvals.

8.4.b. In the event a name is certified in error and the error is discovered after one of the named applicants is notified that he or she is appointed but prior to the effective date of the appointment and the applicant is not disqualified for any of the reasons provided in subdivision 6.4.a of this rule other than not meeting minimum qualifications, the Director shall withdraw the certification and appointment as in subdivision ~~a.~~ 8.4.a of this subsection unless the applicant provides verification to the Director that:

8.4.b.1. ~~Acceptance~~ acceptance of the appointment caused the named

applicant to change his or her place of residence; or,

8.4.b.2. ~~Acceptance~~ acceptance of the appointment caused the named applicant to resign from a position that cannot be regained.

8.4.c. In the event a name is certified in error and the error is discovered after the effective date of the appointment of one of the named applicants or the certification could not be withdrawn for reasons provided in subparagraphs 8.4.b.1 and 8.4.b.2, the appointment shall continue. Provided, the applicant or employee is not disqualified for any of the reasons specified in subdivision 6.4.a of this rule other than not meeting minimum qualifications and it has been determined by the Director and hiring agency that there is no undue risk in the applicant performing the duties. If the applicant or employee is not qualified to perform the duties of the position, the appointing authority shall assign the applicant to a vacant position for which he or she meets the minimum qualifications, in the same location and agency to which he or she was certified and at the same salary. If continued employment or alternate assignment is deemed inappropriate by the Director, the provisions of this rule regarding separations shall apply.

§ 143-1-9. Appointments.

9.1. Appointments to Positions Added to the Classified Service.

9.1.a. When additional state agencies or parts of state agencies are added to the classified service through affiliation by action of the legislature, executive order of the Governor with the consent of the Board and the appointing authority concerned, and when additional county or municipal agencies are added to the classified service through affiliation by agreement between the local government and the Director with the approval of the Board, a date for the addition shall be fixed by agreement.

9.1.b. All appointments made on and after that date to the positions added to the classified service shall be made in accordance with this rule.

9.1.c. The Director shall administer qualifying examinations to any person employed in a position added to the classified service ~~who has been employed in that position continuously for six (6) months immediately prior to the addition~~. If recommended by the appointing authority, the Director may admit ~~the~~ an employee to a qualifying examination regardless of the minimum qualifications for the class to which his or her position is allocated. The appointing authority shall appoint each person passing the qualifying examination for probationary ~~or permanent~~ employment. The qualifying examinations shall be ~~held~~ completed within six (6) months after the date of addition of the position to the classified service. The examinations shall include appropriate ~~tests or other~~ assessment(s) of the person's job-related competencies. The appointing authority shall, within thirty (30) days after the examination or competency assessment determination, separate from employment any employee who fails to pass the qualifying examination or otherwise meet minimum competency standards unless there are no available eligibles on the register for the class, in which case his or her employment may be continued but he or she must be separated from employment within thirty (30) days after certification of available eligibles.

9.1.d. ~~The appointing authority shall, within thirty (30) days of the date of affiliation, separate from employment any person employed in a position added to the classified service who has been employed in that position continuously for less than six (6) months immediately preceding that date of affiliation unless there are no available eligibles on the register for the class. If there are no available eligibles, his or her employment may be continued but he or she must be separated from employment within thirty (30) days after certification of available eligibles. He or she may be given a probationary appointment if he or she has passed an open competitive examination for the class and is eligible for appointment within the provisions of subsection 9.2. of this rule. 9.1.e.~~ In making the appointments provided for in ~~subdivisions 9.1.c. and d.~~ subdivision 9.1.c of this rule the appointing authority may count employment in the agency immediately prior to the appointments as part or all of the probationary period required under Section 10~~.~~ of this rule. The appointing authority shall promptly report to the Director his or her decision for the records.

~~9.1.f.~~ 9.1.e. Assignment of the position to the appropriate classification shall be accomplished through reclassification as provided in subsection 4.6~~.~~ of this rule.

9.2. Original Appointments.

9.2.a. Appointing authorities shall make all original appointments to classified positions in accordance with this rule. An appointing authority shall, ~~select~~ for each position, select first from the eligibles on ~~an appropriate~~ the preference register in accordance with subdivision 12.4.~~i.~~ of this rule. Upon exhaustion of the preference register, the appointing authority shall select for each position from the top ten (10) names on the register, including any persons scoring the same as the tenth name, or any persons scoring at or above the ninetieth percentile on the open competitive examination, as provided by subsection 8.2~~.~~ of this rule. The appointing authority may exclude the names of those eligibles who failed to answer or who declined appointment or of those eligibles to whom the appointing authority offers an objection in writing based on subsection 6.4~~.~~ of this rule and the objection is sustained by the Director.

9.2.b. In selecting persons from among those certified, the appointing authority shall give due consideration, based on job related criteria, to all available eligibles and may examine their applications and reports of investigations and may interview them. Final selection shall be reported in writing by the appointing authority to the Director and shall include a statement by the appointing authority or his or her designee certifying that the person charged with making the selection: complied with the requirements of this subdivision; did not make the selection based on favoritism shown or patronage granted; and, considered all available eligibles for the position.

9.2.c. If the eligible selected declines the appointment, the appointing authority shall transmit evidence of declination and other data to the Director for the permanent record. The Director may consider an eligible as having declined appointment if the eligible fails to reply to electronic communication [i.e., telephone or electronic mail] or a written inquiry by mail after five (5) days in addition to the time allowed for transmission of the letter to his or her last-known address and return of reply. If an eligible accepts an appointment

but fails to ~~present himself or herself~~ report for duty at the time and place specified, without giving reasons for the delay satisfactory to the appointing authority and the Director, he or she shall be considered to have declined the appointment.

9.3. Provisional Appointments.

9.3.a. If there are urgent reasons for filling a position and there is no appropriate preference register and there are fewer than three (3) available eligibles on the competitive register established as a result of an examination for the position, and no other appropriate register exists, the appointing authority may submit to the Division of Personnel the name of a person to fill the position pending examination and establishment of a register. If that person's qualifications have been certified by the Director as meeting the minimum qualifications as to training and experience for the position, that person may be provisionally appointed to fill the existing vacancy until an appropriate register is established and appointment made from the register. The position must be classified and minimum qualifications established for the position in accordance with this rule before provisional appointments may be made. No provisional appointment shall be continued for more than ~~6~~ six (6) months from the date of appointment, nor shall successive provisional appointments of the same person be permitted, nor shall a position be filled by repeated provisional appointments.

9.3.b. Time spent on a leave of absence without pay shall not extend the period of a provisional appointment.

9.4. Temporary Employment. -- Appointing authorities may employ individuals for a limited period of time not to exceed ~~720~~ 1,000 hours in any twelve-month period in accordance with the provisions of this rule and W. Va. Code § 29-6-1 et seq. Individuals employed under the provisions of this subsection are exempt from the classified service. Provided, temporary employees may be retained in a temporary appointment status while receiving workers' compensation temporary total disability benefits as a result of a personal injury or illness received in the course of and resulting from employment with the State or its political subdivisions in accordance with W. Va. Code § 23-4-1.

9.5. Posting of Job Openings. -- Whenever a job opening occurs in the classified service, the appointing authority shall post a notice within the building, facility or work area and throughout the agency that candidates will be considered to fill the job opening. Posting of job openings using electronic or other communications media shall satisfy the requirement to post a notice provided that the appointing authority makes regular and convenient access to the media used available to each classified employee in the agency, or otherwise provides notice to each classified employee in the agency. The notice shall be posted for at least ten (10) days before making an appointment to fill the job opening. The notice shall state that a job opening has occurred, describe the duties to be performed, and the class to be used to fill the job opening.

9.5.a. The term job opening refers to any vacancy to be filled by original appointment, promotion, demotion without prejudice, lateral class change, reinstatement, or transfer~~, except any vacancy filled as a result of an employee exercising his or her bumping rights as provided in subdivision 12.4.g. of this rule~~.

9.5.b. The posting notice shall include a description of the duties to be performed by the person selected, the minimum qualifications for the position, the job class to be used in filling the job opening, the salary level or range that will be considered, the full-time equivalent for the position, and the job location.

9.5.c. An established closing date shall allow sufficient time to ensure that the job vacancy circulation has been posted throughout the agency for a minimum of ten (10) days. The naming of an individual to fill the position is the appointment and is not altered by the fact that the individual will not assume the duties until a later date. Therefore, the agency shall not make an appointment to a position prior to the closing date as listed on the posting. The appointing authority may accept applications after the closing date; however, all applications received on or prior to any established cut-off date must be accepted and considered.

9.5.d. The appointing authority shall give due consideration to those employees who apply and are eligible for the posted vacancy.

9.5.e. If a posted vacancy is not filled within six (6) months of the established closing date, the appointing authority must re-post the vacancy prior to an appointment to the vacant position.

9.5.f. The vacancy posting requirements in this subdivision shall apply to all classified position vacancies except vacancies filled as a result of employees exercising bumping or recall rights, demotions with prejudice and/or disciplinary transfers for cause.

9.5.g. If an individual selected for a posted vacancy refuses the offer of employment, fails to report to work, or resigns or otherwise separates from employment within the first ten (10) work days of employment, the appointing authority is not required to repost the vacancy prior to making another appointment to the position. Provided that the date and time of separation occurs within the first ten (10) work days and the appointment is made within thirty (30) calendar days of the separation and the appointment is made from the pool of eligible applicants from which the first employee was hired. This time period supersedes the six-month limitation specified in subdivision e. of this subsection.

§ 143-1-10. Probationary Period.

10.1. Nature, Purpose, and Duration.

10.1.a. The probationary period is a trial work period designed to allow the appointing authority an opportunity to evaluate the ability of the employee to effectively perform the work of his or her position and to adjust himself or herself to the organization and program of the agency. It is an integral part of the examination process and the appointing authority shall use the probationary period for the most effective adjustment of a new employee and the elimination of those employees who do not meet the required standards of work.

10.1.b. Appointing authorities shall make all original appointments to permanent

positions from officially promulgated registers for a probationary period of not more than one (1) year. The Board shall fix the length of the probationary period for each class of position. The appointing authority shall notify the Director when a probationary period has been completed and permanent status has been granted. This subdivision shall not be construed to prohibit application of time served in a provisional status to completion of a probationary period. The period of provisional appointment may apply toward completion of the probationary period only for that part served continuously, in the same class, and immediately prior to an original appointment. However, it is the responsibility of the appointing authority to state in writing at the time permanent status is being granted that the time served in a provisional status has been applied toward completion of a probationary period.

10.1.c. Time spent by probationary employees on a unpaid leave of absence ~~without pay~~, disciplinary suspension, or non-disciplinary suspension resulting in separation from employment through resignation, transfer or dismissal extends the probationary period correspondingly.

10.1.d. The probationary period for part-time employees shall be for an equivalent amount of work hours as that for a full-time employee in the same classification [i.e., a six-month probationary period for a full-time employee would typically equate to 1,040 hours].

10.2. Conditions Preliminary to Permanent Appointment.

10.2.a. Four (4) weeks prior to the end of the probationary period, the appointing authority shall obtain from the probationary employee's supervisor a statement in writing recommending that the employee be continued or not be continued in service. This statement shall include an appraisal of the employee's services and should include a service rating in conformity with the system of performance evaluation prescribed by the Director. If the appointing authority determines that the services of the employee shall be retained, the appointing authority shall notify the employee and the Director of the action no later than the last day of the probationary period.

10.2.b. In the event the appointing authority takes no action on the status of a probationary employee before the expiration of the probationary period, either to retain or ~~terminate~~ dismiss, the employee shall be considered as having attained permanent status. Permanent status begins the first day following the expiration of the probationary period.

10.3. Demotions during Probation. -- The serving of a probationary period shall not, of itself, prevent an employee from being demoted to a position in a lower class, provided he or she meets the minimum qualifications of the lower class. However, the appointing authority may not take this action until the employee has been presented with the reasons in writing and has been given a reasonable time to reply in writing, or to appear personally and reply to the appointing authority or his or her designee. The appointing authority shall not take this action until the employee has completed one-third of the probationary period and the appointing authority has obtained the approval of the Director. The probationary period for the class of position to which the employee is demoted begins with the date of demotion.

10.4. Transfers during Probation. -- An appointing authority shall not transfer an

employee during his or her probationary period ~~to a position in another class. An appointing authority shall not transfer an employee, certified to a vacancy on a geographic selective certification in accordance with the provisions of subsection 8.3. of this rule, from that geographic area to any other geographic area or class during his or her probationary period.~~

10.5. Dismissal during Probation.

10.5.a. If at any time during the probationary period, the appointing authority determines that the services of the employee are unsatisfactory, the appointing authority may dismiss the employee in accordance with subsection 12.2~~.~~ of this rule. If the appointing authority gives the fifteen (15) ~~calendar days~~ days' notice on or before the last day of the probationary period, but less than fifteen (15) ~~calendar~~ days in advance of that date, the probationary period shall be extended fifteen (15) days from the date of the notice and the employee shall not attain permanent status. This extension shall not apply to employees serving a twelve-month probationary period.

10.5.b. The Director may restore the name of a probationary appointee who has been dismissed to the register from which he or she was certified, in accordance with the procedure described in subsection ~~12.7.~~ 7.4 of this rule, but the Director shall not in the future certify the name of that person to the same appointing authority from the same register.

§ 143-1-11. Promotions, Demotions and Transfers.

11.1. Method of Making Promotions.

11.1.a. In filling vacancies, appointing authorities shall make an effort to achieve a balance between promotion from within the service and the introduction into the service of qualified new employees. Whenever practical and in the best interest of the service, an appointing authority may fill a vacancy by promotion, after consideration of the eligible permanent employees in the agency or in the classified service based on demonstrated capacity and quality and length of service.

11.1.b. The Director must certify that a candidate for promotion possesses the qualifications for the position as set forth in the specifications for the class of position for which he or she is a candidate, and the appointing authority may require the candidate to qualify for the new position by a promotional competitive or non-competitive examination administered by the Director.

11.2. Promotion by Competitive Examination.

11.2.a. If it is determined by the appointing authority to fill vacancies in a particular class of position by promotion by competitive examination, the examination shall be given under the direction of the Director. To be eligible for promotion, an employee must, at the time the promotion is effective, have permanent status and must meet the minimum qualifications as to training and experience for the class of position. A promotional competitive examination shall consist of any combination of the same objective procedures provided in subdivision 6.1.b of this rule ~~following: written tests, ratings on training and~~

~~experience, evaluation of recorded service ratings and seniority, performance tests and oral examinations~~. The combination in each case and the procedure for ~~the determination of the passing grade~~ ranking applicants shall be ~~announced~~ determined by the Director ~~in advance of the examination~~, and shall take into consideration ~~approved~~ available job information and professional practices.

11.2.b. The Director shall place the names of all employees who receive a passing grade on a promotional register for the class of position in order of their examination ratings.

11.2.c. If a promotional and an original register exist, the Director shall certify the same number of names from each register in accordance with Section 8~~.~~ of this rule. The appointing authority may make his or her selection from the names submitted from either register~~, giving such preference to present employees as the good of the service will permit~~.

11.3. Promotion by Noncompetitive Examination. -- If it is determined by the appointing authority to fill a vacancy by a non-competitive promotional examination, an employee proposed for promotion shall be examined by the Director in accordance with subsection 11.2~~.~~ of this rule, and if found to qualify for the class will be certified.

11.4. Demotions. -- ~~There are two types of demotion, demotion with prejudice and demotion without prejudice. A demotion with prejudice is a reduction in pay and/or a change in job class to a lower job class due to the inability of an employee to perform the duties of a position or for improper conduct. A demotion without prejudice is a change in job class of an employee to a lower job class, a transfer of an employee to a lower job class, or a reduction in the employee's pay due to business necessity.~~ An appointing authority may demote an employee with or without prejudice and may demote a probationary employee as provided for in subsection 10.3 of this rule. The appointing authority shall file the reasons for the demotion and the reply, if any, with the Director. Prior to the effective date of the demotion, the appointing authority or his or her designee shall: ~~meet with the employee in a predetermination conference and advise the employee of the contemplated demotion; give the employee oral notice confirmed in writing, or written notice of the specific reason or reasons for the demotion; and, give the employee a minimum of fifteen (15) calendar days advance notice of the demotion to allow the employee a reasonable time to reply to the demotion in writing, or upon request to appear personally and reply to the appointing authority or his or her designee. The appointing authority shall file the reasons for the demotion and the reply, if any, with the Director. A predetermination conference and fifteen (15) days notice are not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied. An appointing authority may demote a probationary employee as provided for in subsection 10.3. of this rule.~~

11.4.a. meet with the employee in a predetermination conference and advise the employee of the contemplated demotion, provided that the conference is not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied;

11.4.b. give the employee oral notice confirmed in writing within three (3) working days, or written notice of the specific reason or reasons for the demotion; and,

11.4.c. give the employee a minimum of fifteen (15) days' advance notice of the demotion to allow the employee a reasonable time to reply to the demotion in writing, or upon request to appear personally and reply to the appointing authority or his or her designee. Provided, that fifteen (15) days' notice is not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied.

~~The appointing authority shall file the reasons for the demotion and the reply, if any, with the Director. A predetermination conference and fifteen (15) days notice are not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied.~~

11.5. Lateral Class Change. -- An appointing authority may move a permanent employee from a position in one class to a vacant position in another class in the same ~~pay grade~~ compensation range if the employee is found by the Director to qualify for the vacant position.

11.6. Transfers.

11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

11.6.b. Appointing authorities shall report all inter- and intra-agency transfers within a class to the Director on appropriate forms at the time of the transfer. The Director shall approve transfers to comparable classes prior to the transfers and shall require that the ~~employee~~ employees meet the minimum qualifications of the new ~~class~~ classes.

§ 143-1-12. Separations, Suspension, and Reinstatement.

12.1. Resignation.

12.1.a. An employee who resigns shall present the reasons for the resignation in writing to the appointing authority. The appointing authority shall forward a copy of the resignation to the Director who shall record the resignation. If a written resignation cannot be obtained, the appointing authority shall notify the Director in writing of the resignation of the employee and the circumstances of the resignation.

12.1.b. ~~Transfer within the classified service, without a break in service, shall not be considered as a resignation. 12.1.c.~~ The appointing authority shall notify the Director when an employee resigns in lieu of being dismissed. Such notice shall specify the reasons for the intended dismissal. Employees informed of contemplated dismissal who choose to resign prior to issuance of formal notice or employees permitted to resign through

settlement after being dismissed are considered to have not separated in good standing, and the employee is ineligible for reinstatement and may be disqualified from employment in the classified service as provided in subsection 6.4. of this rule. ~~Employees shall be informed by the appointing authority of such ineligibility and potential disqualification at the time of resignation.~~ Provided, that employees resigning in lieu of dismissal for failure to return to work from medical leave of absence without pay, maintain required licensure, or meet probationary performance expectations shall not be disqualified from future employment except as provided in subdivision 10.5.b of this rule.

12.2. Dismissal.

12.2.a. An appointing authority may dismiss any employee for cause. The appointing authority shall file the reasons for dismissal and the reply, if any, with the Director. Prior to the effective date of the dismissal, the appointing authority or his or her designee shall:

12.2.a.1. meet with the employee in a predetermination conference and advise the employee of the contemplated dismissal, provided that a conference is not required when the public interests are best served by withholding the notice or when the cause of dismissal is gross misconduct;

12.2.a.2. give the employee oral notice confirmed in writing within three (3) working days, or written notice of the specific reason or reasons for the dismissal; and,

12.2.a.3. give the employee a minimum of fifteen (15) ~~calendar days~~ days' advance notice of the dismissal to allow the employee a reasonable time to reply to the dismissal in writing, or upon request to appear personally and reply to the appointing authority or his or her designee. Provided, that fifteen (15) days' advance notice is not required when the public interests are best served by withholding the notice or when the cause of dismissal is gross misconduct.

~~The appointing authority shall file the reasons for dismissal and the reply, if any, with the Director. A predetermination conference and fifteen (15) days days' notice are not required when the public interests are best served by withholding the notice or when the cause of dismissal is gross misconduct.~~

12.2.b. An appointing authority may require that a classified employee dismissed for cause immediately vacate the workplace, or a classified employee dismissed for cause may elect to do so. If the appointing authority requires a dismissed employee to immediately vacate the workplace in lieu of working during the notice period, or if an employee who receives notice of dismissal elects to immediately vacate the workplace, the employee is entitled to receive severance pay attributable to the time he or she otherwise would have worked, up to a maximum of fifteen (15) ~~calendar~~ days after vacating the workplace. An appointing authority shall not provide severance pay when notice is withheld as provided in subdivision 12.2.a of this rule. Receipt of severance pay does not affect any other right to which the employee is entitled with respect to the dismissal.

12.2.c. An appointing authority may dismiss an employee for job abandonment

who is absent from work for more than three (3) consecutive workdays or scheduled shifts without notice to the appointing authority of the reason for the absence or approval for the absence as required by established agency policy. Consecutive scheduled workdays or scheduled shifts are determined without regard to scheduled days off that occur during the period of ~~sick leave~~ absence without notice or approval. Thus, annual leave, holidays, modified holiday observance, compensatory time, regularly scheduled days off, or any other time for which the employee was not scheduled to work during the period of absence shall not constitute a break when determining the three (3) consecutive scheduled work days. The dismissal is effective fifteen (15) ~~calendar~~ days after the appointing authority notifies the employee of the dismissal. ~~Under circumstances in which the term~~ Whereas job abandonment ~~becomes~~ is synonymous with the term resignation, a predetermination conference is not required and an employee dismissed for job abandonment is not eligible for severance pay.

12.2.d. In providing any employment verification or reference to another appointing authority for a dismissed employee, or an employee who resigns in lieu of dismissal, the appointing authority must disclose that the separation was due to dismissal, or resignation in lieu of dismissal, and that the employee did not leave employment in good standing, and must comply with the disclosure requirements of W. Va. Code § 55-7-18a.

12.3. Suspension.—

12.3.a. Disciplinary Suspension. -- An appointing authority may suspend any employee without pay for a specified period of time for cause ~~or to conduct an investigation regarding an employee's conduct which has a reasonable connection to the employee's performance of his or her job~~. ~~The suspension shall be for a specific period of time, except where an employee is the subject of an indictment or other criminal proceeding.~~ Accrued leave shall not be paid to employees during ~~any~~ the period of suspension. The appointing authority shall file the statement of reasons for the suspension and the reply, if any, with the Director. Prior to the effective date of the suspension, the appointing authority or his or her designee shall:

12.3.a.1. meet with the employee in a predetermination conference and advise the employee of the contemplated suspension, provided that a predetermination conference is not required in certain cases when the public interests are best served by withholding the notice;

12.3.~~b~~a.2. give the employee oral notice confirmed in writing within three (3) working days, or written notice of the specific reason or reasons for the suspension; and,

12.3.~~c~~a.3. give the employee a minimum of three (3) working ~~days~~ days' advance notice of the suspension to allow the employee being suspended a reasonable time to reply in writing, or upon request to appear personally and reply to the appointing authority or his or her designee. Provided, that three (3) working days' advance notice is not required in certain cases when the public interests are best served by withholding the notice.

~~A predetermination conference and three working days advance notice are not~~

~~required for employees in certain cases when the public interests are best served by withholding the notice. The appointing authority shall file the statement of reasons for the suspension and the reply, if any, with the Director.~~

12.3.b. Non-disciplinary Suspension. -- An appointing authority may suspend any employee without pay indefinitely to perform an investigation regarding an employee's conduct which has a reasonable connection to the employee's performance of his or her job or when the employee is the subject of an indictment or other criminal proceeding. Such suspensions are not considered disciplinary in nature and an employee may choose to use accrued annual leave during the period of non-disciplinary suspension but is not eligible for any other leave afforded in this rule. The appointing authority shall give the employee oral notice confirmed in writing within three (3) working days, or written notice of the specific reason or reasons for the suspension. A predetermination conference and three (3) working days' advance notice are not required; however, the appointing authority shall file the statement of reasons for the suspension and the reply, if any, with the Director. Upon completion of the investigation or criminal proceeding, the appointing authority shall:

12.3.b.1. initiate appropriate disciplinary action as provided in this rule; and,

12.3.b.2. unless the employee is dismissed or otherwise separates from employment prior to completion of the investigation or criminal proceeding, provide retroactive wages or restore annual leave for the period of suspension; provided, that such retroactive wages may be mitigated by other earnings received during the period of suspension. Further, the appointing authority and employee may agree to consider all or part of the period of unpaid suspension pending investigation or criminal indictment or proceeding as fulfilling the period of any disciplinary suspension without pay.

12.4. Layoff.

12.4.a. When due to business necessity, as defined in ~~subsection 3.13. of~~ this rule, it becomes necessary to implement the provisions of this subdivision, the appointing authority may initiate a layoff in accordance with the provisions of this rule.

12.4.b. Organizational Unit. -- The appointing authority shall submit to the ~~State Personnel~~ Board for approval a description of the unit or units to which a layoff will apply. The organizational unit may be an entire department, agency, or subunit thereof ~~division, bureau, or other organizational unit~~.

12.4.c. Prior to the separation, involuntary reduction in work schedule, or demotion without prejudice of any employee as a result of layoff, the appointing authority shall file with the Director a proposed plan which shall include:

12.4.c.1. a statement of the circumstances requiring the layoff;

12.4.c.2. the approved organizational unit(s) in which the proposed layoff will take place; and,

12.4.c.3. a list of the employees in each class affected by the layoff in order of

retention.

12.4.d. It is the duty of the Director to verify the details on which the lists are based and to notify the appointing authority in writing of the plan's approval.

12.4.e. The plan followed by the appointing authority shall be available, upon request in writing, to any employee or adversely affected former employees.

12.4.f. Order of Separation or Reduction. -- After the appointing authority has determined the number and class of positions to be abolished or reduced and the Board has approved the organizational unit to which the layoff will apply, the order of separation or reduction shall be applied in the following manner and order:

12.4.f.1. employees without permanent status in the same class or classes identified for layoff in the following order: seasonal, contract, temporary, exempt part-time professional, provisional, and probationary. Provided, that an employee in the organizational unit to which the layoff will apply may volunteer to be separated through layoff in place of a probationary or permanent employee with less tenure.

12.4.f.2. permanent employees by job class on the basis of tenure as a permanent employee of a state agency or in the classified service regardless of job class or title. No tenure credit accrues for periods during which terminal annual leave is paid nor for periods during which an employee is not paid a wage or salary except for military leave, ~~educational~~ subsidized education leave, or periods during which the employee is paid temporary total disability benefits under the provisions of W. Va. Code § 23-4-1 for a personal injury received in the course of and resulting from covered employment as a permanent employee of a state agency or in the classified service, or unless otherwise provided by State or federal statute. In the event of a tie in the order of separation or reduction, the appointing authority or his or her representative and those employees who are tied shall agree on a means of breaking the tie by either a coin toss or lot drawing and shall notify the Director in writing of the agreement and the results. In the event that the agency wishes to lay off a more tenured employee, the appointing authority must demonstrate that the tenured employee cannot perform any other job duties held by less tenured employees within the designated organizational unit in the job class or any other equivalent or lower job class for which the tenured employee is qualified.

12.4.g. Bumping Rights. -- A permanent employee who is to be ~~laid off~~ separated or reduced in hours due to layoff may request a reassignment and lateral class change or demotion without prejudice to an existing position in a class in the occupational group in the same organizational unit approved by the Board for reduction in force unless the ~~results~~ result would be to cause the layoff of another permanent employee who possesses greater ~~seniority~~ tenure. The employee exercising bumping rights must be available for the work schedule and location of the job to which he or she has requested. A permanent employee who is subsequently scheduled for layoff under these provisions as a result of another employee having greater ~~seniority~~ tenure exercising his or her bumping rights by requesting a lateral class change or demotion without prejudice has the same bumping rights as provided for in this procedure. The Director shall develop the occupational groups in the classified service based on similarity of work and required ~~knowledges~~ knowledge, skills and

abilities. Provided, an employee exercising bumping rights as a result of a reduction in hours shall assume the full work schedule of the position and may have his or her compensation reduced if the position is assigned to a lower classification range.

12.4.h. Salary Reductions for Layoff. -- Salary reductions resulting from provisions of this subdivision shall follow subsection 5.6. of this rule for pay on demotion.

12.4.i. Recall. -- Recall of a permanent employee separated or reduced in hours due to layoff shall be in reverse order of the layoff to the class from which the employee was laid off or any lower class in the class series or to any class previously held in the occupational group. A recall list shall be created and maintained by the appointing authority. A permanent employee shall remain on the recall list for the length of his or her tenure on the date of the layoff or for a period of two (2) years, whichever is less. The agency shall first consider for reemployment those former permanent employees whose names appear on the recall list for the class in which a vacancy has occurred and no original appointment of a new employee or reinstatement of a former permanent employee shall be made to the class until all former permanent employees on the recall list have been given first chance of refusal of the vacancy. A permanent employee shall be recalled to jobs within the county wherein his or her last place of employment is located or within a contiguous county. The agency shall notify any laid off permanent employee who is eligible for recall to a position under these provisions by certified mail of the vacancy. It is the responsibility of the employee to notify the agency of any change in mailing address. Individuals who have been hired for permanent employment after layoff shall not forfeit the remainder of the recall eligibility period and are not required to serve a probationary period.

12.4.j. Preference Hiring. -- When filling vacancies at agencies, appointing authorities shall, for a period of twelve (12) months after ~~the layoff of~~ a permanent classified employee in another agency has been placed on a preference register due to layoff, give preference to ~~those laid off qualified permanent classified employees~~ such employee based on ~~seniority~~ tenure and fitness over all but existing classified employees of the agency ~~or its facilities~~. This preference shall not supersede the recall rights of employees who have been laid off in the agency. Preference hiring shall be accomplished by original appointment.

12.4.k. Reporting. -- The appointing authority shall report the names of all employees who are to be laid off to the Director in writing no later than the date notification of the layoff is mailed to the employee.

12.4.l. Appeals. -- Employees ~~shall~~ may file appeals from layoffs in accordance with W. Va. Code § 6C-2-1 et seq.

12.5. Like Penalties for Like Offenses. -- In dismissals for cause and other disciplinary actions, appointing authorities shall impose like penalties for like offenses.

12.6. Reinstatement.

12.6.a. A former employee who had attained permanent status under the Division of Personnel who has resigned in good standing, retired, or who has been laid off is eligible for reinstatement~~, provided~~. Provided, that he or she has previously worked in the

occupational grouping of the job class and has been certified by the Director as meeting the current minimum qualifications as to training and experience of the class of position to which he or she is being appointed. Prior to making the certification, the Director may require the employee to pass a qualifying examination. The Director may refuse to reinstate a former employee for any of the causes stipulated in subdivision 6.4.a. of this rule. Employees appointed through reinstatement shall serve a probationary period as provided in Section 10 of this rule.

12.6.b. Appointing authorities shall reinstate all qualifying employees who left state or classified service to enter the armed forces of the United States to their former positions or to positions of like class, ~~seniority~~ tenure and pay within two (2) weeks of their requests provided that such employees satisfy the eligibility standards set forth in federal law commonly known as the Uniformed Services Employment and Reemployment Rights Act (USERRA). Appointing authorities shall also reinstate, at the end of their recovery periods, all qualifying employees who are hospitalized for, or convalescing from, illnesses or injuries incurred in, or aggravated during, the performance of military service provided that such employees satisfy the eligibility standards set forth in USERRA. Appointing authorities may permit qualifying employees to return to work at less than full duty, but the terms of return are subject to the same conditions specified in subdivision 14.4.h. of this rule.

12.6.c. Any qualifying employee who is reinstated to state or classified employment under the provisions of subdivision 12.6.b. shall be granted all ~~within-grade~~ within-range salary adjustments and may be granted salary advancements he or she would have received had he or she remained in active status in the classified service. He or she shall be credited with all annual and sick leave accumulated and unused at the time the military leave began. The appointing authority shall uniformly apply the provisions in this subdivision to all qualifying employees who are reinstated to state or classified employment under the provisions of subdivision 12.6.b.

§ 143-1-13. Reconsideration.

Any applicant or employee may request that the Director reconsider a decision which directly affects the applicant or employee. Unless otherwise specified in this rule, the request must be submitted in writing within fifteen (15) days of the applicant's or employee's notification of the decision. Within thirty (30) days of receipt of the applicant's or employee's request for reconsideration, the Director shall notify the applicant or employee of his or her decision.

§ 143-1-14. Attendance and Leave.

In compliance with ~~W. Va. Code § 21-5C-1 et seq., § 15-5-15a, and § 29-6-10~~ state and federal law governing holidays and leave, including 29 U.S.C.§ 2601-2654, the federal Family and Medical Leave Act (FMLA), the following provisions apply to eligible classified employees.

14.1. Official Holidays.

14.1.a. Employees shall be released from work with pay in observance of the

following official holidays: New Year's Day, the first day of January; Martin Luther King's Birthday, the third Monday of January; Presidents' Day, the third Monday of February; Memorial Day, the last Monday in May; West Virginia Day, the twentieth day of June; Independence Day, the fourth day of July; Labor Day, the first Monday of September; Columbus Day, the second Monday of October; Veterans' Day, the eleventh day of November; Thanksgiving Day, the fourth Thursday of November; Lincoln's Day, the ~~fourth Friday of November~~ day after Thanksgiving Day; Christmas Day, the twenty-fifth day of December; any day on which a State-wide election (Primary, General, or Special) is held, and, such other days as the President, Governor or other duly constituted authority proclaim to be official holidays or days for which employees are released from work ~~of special observance or thanksgiving, or days for the general cessation of business~~. Provided, that an election held on a Saturday is not an official holiday as provided in this subsection.

14.1.b. When a holiday falls on a Sunday, the following Monday shall be observed as the official holiday. When a holiday falls on a Saturday, the previous Friday shall be observed as the official holiday. When Christmas or New Year's Day occurs on Tuesday, Wednesday, Thursday, or Friday, the last half of the scheduled workday immediately preceding the holiday will be given as time off not to exceed four (4) hours. To receive pay for the four (4) hours of time off, an employee must work or be on approved paid leave for the preceding four (4) hours of work time.

Agencies may schedule employees to work on the official holiday observance date to accommodate around-the-clock shifts or other special needs. The agency shall notify employees in advance of the modification and shall schedule alternate holiday paid time off for a date as close as possible but not prior to the official holiday observance date. In the alternative, an employee may agree to be paid for the holiday rather than observing it at a later date. The total amount of paid time off for holidays shall not exceed eight (8) hours per ~~full day~~ holiday or four (4) hours per ~~one half~~ one-half day ~~holiday~~ of time off as provided in this paragraph.

14.1.c. Part-time employees are entitled to receive time off with pay for holidays, regardless of whether the holidays fall within the employees' regular work schedules, in proportion to the amount of time worked as compared to the employer's standard workweek for a full-time employee. When a holiday falls on a day on which a part-time or full-time employee is not scheduled to work, the employee should be released from work on his or her next scheduled work shift or as soon as reasonably possible.

14.1.d. To receive pay for any holiday, an employee must, at a minimum, work or be on approved paid leave for his or her full scheduled workday immediately preceding and following the holiday. Provided, that an employee who works on the holiday is eligible to receive pay for the holiday irrespective of working or being on approved paid leave the day before and after. However, an employee who is scheduled to work on the holiday but fails to report is ineligible to receive pay for the holiday irrespective of working or being on approved paid leave on that day or the days before and after. An employee is not eligible to be paid for any holiday that occurs prior to his or her first day of work or after his or her date and time of separation as defined in ~~subsection 3.26. of~~ this rule.

14.1.e. Appointing authorities shall make reasonable accommodation to an

employee's religious holidays as required by law.

14.1.f. An appointing authority shall, if necessary, allow any employee required to work on any election day ample and convenient time and opportunity to cast his or her vote. Upon receipt of a written request at least three (3) work days prior to an election, an appointing authority shall give any employee who has less than three (3) hours of time away from work during hours polling places are open, up to three (3) hours of paid time off between the opening and closing of the polls, to vote. The appointing authority shall schedule such time off to avoid impairment or disruption of essential services and operations.

14.2. Agency Work Schedules. -- Each appointing authority shall establish the work schedule for the employees of his or her agency. The work schedule shall specify the number of hours of actual attendance on duty for full-time employees during a workweek, the day and time that the workweek begins and ends, and the time that each work shift begins and ends. The work schedule may include any work shifts the appointing authority determines to be appropriate for the efficient operation of the agency, including work shifts comprising work days of more than eight (8) hours and/or work weeks of less than five (5) days. The work schedules and changes must be submitted to the Director within fifteen (15) ~~calendar~~ days after employees commence work under the schedule.

14.3. Annual Leave.

14.3.a. Amount, Accrual. -- Except as otherwise noted in this rule, each permanent, probationary, and provisional employee is eligible to accrue annual leave with pay and benefits. The table below lists the rates of accrual according to the employee's length of service category and the number of hours of annual leave that may be carried forward from one calendar year to another; provided, that a "day" is based on the agency's established number of hours in the work day and shall not exceed eight (8) hours. Annual leave is accrued at the end of each pay period or on the last workday for separating employees. Though the rates below are expressed in terms of a monthly rate, the leave accrual may be calculated on a bi-weekly basis. It may be prorated for employees granted a medical leave of absence or satisfying the conditions for approval of a medical leave of absence in accordance with subdivision 14.8.c. of this rule. Prorated leave is computed in proportion to normal hours worked and/or hours of paid sick and/or annual leave during the pay period based on the proper length of service category. Annual leave cannot be accrued for hours not paid nor for hours worked beyond the normal workweek which shall not exceed 40 hours. Provided, however, employees on unpaid leave who are receiving workers' compensation temporary total disability benefits continue to accrue annual leave while receiving such benefits.

Length of Service Category	Accrual Rate: Hours Equal To	Carry-forward Rate: Hours Equal To
Less than 5 years of qualifying service	1.25 days/month	30 days
5 years but less than 10 years of qualifying service	1.50 days/month	30 days

10 years but less than 15 years of qualifying service	1.75 days/month	35 days
15 years or more of qualifying service	2.00 days/month	40 days

14.3.b. Service to Qualify. -- Qualifying service for length of service category is based on State employment or employment in the classified service not of a limited-term or temporary nature (except that certain limited-term service to the State Legislature may qualify) and provided that any exempt service must be leave-accruing service to qualify. No service credit accrues for periods during which an employee is not paid a wage or salary unless otherwise provided by State or federal statute. Provided, however, employees on unpaid leave who are receiving workers' compensation temporary total disability benefits continue to accrue service credit while receiving such benefits.

14.3.c. Requesting, Granting. -- Accrued annual leave shall be granted at those times that will not materially affect the agency's efficient operation or when requested under the provisions of ~~W. Va. Code § 21-5D-1 et seq.,~~ the Parental Leave Act or FMLA ~~and 29 U.S.C. § 2601-2654, The Family and Medical Leave Act of 1993~~. The employee shall request annual leave in advance of taking the leave except as noted elsewhere in this subdivision or, for unplanned annual leave, submit the leave request immediately upon return to work or, in cases of extended periods of leave, as directed by the appointing authority. Annual leave may not be granted in advance of the employee's accrual of the leave. ~~Agencies are encouraged to grant annual leave when hazardous conditions make going to and from work difficult.~~

14.3.d. Coverage.

14.3.d.1. Full-time and part-time permanent, probationary, and provisional employees shall accrue annual leave.

14.3.d.2. Temporary and seasonal employees shall not accrue annual leave.

14.3.d.3. Annual leave accrued by provisional employees shall be computed in proportion to normal hours worked and/or hours of paid sick and/or annual leave during the pay period not to exceed the full-time work schedule of the employer. A provisional employee must take his or her accrued annual leave prior to the expiration of the period of appointment, unless immediately followed by an appointment from the register, or the leave is forfeited.

14.3.d.4. Annual leave accrued by part-time permanent employees shall be computed in proportion to normal hours worked and/or hours of paid sick and/or annual leave during the pay period based on the proper length of service category.

14.3.e. Minimum Charge. -- The minimum charge against annual leave shall be ~~one quarter~~ one-quarter (¼) hour. Additional leave shall be in multiples of a quarter hour. Provided, that annual leave may be calculated in lesser denominations when being exhausted prior to leave of absence without pay.

14.3.f. Separation from Employment. -- The appointing authority shall pay an employee who separates from employment for any reason for all accrued and unused annual leave. An employee does not accrue annual leave after his or her date and time of separation. The payment shall be made according to one of the following methods:

~~14.3.f.1. An employee may elect to be paid in semi-monthly installments at his or her usual rate of pay as if employment were continuing until the pay period during which the accrued annual leave is exhausted. If the last day for which leave payment is due falls before the day on which the pay period ends, terminal annual leave payment for those days within that pay period shall be calculated using the daily rate for the half-month in which the last day on payroll occurs. Employees in positions allocated to job classes assigned to an hourly pay schedule or per diem pay schedule approved by the Board shall be paid according to those standard procedures. No deductions may be made for contributions toward retirement from the payment for terminal annual leave;~~

~~14.3.f.2.~~ 14.3.f.1. Lump Sum Payment --. Any eligible employee as defined in W. Va. Code § 5-5-1 who is separated from employment by resignation, layoff, dismissal, retirement, death, or termination, may be paid in a lump sum, at his or her option, for accrued and unused annual leave. Terminal annual leave payment for an employee who selects a lump sum payment shall be calculated as if employment were continuing until the pay period during which the accrued annual leave is exhausted in accordance with paragraph one (1) of this subdivision. Employees in positions allocated to job classes assigned to an hourly pay schedule or per diem pay schedule approved by the Board shall be paid according to those standard procedures. The lump sum payment shall be made by the time of what would have been the employee's next regular pay day had his or her employment continued. No deductions may be made for contributions toward retirement from the lump sum payment; or

~~14.3.f.3.~~ 14.3.f.2. Retirement. -- An eligible employee who retires may elect not to receive payment for any or all terminal annual leave and may apply the balance toward extended insurance coverage under guidelines established by the Public Employees Insurance Agency or to acquire additional credited service in the appropriate state retirement system under guidelines established by the Consolidated Public Retirement Board.

14.3.g. Transfer of Annual Leave.

14.3.g.1. When a classified employee transfers or otherwise changes employment from one agency to another, all service credit and ~~hours of~~ accrued and unused annual leave shall be transferred. The previous employer shall provide written documentation of the employee's annual leave balance computed in days and fractions of days to the other agency within thirty (30) ~~calendar~~ days after the employee commences work. The previous employer shall also provide the days of State and federal Military, ~~Family and Medical Leave Act~~ FMLA, Parental Leave Act, and Red Cross Disaster Service leave eligibility exhausted within the year, if applicable.

14.3.g.2. Annual leave accrued while in exempt or classified-exempt permanent employment shall be transferred to classified employment.

14.3.h. When Sick Leave is Exhausted. -- Annual leave shall be used in circumstances when sick leave or the sick leave allowance for an employee's immediate family is exhausted. The provisions of subdivision 14.4.g. of this rule regarding the necessity for a ~~physician's~~ physician's/practitioner's statement when sick leave is used apply when annual leave is used under these circumstances. ~~In the event of any~~ Paid leave taken for a qualifying serious health condition ~~qualifying for leave under the federal Family and Medical Leave Act (FMLA), paid leave~~ shall be designated as FMLA leave.

14.4. Sick Leave.

14.4.a. Accrual. -- Except as otherwise provided in this rule, each permanent, probationary, and provisional employee shall receive accrued sick leave with pay and benefits. Sick leave is computed on the basis of hours equal to 1.5 days per month for full-time employees; provided that a "day" is based on the agency's established number of hours in the work day and shall not exceed eight (8) hours. Sick leave is accrued at the end of each pay period or on the last workday for separating employees. Though the accrual amount is expressed in terms of a monthly rate, the leave accrual may be calculated on a bi-weekly basis. It may be prorated for employees granted a medical leave of absence or satisfying the conditions for approval of a medical leave of absence in accordance with subdivision 14.8.c. of this rule. Prorated leave is computed in proportion to normal hours worked and/or hours of paid sick and/or annual leave during the pay period. Sick leave cannot be accrued for hours not paid nor for hours worked beyond the normal workweek which shall not exceed 40 hours. There is unlimited accumulation of sick leave.

14.4.b. Coverage.

14.4.b.1. Full-time and part-time permanent, probationary, and provisional employees shall accrue sick leave.

14.4.b.2. Temporary and seasonal employees shall not accrue sick leave.

14.4.b.3. Provisional employees shall accrue sick leave in proportion to normal hours worked and/or hours of paid sick and/or annual leave in the pay period. The leave accrued by a provisional employee expires at the termination of the period of employment unless immediately followed by an appointment from the register for a permanent position.

14.4.b.4. Sick leave accrued by part-time employees shall be computed in proportion to normal hours worked and/or hours of paid sick and/or annual leave during the pay period.

14.4.c. Minimum Charge. -- The minimum charge against sick leave is ~~one quarter~~ one-quarter (¼) hour. Additional leave is charged in multiples of one quarter hour. Provided, that sick leave may be calculated in lesser denominations when being exhausted prior to leave of absence without pay.

14.4.d. Maximum Charge. -- The maximum charge against sick leave is one (1) work year per substantially continuous absence; however, the appointing authority may at

his or her discretion grant additional accrued sick leave. If the appointing authority does not approve additional sick leave, an eligible employee may request a medical leave of absence without pay upon exhaustion of his or her annual leave.

14.4.e. Separation from Employment. -- Sick leave shall not accrue after the date and time of separation as defined in ~~subsection 3.26. of~~ this rule. As of the date and time of separation, all accrued and/or scheduled sick leave shall be cancelled, and payment shall not be made for sick leave subsequent to the date and time of separation, except as provided under paragraph 14.4.e.1. of this rule. Recovery of payment for sick leave made subsequent to the date and time of separation shall be made, by civil action if necessary.

14.4.e.1. Retirement. -- An employee eligible to retire at the time of separation from employment may use unused sick leave to purchase extended insurance coverage upon retirement under guidelines established by the Public Employees Insurance Agency or upon retirement to acquire additional credited service in the state retirement system under guidelines established by the Consolidated Public Retirement Board.

14.4.e.2. All Other Separations. -- All accumulated sick leave shall be cancelled as of the date and time of separation. ~~If an employee returns to eligible employment, as provided in subdivision b. of this subsection, within one year of the date and time of separation, including the first working day the reinstatement could be accomplished, all cancelled sick leave shall be restored. However, if the employee returns to eligible employment after more than one year from the date and time of separation from employment, no more than thirty (30) days of cancelled sick leave shall be restored.~~ If an employee who has been laid off is re-employed in eligible employment, all cancelled sick leave shall be restored.

14.4.f. Requesting, Granting. -- Sick leave may not be granted in advance of the employee's accrual of the leave or when the employee's disability, as verified by a physician/practitioner on a prescribed ~~physician's~~ physician's/practitioner's statement form, is of such a nature as to render the employee permanently unable to perform his or her duties with or without accommodation; provided the employee may continue to utilize available sick leave during the accommodation consideration process not to exceed ~~sixty (60) calendar days~~ twelve (12) weeks. ~~In the event of any~~ Paid leave taken for a qualifying serious health condition ~~qualifying for leave under FMLA, paid leave~~ shall be designated as FMLA leave.

Employees shall request sick leave in advance of taking the leave when requesting leave for routine dental and medical appointments. For unplanned sick leave, the employee must submit the leave request immediately upon return to work or, in cases of extended periods of leave, as directed by the appointing authority. Appointing authorities shall grant accrued sick leave requested by employees for the following reasons:

14.4.f.1. Illness. -- Sick leave shall be granted in the event of an employee's illness or injury which incapacitates him or her from performing his or her duties;

14.4.f.2. Death in the ~~immediate family~~ Immediate Family of the ~~employee~~ Employee. -- Sick leave shall be granted up to ~~3 days~~ three (3) scheduled work days to an

employee for the death of any member of his or her immediate family as defined in this rule; provided such time is not deducted from the eighty (80-hour) ~~40-hour~~ family sick leave usage allowance. If sick leave is requested to commence immediately preceding and/or following the leave granted for death in the immediate family, a ~~physician's~~ physician's/practitioner's statement will not be required unless the employee is on leave restriction or the additional sick leave exceeds three (3) consecutive scheduled workdays, provided that the employee presents verification of a qualifying death. In the absence of verification of a qualifying death, the employee shall be required to present a ~~physician's~~ physician's/practitioner's statement for the entire period of absence in accordance with subsections 14.4.g.2. and 3. of this rule;

14.4.f.3. Exposure to Contagious Disease. -- Sick leave shall be granted in the case of exposure to a contagious disease when a ~~physician~~ physician/practitioner determines and states in writing that the employee's presence on duty may jeopardize the health of others;

14.4.f.4. Pregnancy. -- ~~An incapacity~~ Incapacity due to pregnancy shall be charged to sick leave under the same conditions applying to any illness;

14.4.f.5. Routine Dental and Medical Appointments - Employee. -- Routine dental and medical appointments for treatment or examination of the employee shall be charged to sick leave. Reasonable travel time in addition to the time for the routine appointments may also be charged to sick leave ~~not to exceed a total of three hours per occurrence~~;

14.4.f.6. Illness and/or Routine Dental and Medical Appointments - Immediate Family. -- Employees may use up to ~~40~~ eighty (80) hours of accrued sick leave per calendar year to provide care to an immediate family member, as defined in this rule, who is incapacitated due to illness or injury or to accompany an immediate family member to routine healthcare appointments; provided such time is prorated for part-time employees. Reasonable travel time in addition to the time for the routine appointments may also be charged to sick leave; or,

14.4.f.7. Work Related Illness or Injury. -- An employee may elect to use sick leave due to a personal injury received in the course of and resulting from covered employment with the State or its political subdivisions in accordance with W. Va. Code § 23-4-1. Upon a work-related injury or illness, the employee must submit an Election of Option form to the agency payroll office. An employee who elects not to use sick leave under this paragraph shall be placed on a medical leave of absence without pay as provided under subsection 14.8. of this rule. Provided, that such paid or unpaid leave due to a work-related injury or illness shall be, if qualifying, counted as and run concurrently with ~~federal Family and Medical Leave Act (FMLA)~~ FMLA leave.

14.4.g. ~~physician's~~ Physician's/practitioner's Statement.

14.4.g.1. The Director shall prescribe a ~~physician's~~ physician's/practitioner's statement form to be supplied by all agencies to its employees. All agencies shall use this form or an alternate form or method, approved by the Director, to obtain the necessary

information. Appointing authorities shall comply with FMLA provisions pertaining to certification and recertification, when applicable.

14.4.g.2. Any employee requesting sick leave, or annual leave upon exhaustion of sick leave, for themself, a family member, or a combination thereof, for ~~an absence of~~ more than three (3) consecutive scheduled work days or scheduled shifts must, ~~within two days of~~ immediately upon his or her return to work, provide a prescribed ~~physician's~~ physician's/practitioner's statement from the attending ~~physician~~ physician/practitioner for the entire absence. Consecutive scheduled workdays are determined without regard to scheduled days off that occur during the period of sick leave or annual leave used upon exhaustion of sick leave. Thus, annual leave, holidays, modified holiday observance, compensatory time, regularly scheduled days off, or any other time for which the employee was not scheduled to work during the period of absence shall not constitute a break when determining the three (3) consecutive scheduled work days. ~~If the employee's physician/practitioner has placed restrictions or limitations on the employee's work activities, the employee must furnish the prescribed physician's statement immediately upon return to work.~~ The ~~physician's~~ physician's/practitioner's statement form shall specify the period of incapacity and state that the employee was unable to perform his or her job or that the employee's absence was due to reasons provided in paragraph 14.4.f.6. of this rule for a member of the employee's immediate family.

14.4.g.3. In the absence of a prescribed ~~physician's~~ physician's/practitioner's statement form, the entire absence shall be charged to unauthorized leave as provided in subsection 14.6. of this rule, and the employee's pay shall be docked ~~the following pay period~~ for the entire period of absence. The appointing authority shall notify the employee in writing that his or her pay is being docked. If the ~~physician's~~ physician's/practitioner's statement from the attending ~~physician's~~ physician/practitioner specifies a period of incapacity that is less than the entire absence, only the period of incapacity shall be charged to sick leave and the remaining absence shall be charged to annual leave, if annual leave is available to the employee and is not otherwise restricted.

14.4.g.4. For extended periods of sick leave, a prescribed ~~physician's~~ physician's/practitioner's statement form confirming the necessity for continued leave must be submitted within thirty (30) ~~calendar~~ days of the commencement of the sick leave and must indicate a date the ~~physician~~ physician/practitioner will release the employee to return to work or a date the ~~physician~~ physician/practitioner will re-evaluate the employee's medical condition. For employees being re-evaluated, an additional ~~physician's~~ physician's/practitioner's statement must be submitted upon re-evaluation. Failure to produce the required statement is grounds to terminate further sick leave benefits and the appointing authority shall immediately place the employee on unauthorized leave and notify the employee in writing of such action as provided in subsection 14.6. of this rule. This written notice shall allow the employee fifteen (15) days to submit the required ~~physician's~~ physician's/practitioner's statement. Failure of the employee to submit the required statement within the fifteen-day notice period, except for satisfactory reasons submitted in advance to the appointing authority, is cause for dismissal. The necessity for absence because of exposure to contagious disease must be verified on a prescribed ~~physician's~~ physician's/practitioner's statement form regardless of the length of absence.

14.4.h. Return At Less Than Full Duty.

14.4.h.1. The appointing authority may permit an employee to work or return to work from sick leave, military duty in which the employee was injured or became ill, or medical leave of absence at less than full duty for a period of no more than thirty (30) days, provided that the terms of the return shall be in writing. An employee may request to continue to work at less than full duty beyond the period permitted by the appointing authority. The request must be submitted to the appointing authority at least five (5) days before the end of the thirty (30)-day period. The appointing authority shall consider the request in the same manner as the original request.

14.4.h.2. The appointing authority may require an employee to return at less than full duty or to transitional duties where the absence is due to a personal injury received in the course of and resulting from covered employment with the State or its political subdivisions in accordance with W. Va. Code § 23-4-1 et seq. and a physician/practitioner has released the employee to perform such work.

~~14.4.h.2.~~ 14.4.h.3. The appointing authority~~, after receiving approval of the Director,~~ may deny ~~the~~ a request to return or continue to work at less than full duty or with restrictions under conditions including, but not limited to, the following:

~~14.4.h.2.A.~~ 14.4.h.3.A. the employee cannot perform the essential duties of his or her job with or without accommodation;

~~14.4.h.2.B.~~ 14.4.h.3.B. the nature of the employee's job is such that it may aggravate the employee's medical condition;

~~14.4.h.2.C.~~ 14.4.h.3.C. a significant risk of substantial harm to the health or safety of the employee or others cannot be eliminated or reduced by reasonable accommodation; or,

~~14.4.h.2.D.~~ 14.4.h.3.D. the approval of the request would seriously impair the conduct of the agency's business.

~~14.4.h.3.~~ 14.4.h.4. Prior to making a decision on an employee's request to return or continue to work at less than full duty or with restrictions, the appointing authority ~~and/or the Director~~ may require additional information from the employee's ~~physician~~ physician/practitioner or other ~~physician~~ physician/practitioner regarding the employee's ability to perform the essential duties of his or her job, with or without accommodation.

14.4.i. Transfer of Sick Leave.

14.4.i.1. When a classified employee transfers or otherwise changes employment from one agency to another, all accrued and unused sick leave shall be transferred. The previous employer shall provide written documentation of the sick leave balance computed in days and fractions of days to the other agency within thirty (30) ~~calendar~~ days after the employee commences work. The previous employer shall also provide the days of State and federal Military, ~~Family and Medical Leave Act~~ FMLA,

Parental Leave Act, and Red Cross Disaster Service leave eligibility exhausted within the year, if applicable.

14.4.i.2. At the discretion of the appointing authority, sick leave accrued while in other State or classified employment may be transferable to covered agency employment.

14.4.j. Illness While on Annual Leave. -- An employee who becomes ill ~~and who is admitted to a hospital or has medical services performed in an emergency room~~ while on previously approved annual leave may request that all or part of the time ~~spent in a hospital or emergency room~~ be charged to sick leave. This provision shall also apply when an employee requests to change annual leave to family sick leave due to the illness of an immediate family member. The employee shall request that action immediately, provided that any annual leave used prior to the request being made shall not be charged to sick leave. The employee must provide a physician's/practitioner's statement immediately upon return to work. ~~upon return to work and shall provide a physician's statement or hospital statement listing the specific dates of hospitalization or emergency room services. Sick leave may be charged only for the period of time the employee is hospitalized or in the emergency room. The remainder of the time shall be charged to annual leave~~.

14.5. Suspected Misuse of Leave. -- When an employee appears to have a pattern or incident of leave use that is inconsistent with the reasons provided in subdivision 14.4.f. of this rule, ~~including such frequent use of sick leave as to render the employee's services undependable,~~ the appointing authority may request appropriate substantiation of the employee's claim for leave, for example, verification of an illness of less than three (3) consecutive scheduled work days or scheduled shifts. Misuse of leave may include, but is not limited to, frequent use of sick leave rendering the employee's services undependable, requesting sick leave for days when annual leave was previously denied, and requesting unplanned leave in connection with scheduled days off. The appointing authority shall give the employee prior written notice of the requirement for appropriate substantiation.

14.6. Unauthorized Leave. -- When an employee is absent from work without authorization for sick or annual leave, the appointing authority shall dock the employee's pay ~~in the next pay period~~ for an equal amount of time paid during which no work was performed. The appointing authority shall notify the employee in writing that his or her pay is being docked and that the unauthorized leave is misconduct for which discipline is being imposed. The appointing authority shall use unauthorized leave only in cases when the employee fails to obtain the appropriate approval, according to agency policy, for the absence. The appointing authority shall transmit notice of the action in writing to the Director.

14.7. Overtime Work and Holiday Work. -- An appointing authority or his or her designated representative may require an employee to work in excess of the prescribed working hours or on holidays when the work is considered by the employer to be necessary to the public interest. Compensation shall be made in accordance with the federal Fair Labor Standards Act and relevant federal regulations and W. Va. Code § 21-5C-1 et seq. Sick and/or annual leave requested in the same workweek in which additional hours are worked shall be reduced and credited back to the employee's accrued balances to reduce or avoid payment for hours in excess of the agency work schedule.

14.8. Leave of Absence Without Pay.

14.8.a. Personal Leave. -- An appointing authority may, at his or her discretion based on the agency's personnel needs, grant a permanent, probationary, or provisional employee a leave of absence without pay for a specific period of time which normally should not exceed one (1) year. The employee shall apply for the leave of absence in writing to the appointing authority. ~~If the appointing authority approves the request, the approval shall be in writing. A leave of absence without pay may exceed the normal one year limitation and the appointing authority may grant the leave of absence at his or her discretion based on the agency's personnel needs.~~ Time spent by provisional employees for leaves of absence does not extend the provisional period limitation. Written approval of the appointing authority is required in all cases. ~~Approval of personal leave is discretionary with the appointing authority.~~

14.8.b. Family Leave. -- The Board~~, by formal action,~~ may establish uniform procedures, which shall be followed by all appointing authorities, for granting leave to eligible employees under the ~~provisions of W. Va. Code § 21-5D-1 et seq.,~~ Parental Leave Act~~,~~ and ~~29 U.S.C.§ 2601-2654, the Family and Medical Leave Act of 1993~~ FMLA.

14.8.c. Medical Leave; Notice to Employee.

14.8.c.1. An injured or ill permanent classified employee upon written application to the appointing authority shall be granted a medical leave of absence without pay not to exceed six (6) months within a twelve-month period provided:

14.8.c.1.A. The employee:

14.8.c.1.A.1. Has worked or been on approved ~~paid~~ leave with or without pay for military service or leave without pay while receiving workers' compensation temporary total disability benefits for at least 1,040 hours, or fifty (50) percent of the normal work schedule for part-time permanent classified employees, during the twelve-month period immediately preceding the beginning of the leave;

14.8.c.1.A.2. Makes application no later than fifteen (15) ~~calendar~~ days following the exhaustion of all sick and annual leave; and,

14.8.c.1.A.3. Has exhausted all available sick and annual leave or has elected not to use sick and annual leave for a personal injury or illness received in the course of and resulting from covered employment with the State or its political subdivisions in accordance with W. Va. Code § 23-4-1.

14.8.c.1.B. The employee's absence is due to an illness or injury which is verified by a ~~physician~~ physician/practitioner on the prescribed ~~physician's~~ physician's/practitioner's statement form stating that the employee is unable to perform his or her duties and giving a date for the employee's return to work or the date the employee's medical condition will be re-evaluated;

14.8.c.1.C. A prescribed ~~physician's~~ physician's/practitioner's statement form is submitted each time the employee's condition is re-evaluated to confirm the necessity for continued leave; and,

14.8.c.1.D. The disability, as verified by a physician/practitioner ~~on the prescribed physician's statement form~~, is not of such nature as to render the employee permanently unable to perform his or her duties. Though not eligible for medical leave of absence under this subsection, the employee may be eligible for leave under FMLA.

14.8.c.2. The appointing authority shall, at least fifteen (15) days prior to, if possible, but no later than five (5) days following the expiration of the employee's sick leave, mail to the employee a written notice of the employee's right to a medical leave of absence without pay and informing him or her that the leave will not be granted if he or she fails to apply within the time limits specified in subparagraph 14.8.c.1.A. of this rule. Notice shall not be required for subsequent absence for the same reason during the applicable twelve-month period.

14.8.c.3. The twelve-month period shall be calculated based upon a rolling twelve-month period measured backward from the date of leave use. The amount of leave available during the twelve-month period shall be based upon the equivalent number of hours the employee is normally scheduled to work during a six-month period. Such leave may only be taken intermittently when running concurrently with FMLA leave.

14.8.c.4. Exceptions. -- Employees, including probationary and provisional employees, shall be granted and will remain on medical leave of absence without pay while receiving workers' compensation temporary total disability benefits as a result of a personal injury or illness received in the course of and resulting from covered employment with the State or its political subdivisions in accordance with W. Va. Code § 23-4-1.

14.8.d. End of Leave.

14.8.d.1. At the expiration of a leave of absence without pay, the employee shall be returned to duty to either his or her former position, or one of comparable pay and duties, without loss of rights, unless the position is no longer available due to a reduction-in-force.

14.8.d.2. If the leave of absence without pay was granted due to personal illness, the employee must furnish from the attending physician/practitioner a prescribed ~~physician's~~ physician's/practitioner's statement form indicating the ability of the employee to return to work. The appointing authority may permit an employee to return to work at or before the expiration of the leave of absence at less than full duty, but the terms of return are subject to the same conditions specified in subdivision 14.4.h. of this rule.

14.8.d.3. Failure of the employee to report to work promptly at the expiration of a leave of absence without pay, except for satisfactory reasons submitted in advance to and approved by the appointing authority, is cause for dismissal. An employee dismissed for failure to return from leave of absence without pay is not eligible for severance pay.

14.8.e. Reporting Procedures. -- The appointing authority must report a leave of absence without pay to the Director. The appropriate forms must include the provision of this rule under which the leave is being granted, the employee's last date and time on the payroll, and the specific anticipated date for return to duty.

14.9. Military Leave.

14.9.a. State Active Duty and Reserve Military Service. -- ~~In accordance with the provisions of W. Va. Code § 15-1F-1(a), all~~ All officers and employees of the State, county or municipal government hired for permanent employment who are members of the National Guard or of any of the reserve components of the armed forces of the federal government are entitled to a leave of absence from employment without loss of pay, status, or efficiency rating, on all days during which they are engaged in drills or parades, or for examination to determine fitness for duty, inactive duty training, funeral, service schools, active duty for training or active service for the State during business hours all to include reasonable travel time to and from the duty location, for a maximum period of thirty (30) ~~working~~ scheduled work days in any one (1) calendar year, not to exceed two hundred forty hours, when ordered or authorized by proper authority. The term "without loss of pay" means that the employee continues to receive his or her normal salary or compensation, notwithstanding the fact that the employee may have received other compensation during the same period. An employee need not exhaust any or all annual leave or sick leave. Furthermore, the leave of absence is considered as time worked for the agency in computing ~~seniority~~ tenure, eligibility for salary increase and experience with the agency. The terms of this subdivision do not apply under the provisions of any military selective service act. An employee shall provide to the appointing authority advance written or verbal notification of an obligation or intention to perform military duty and such written orders or other documentation, if available, in support of the request for military leave. None of the unused days of military leave for which an officer or employee is eligible under this subdivision may be carried over and used in the next calendar year. An employee on extended federal active duty or full-time National Guard duty is eligible for leave provided in this subdivision only in the year he or she is called to active duty, and in subsequent years only after he or she has been discharged from military duty and returned to ~~State~~ employment.

14.9.b. Federal Active Duty. -- ~~In accordance with the provisions of W. Va. Code § 15-1F-1(b), all~~ All officers and employees of the State, county or municipal government hired for permanent employment who are ordered or called to active duty by properly designated federal authority are eligible for an additional leave of absence from employment without loss of pay, status, or efficiency rating for a maximum period of thirty (30) ~~working~~ scheduled work days, not to exceed two hundred forty hours, for each single call to active duty, active duty for training, initial active duty for training, or full-time National Guard duty, all to include reasonable travel time to and from the duty location. All eligible officers and employees of the State called to federal active duty or full-time National Guard duty who have not used all or some portion of the thirty (30) ~~working~~ scheduled work days of military leave granted by subdivision a. of this subsection are eligible to use those unused days in the same calendar year prior to using the thirty (30) work days for which they are eligible under this subdivision, up to a maximum of sixty (60) scheduled work days for a single call to active duty. None of the unused days for which an officer or employee is eligible under subdivision a. may be carried over and used in the next calendar year. An employee on

extended federal active duty or full-time National Guard duty is eligible for leave provided in subdivision a. of this subsection only in the year he or she is called to active duty, and, in subsequent years, only for a subsequent call to duty and only after he or she has been discharged from military duty and returned to ~~State~~ employment. The term "without loss of pay" means that the employee shall continue to receive his or her normal salary or compensation, notwithstanding the fact that the employee may have received other compensation from federal or state sources during the same period.

14.9.c. Other than as provided in subdivision b. of this subsection, any employee hired for permanent employment entering the ~~U.S.~~ United States armed services in time of war, national emergency or under compulsory provisions of law of the ~~U.S.~~ United States in time of peace shall be granted a leave of absence from his or her service with the agency. Upon completion of and discharge from the armed services and within the applicable time period prescribed by federal statute, rule, or regulation regarding return to employment, the employee has the right to resume his or her service with the agency without any prejudice to his or her status, merit rating or standing by reason of the absence, in accordance with subdivision 12.6.b. of this rule. An employee shall be credited with all annual leave and sick leave not used at the commencement of his or her military leave in accordance with subdivision 12.6.c. of this rule. This subdivision shall not be construed:

~~14.9.c.1. As an attempt to enlarge or to extend the length of employment of any temporary employee or to create a definite term where no definite term with respect to the position previously existed;~~

~~14.9.c.2.~~ 14.9.c.1. As providing that the salary paid by the agency shall continue to be paid to the employee while he or she is not performing the duties of his or her position ~~with the state~~ because of the services with the armed forces of the United States; or,

~~14.9.c.3.~~ 14.9.c.2. As having precedence over the provisions of any applicable federal statute, rule, or regulation regarding military leave or re-employment rights with which this subdivision is inconsistent or in conflict including, but not limited to, the Uniformed Services Employment and Reemployment Rights Act.

14.10. Court, Jury, and Hearing Leave.

14.10.a. Upon application in writing, an employee hired for permanent employment shall be released from work without charge to leave or loss of pay when, in obedience to a subpoena or direction by proper authority, he or she serves upon a jury or appears as a witness before any court or judge, any legislative committee, or any officer, board, or body authorized by law to conduct any hearing or inquiry. This subdivision shall not apply in cases where the employee or a member of his or her immediate family is a plaintiff, defendant or other interested party or has a personal, financial, or vested interest in the outcome of the proceeding or when the hours spent in compliance to a subpoena to serve on a jury or appear as a witness are outside the employee's scheduled workday. Employees subpoenaed by proper authority who are not eligible for court, jury or hearing leave shall be granted sufficient annual leave or leave without pay to fulfill the order. This subdivision shall not be construed to:

14.10.a.1. deprive, prohibit, or infringe upon the rights of any employee who is a party to, or a witness in, a grievance proceeding or a court of law proceeding resulting from the course of his or her State and/or classified employment; or,

14.10.a.2. deprive, prohibit, or infringe upon the rights of any employee in his or her pursuit of personal legal matters or civic responsibilities while on annual leave or a personal leave of absence.

14.10.b. The employee shall furnish such written confirmation of the absence as is required by the Director.

14.10.c. When an employee is to report to or is released from service prior to the beginning or end of the workday, and there is more than one (1) hour remaining in the employee's scheduled ~~workday~~ work shift after allowing for reasonable return travel time, the employee shall report or return to work or request approval for annual leave.

14.11. Education Leave.

14.11.a. Subsidized by Agency. -- An agency authorized by law to subsidize advanced educational training for classified employees may grant to selected employees ~~educational~~ education leave subject to conditions stipulated by that agency. The procedures for granting ~~educational~~ education leave and compensatory payment shall be filed with the Director. The leave shall be considered as continuous employment, except that employees while on ~~educational~~ education leave shall not accrue sick leave or annual leave, nor are the employees eligible for salary advancements.

14.11.b. Non-subsidized by Agency. -- A personal leave of absence may be granted for educational purposes in conformance with the requirements of subdivision 14.8.a~~.~~ of this rule.

14.12. Disaster Service Leave. -- Any state employee who is a certified disaster service volunteer of the American Red Cross may be granted leave with pay, subject to the approval of the employee's immediate supervisor, in accordance with the provisions of W. Va. Code § 15-5-15a.

14.13. Supplemental Attendance and Leave ~~Regulations~~ Policies. -- Each agency shall prepare supplemental ~~rules~~ policies as may be required. The ~~rules~~ policies shall not enhance nor diminish the benefits afforded by this subsection. Copies of all ~~rules~~ policies shall be filed with the Director who may approve, amend or disapprove the supplemental ~~rules~~ policies.

14.14. Distribution of Regulations. -- Each agency shall make available to each of its employees a copy of this attendance and leave rule together with the agency's own supplemental attendance and leave rules.

14.15. Leave Records. -- Each appointing authority shall maintain a current leave record of the agency's employees' accrued and used leave. The appointing authority shall

provide each employee access to his or her leave records subject to established rules and on a regular basis of no less than once each pay period. To the extent practical, each appointing authority shall use electronic or other communications media to provide employees with access to their leave records, provided that the appointing authority makes regular and convenient access to the media used available to each employee in the agency, or otherwise provides access to each employee in the agency. ~~Supervisors and employees shall attest to the accuracy of the records on a periodic basis, but not less than twice annually.~~ Employees shall report inaccuracies in their leave records to the appointing authority or his or her designee.

§ 143-1-15. Performance Evaluations.

The Director, after consultation with the appointing authorities, and with the approval of the Board, shall establish and make effective a system of performance evaluation designed to provide a valid evaluation of the quality and quantity of work performed by employees. Insofar as practicable, the system of performance evaluation in the classified service shall be standardized. The appointing authority shall prepare and record evaluations for all permanent employees at regular intervals not to exceed twelve (12) months. The appointing authority shall consider performance evaluations as well as other recorded indicators of performance in determining salary advancements and in making promotions, demotions, and dismissals. The appointing authority shall notify an employee of his or her performance evaluation in writing and shall retain copies of performance evaluations in the employee's personnel record.

§ 143-1-16. Political Activities.

16.1. Prohibition of Political Activities.

16.1.a. An appointing authority shall not appoint, promote, demote, or dismiss any person in the classified service or in any way favor or discriminate against any person with respect to such employment because of his or her political opinions or affiliations. Nothing in this subdivision shall be construed as precluding the dismissal of any employee who may be engaged in subversive activities or found disloyal to the nation.

16.1.b. No person shall seek or attempt to use any political endorsement in connection with any appointment in the classified service.

16.1.c. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any position, for the purpose of influencing the vote or political action of any person, or for any consideration.

16.1.d. No employee in the classified service or member of the Board or the Director shall, directly or indirectly, solicit or receive any assessment, subscription or contribution, or perform any service for any political party, committee or candidate for compensation, other than for expenses actually incurred, or in any manner take part in soliciting any assessment, subscription, contribution or service of any employee in the

classified service.

16.1.e. Notwithstanding any other provision of the W. Va. Code, no employee in the classified service shall:

16.1.e.1. Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

16.1.e.2. Directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or,

16.1.e.3. Be a candidate for any national or state paid public office or court of record; or hold any paid public office other than as a paid poll clerk or worker; or be a member of any national, state or local committee of a political party, or a financial agent or treasurer within the meaning of the provisions of W. Va. Code § 3-8-3, 4, or 5(e). Other types of partisan or nonpartisan political campaigning and management not inconsistent with the provisions of this subdivision and with the provisions of subdivision d~ of this subsection, are permitted.

16.1.f. Political participation pertaining to constitutional amendments, referendums, approval of municipal ordinances or activities, serving as a poll clerk or worker or being a candidate for or serving as a delegate to any state or national political party convention are not prohibited by the provisions of this subdivision.

16.1.g. Any classified employee who becomes a candidate for any paid public office as permitted by this subdivision shall request and receive a leave of absence without pay for the period of the candidacy, commencing upon the filing of the certificate of candidacy. If the employee withdraws his or her candidacy, he or she shall return from the leave of absence immediately upon such withdrawal. If the employee is not elected, he or she shall return from the leave of absence immediately after the official canvass of votes. At the expiration of the leave of absence without pay, the employee shall be returned to duty to either his or her former position or one of comparable pay and duties, without loss of rights, unless the position is no longer available due to a reduction-in-force. If elected, the employee shall resign or be dismissed from the position in the classified service to be effective no later than the date of assuming the elective office.

16.2. Application of the Hatch Act. -- Any classified or classified-exempt employee who, as a normal and foreseeable incident of his or her principle activity, performs duties in connection with programs financed wholly or in part by or whose salary is paid for completely by loans or grants made by the United States or a federal agency is subject to provisions of the Hatch Act for State and Local Government Employees restricting political activity, 5 USC 1501-8. Each appointing authority shall inform all classified and classified-exempt employees of these provisions and employees shall adhere to these provisions.

16.3. Additional Prohibition for Highways Employees. -- No person may be appointed or employed in any capacity by the Division of Highways who is a candidate or holds any public office or is a member of any political party committee. An employee of the Division of

Highways may not be a candidate for or hold any public office or be a member of any political party committee. An employee of the Division of Highways who becomes a candidate for or holds any public office or becomes a member of any political party committee shall resign or be dismissed from his or her position with the division immediately on the date of the filing of candidacy or the date of assuming the public office or the political party committee membership.

§ 143-1-17. Employment Conflicts.

17.1. Other Employment and Certain Volunteer Activity. -- No employee shall hold other public office, have conflicting employment, or participate in conflicting volunteer activity while in the classified service. Determination of the conflict shall be made jointly by the appointing authority and the Board, or may be specifically delegated by the Board to the appointing authority, who shall consider whether the other employment or volunteer activity: (1) will be in conflict with the interests of the agency; (2) will interfere with the performance of the employee's official duties; (3) will use or appear to use information obtained in connection with official duties which is not generally available to the public; or, (4) may reasonably be regarded as official action.

17.2. Nepotism. -- No appointing authority shall influence or attempt to influence the employment or working conditions of his or her immediate family. It is the responsibility of the appointing authority to administer the employment of relatives of any agency employee in a consistent and impartial manner.

No employee shall directly supervise a member of his or her immediate family. This prohibition includes reviewing, auditing or evaluating work or taking part in discussions or making recommendations concerning employment, assignment, compensation, discipline or related matters. In the event that an individual, through marriage, adoption, etc. is placed in a prohibited business relationship with a member of his or her immediate family, the situation shall be resolved within thirty (30) ~~calendar~~ days. Resolution may be made by transfer, reassignment, resignation, dismissal, etc. of one of the involved employees or by other accommodation which protects the interests of the public.

§ 143-1-18. Payroll ~~Certification~~.

~~18.1.~~ No state, county or municipal disbursing or auditing officer shall make, ~~or~~ approve or take any part in making or approving any payment for personal service to any person holding a position in the classified service unless the ~~payroll voucher or account of the pay bears the certification of the Director, or of his or her authorized agent, that the persons named in the voucher or account have~~ person has been appointed and employed in accordance with the provisions of this rule. An appointing authority may not modify the wages of a person in the classified service unless the Director has approved the modification in accordance with the provisions of this rule. The Director may for proper cause withhold certification from an entire payroll or from any specific item or items on the payroll. The Director may, however, provide that certification of payrolls may be made once every six (6) months, and the certification shall remain in effect except in the case of any officer or employee whose status has changed after the last certification of his or her payroll. In the latter case no voucher for payment of salary to the employee shall be issued or

payment of salary made without further certification by the Director.

~~18.2.~~ If the Director wrongfully withholds certification of the payroll voucher or account of any employee, the employee may maintain a proceeding in the courts to compel the Director to certify the payroll voucher or account.

§ 143-1-19. Records and Reports.

19.1. Agency and Division of Personnel Records. -- Each agency shall establish and maintain a personnel record for each employee, showing the employee's name, title, organizational unit, salary, changes in status, performance evaluations, and such other personnel information as may be considered pertinent. The Division of Personnel is not the custodian of records for agency employee personnel files. The Director shall maintain applications for examination for at least one (1) year after the date of the application. All personnel records shall be open to the inspection of the Board but shall otherwise be held confidential by each agency and the Director in accordance with ~~section~~ Section 21. of this rule. A complete and accurate copy of the employee's personnel file shall be provided by the previous employer upon inter-departmental transfer or other appointment of the employee by another agency.

19.2. Legislature Access. -- Neither this section nor any other provision of this rule shall interfere with the right of the Legislature, its committees, administrative units and staff to have access to agency personnel records under the common law, or pursuant to the provisions of W. Va. Code § § 4-2-5, 4-3-4, 4-5-3, 4-10-5, or any other statutory provision giving a legislative agency or subunit access to records of a state or classified agency. The Legislature, its committees, administrative units and staff having access to these records shall maintain the confidentiality of the records, to the extent reasonably possible.

§ 143-1-20. Confidentiality.

The business of the Division of Personnel shall be conducted in such a manner as to ensure the privacy rights of all applicants and employees, in accordance with W. Va. Code § 29B-1-1 et seq., the State Freedom of Information Act and § 5A-8-1et seq., the Public Records Management and Preservation Act. Examination scoring keys, applicant and employee residential addresses and phone numbers, applicant and employee medical information, and other information which the Director may deem confidential shall be maintained under strictest confidentiality and released only upon proper written authorization of the applicant or employee or by order of a court of competent jurisdiction.

§ 143-1-21. Duties of ~~State~~ Officers; Legal Proceedings to Secure Compliance; Penalties.

21.1. Duties of ~~State~~ Officers. -- Pursuant to W. Va. Code § 29-6-12, all affiliated agencies' officers and employees ~~of the state~~ shall comply with and aid in all proper ways in carrying out the provisions of W. Va. Code § 29-6-1 et seq., and the rules and orders promulgated thereunder. All officers and employees shall furnish any records or information which the Director or the Board may request for any purpose of W. Va. Code § 29-6-1 et seq. All officers and employees shall comply with all rules, policies and orders of the

Director or the Board and shall not increase nor diminish any benefits afforded any classified employee by the rules or orders. All officers and employees shall furnish any proposed agreement and any records or information which the Director or Board may require in regard to any proposed agreement between an agency and an individual who is a current or former employee regarding the terms and/or conditions of the individual's employment with the agency. Any such agreement must be certified by the Director as being in compliance with W. Va. Code § 29-6-1 et seq. or with an order of a court of competent jurisdiction before it can be effective.

21.2. Legal Proceedings to Secure Compliance. -- Pursuant to W. Va. Code § 29-6-12, the Director may institute and maintain any action or proceeding at law or in equity which he or she considers necessary or appropriate to secure compliance with W. Va. Code § 29-6-1 et seq., and the rules and orders promulgated under the code.

21.3. Penalties.

21.3.a. Any person who willfully violates any provision of W. Va. Code~~,~~ § 29-6-1 et seq. or of this rule is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail for a period not to exceed one (1) year, or both fined and imprisoned. Jurisdiction under this subdivision shall be in a court of record exercising criminal jurisdiction within the county where the offense is committed.

21.3.b. Any person who is convicted of a misdemeanor under W. Va. Code § 29-6-1 et seq. is, for a period of five (5) years, ineligible for appointment to or employment in a position in the classified or classified-exempt service, and if he or she is an officer or employee of the state or a classified agency, shall forfeit his or her present office or position.

§ 143-1-22. Grievance Procedure.

An employee hired for permanent employment may file a grievance with the ~~Education and State~~ Public Employees Grievance Board as provided for in W.Va. Code~~,~~ § 6C-2-1 et seq.

§ 143-1-23. Training and Development.

23.1. Agency Responsibilities. -- Each agency is responsible for providing functional training to employees of the agency based upon the agency's needs and resources and the ~~employee's~~ employees' needs and capabilities. Selection of employees for training and development shall ensure equal opportunity and shall not discriminate on the basis of race, sex, age, religion, national origin, political affiliation, disability or for other reason(s) explicitly prohibited by federal and/or State law.

23.2. Division of Personnel Responsibilities. -- The Director shall:

23.2.a. Make available to the agencies technical assistance in the areas of performance improvement, organization and human resource development, needs assessment, determination of appropriate development strategies, course design, training

techniques, and training evaluation ~~and coordination of training among the agencies~~.

23.2.b. Provide training courses for supervisors and managers on specific aspects of personnel administration under Division of Personnel law and this rule, and shall designate employees by class, or by duties, who must attend each type of course.

23.2.c. Make available to the agencies training and development opportunities that are broadly applicable to many classes in all agencies. Employee selection for the training and development opportunities shall be consistent with established agency and Division of Personnel nomination procedures.

§ 143-1-24. Employee Representative Organization Bulletin Boards.

A bulletin board of a limited size shall be provided for posting notices of employee representative organizations. The bulletin boards shall be placed in convenient and generally accessible locations in all workplaces where the members of the organizations are employed. Provisions shall be made for separate bulletin boards for each employee representative organization. The cost of the bulletin boards shall be assumed by the requesting employee or the employee's representative organization. The boards shall be used exclusively by the employee representative organization and for organization purposes only.

§ 143-1-25. Authority of the Board.

The ~~State Personnel~~ Board is authorized to interpret the application of this rule to any public body or entity and to establish by formal action programs and projects for a maximum of one (1) year outside of the provisions of this rule, including, but not limited to, programs or projects designed to respond to public disaster or emergency.

§ 143-1-26. Amendments.

If and when it appears desirable in the interests of good administration, the ~~State Personnel~~ Board, after public notice and public hearing and legislative approval, may amend the rules as it becomes necessary.

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms Victoria Allender
106 Harmony Drive
Moundsville, WV 26041

Dear Ms Allender:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 11, 2015

Joe Thomas, Assistant Director
WV Division of Personnel
1900 Kanawha Blvd, East
Charleston, WV 25305

Dear Mr. Thomas:

I am submitting my public comment regarding Title 143 – Legislative Rules of the West Virginia Division of Personnel. The proposed changes would have a negative impact on my ability to advance through the merit system as it is established today. I could not transfer to agencies other than local health departments. In order to become employed by a state agency, I would first need to terminate my position with the Marshall County Health Department, apply to be placed on the civil service register, and if hired start my employment under a "different" civil service system. The proposed changes would not allow me to transfer my tenure or my annual and sick leave. Basically, I would be starting over again.

I also understand that if I would be laid off from my current employer, I would no longer be eligible to be placed on the hiring preference list. I do not understand the reason for such discriminatory changes. I was hired under the current system with the expectation that the same rules that apply to other classified members would benefit me as well. Why then am I being treated like a second-class citizen? I have gone through the required testing/application process and was found to be qualified to hold my position. What has changed that should now limit me to employment by health departments only.

I ask that further consideration be given to the proposed changes (11.6, 12.4, 14.3 and 14.4) and I be afforded the opportunity to advance my career in the merit system I was hire into.

Sincerely,

Victoria L Allender

Cc: Senator Jeff Kessler
Senator Ken Leonhardt
Delegate Mike Ferro
Delegate Dave Evans

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Roger Ammons
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. Ammons:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

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www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment …"

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may…establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

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MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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MINERAL COUNTY HEALTH DEPARTMENT

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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. John Bailes, OD
Beckley-Raleigh County Health Department
1602 Harper Road
Beckley, WV 25801

Dear Mr. Bailes, OD:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

1602 HARPER ROAD

BECKLEY-RALEIGH CO. BRCHD HEALTH DEPARTMENT

BECKLEY, WV 25801

FAX Cover Sheet

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JUN 30 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Phone: (304) 252-8531

Fax: (304) 252-0466

Date: 6-30-15 Number of Pages: 2

To: Joe Thomas From: BRCBoH

Fax Number: _____

Comments: _____

_____

_____

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1602 HARPER ROAD
BECKLEY, WEST VIRGINIA 25801

E-MAIL: raleighhd@wv.gov
Web: beckleyraleighhealthdept.org

BECKLEY-RALEIGH CO. HEALTH DEPARTMENT

Public Health (304) 252-[illegible]1
Environmental Health (304) [illegible]-8532
Clinical (304) 256-732[illegible]
FAX (304) 252-0466

June 29, 2015

Division of Personnel
Employee Relations Section
1900 Kanawha Boulevard, East
Building 6, Room 416
Charleston, WV 25305

RE: PUBLIC COMMENTS
Regarding the Division of Personnel (DOP) Legislative Rule- 143CSR1
Beckley-Raleigh County Board of Health

Division of Personnel;

The Beckley-Raleigh County Board of Health would like to go on record to oppose the changes to the DOP's legislative rule, Administrative Rule of the WV Division of Personnel, 143 CSR1. The Beckley-Raleigh County Health Department has signed a Service Level Agreement with the WV Division of Personnel that defines the services and responsibilities of the DOP with the participation of the Beckley-Raleigh County Board of Health in the West Virginia classified service. The Service Level Agreement makes available the guidance, benefits and support of the WV Division of Personnel in exchange for regular payment by the Beckley-Raleigh County Board of Health.

The proposed changes to the rule would limit the benefits and protection for local health department employees and other county and municipal employees under the classified service system. The proposed changes serve only to penalize county and municipal employees. In the past local health department employees have transferred to the state and state employees have transferred to local health department without loss of seniority, sick and annual leave. The proposed changes would lead to limited experience local employees seeking employment with the state leading to a greatly decreased hiring pool.

Once again we implore the WV Division of Personnel to reconsider the proposed changes to the DOP's legislative rule, Administrative Rule of the WV Division of Personnel, 143 CSR10. This letter has been reviewed, adopted and supported by the members of the Beckley-Raleigh County Board of Health at the June 29, 2015 board of health meeting.

Sincerely,

John Bailes, O.D.

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Marsha Bailes, RN,DON
Nicholas County Health Department
1 Stevens Rd
Summersville, WV 26651

Dear Ms. Bailes, RN,DON:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Thomas, Joe F

From: Bailes, Marsha L
Sent: Wednesday, June 24, 2015 1:43 PM
To: Thomas, Joe F
Subject: DOP CHANGES

This email is concerning the proposed DOP changes. After reading them a couple of times(thought I had to be misunderstanding them) the only comment I have is WOW! You should never say things can't get any worse because they can!

Please reconsider.
Thank you,
Marsha

Marsha Bailes, RN, DON
Nicholas County Health Department
1 Stevens Rd
Summersville, WV 26651
1-304-872-5329

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Karen Barrick
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Karen Barrick:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/jft

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

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www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment …"

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may…establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

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MINERAL COUNTY HEALTH DEPARTMENT

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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mrs. Beverly Bazzie
PO Box 252
Bradley, WV 25818-0252

Dear Mrs. Bazzie:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

6/05/15

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JUN 18 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd. East Bldg. 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas:

I am writing this letter concerning Title 143, Legislative Rule, section 11.6a on page 38 of the Administrative Rule. I am deeply troubled by this proposed change to the WVDOP Administrative rule. This will affect all local health department employees. It upsets me to think that they are singled out and not allowed to be considered as part of the system.

I would think that all local health departments, who are currently under the WVDOP, should be allowed the same options as other state employees. It seems unfair to single them out and not allow local health department employees to be able to transfer from a position at a local health department into a state position without losing all their seniority, sick and annual leave.

I would hope that these proposed changes will be addressed as not to show such inequality towards local health department employees.

Respectfully,

Beverly Bazzie

Beverly Bazzie
Box 252
Bradley, WV 25818
(304) 877-3005

CC:
Governor Earl Ray Tomblin
Senator Jeff Mullins
Honorable John O'Neal, IV
Honorable Rick Moye
Honorable Lynne Arvon
Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mrs. Karen Bazzie
Box 217
Piney View, WV 25906

Dear Mrs. Bazzie:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

5/29/15

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JUN 05 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd. East Bldg. 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas:

I am writing this letter concerning Title 143, Legislative Rule, section 11.6a on page 38 of the Administrative Rule. I am deeply troubled by this proposed change to the WVDOP Administrative rule. This will affect all local health department employees. I have been an employee at the health department for 20 years and during that time we have followed all WVDOP policies and procedures as well as paying the fees. It saddens my heart to think that all of a sudden we are singled out and not thought of enough to be considered as part of the system.

I would think that all local health departments, who are currently under the WVDOP, should be afforded the same options as other state employees. It seems discriminatory to single us out and not allow us to be able to transfer from a position at a local health department into a state position without losing our seniority and our sick and annual leave.

There are meetings being held in which the state has suggested making local health employees to state employees. If it is passed, all local health employees would be affected and we would be considered a new employee with the state.

I would hope that these proposed changes will be addressed as not to show such inequality towards local health departments.

Respectfully,

Karen Bazzie

Karen Bazzie
Box 217
Piney View, WV 25906
(304) 575-0790

CC:
Governor Earl Ray Tomblin
Senator Jeff Mullins
Honorable John O'Neal, IV
Honorable Rick Moye
Honorable Lynne Arvon
Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Summer D. Beck, LPN
Lincoln County Health Department
Building 6 Room 420
1900 Kanawha Blvd. E
Charleston, WV 25305-0139

Dear Ms. Beck, LPN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Public Health
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Lincoln County Health Department

P.O. Box 527
8008 Court Avenue
Hamlin, WV 25523
(304) 824-3330 office
(304) 824-3334 fax
www.lincolnhealthwv.com

RECEIVED

JUN 29 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

To Whom It May Concern,

I wanted to take some time and fully explain our high level concern and disagreement regarding proposed changes to Title 143 Legislative Rule of WV Division of Personnel. I appreciate you taking the time to review and consider the following concerns before moving forward.

The significant changes proposed in this Legislative Rule of the WV Division of Personnel will change various rules and guidelines for county and municipal agencies who participate in the merit system. We believe that these proposed changes actually discriminate against Local Health Department employees. We also feel as though these proposed changes will have just as much of a negative effect on state agencies who often find talented and qualified job candidates from local health departments. I would like to identify some specific examples which are outlined below.

11.6 Transfers: 11.6 a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This would limit qualified Health Department Employees to accept a better position in the merit system while hurting state agencies and taking away their ability to recruit these qualified employees to better their departments. State agencies have historically recruited and utilized the talents of Local Health Department employees. Either way, this proposal has a negative effect on growth and advancement. Local employees were hired into the classified system with the same opportunities to advance as their state counterparts.

12.4 Layoff: 12.4.j. "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change were to go into effect, employees from a Local Health Department, who were laid off, would not be placed on a preference list for employment with a state agency. Again, this negates any opportunity to utilize Local Employees in this situation for their experience, talent and skills for vacant positions. From another point of view, there is also nothing that states Local Health Departments would not have to give preference to state employees who were laid off.
14.3 Annual Leave: 14.3g. "Classified employees of county or municipal agencies may only transfer service credit and accrued unused annual leave to an agency within their local level of government". Even if an employee of a county Health Department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their accrued and earned annual leave or tenure to the state agency. Again, this has a big effect on State Agencies as they try and recruit the most qualified and seasoned candidates to fill open positions.

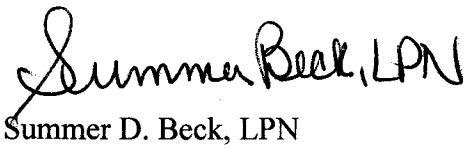
14.4 Sick Leave: 14.4.i. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, this would take away a Local Health Department Employee's earned and accrued sick time if they chose to better themselves by taking a state agency job that they desired. Once again, this would have a negative effect on State Agencies as they try and recruit qualified candidates and many come from Local Health.

The amended preamble to the Administrative Rule of the West Virginia Division of Personnel (143CSR1) reflects the determination to promote and appoint on merit and fitness and no person should be discriminated against with respect to state classified employment. The new proposed language goes against this process and concept as qualified and covered classified Local Health Department Employees would be discriminated against.
I believe that the state would gain financially while local employees would suffer as employees who would want to accept a state position would lose earned and accrued time, while the state could write off an uncalculated amount from state books.

The employees' ability to transfer or accept a position with a state agency benefits both the employee and the state. Both can grow professionally and should be able to grow together. The proposed changes regarding local employee transfers, layoffs, and reinstatements discriminates against local employees and changes the dynamic between employees and employers.

It is my hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully,



Summer D. Beck, LPN
Public Health Nurse
Lincoln County Health Department
(304) 824-3330

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Brian C. Bell, MS
100 Munson Dr
Beckley, WV 25801

Dear Mr. Bell, MS:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 01 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

5/28/15

Brian C. Bell, MS
100 Munson Dr.
Beckley, W.V. 25801

Dear West Virginia Division of Personnel,

I'm writing this letter to express my concern over recently proposed changes to the WVDOP Administrative Rule, in particular, section 11.6a, on pg. 38. In my humble opinion, the county / local employees across West Virginia should be afforded the same benefits as WV state employees who pay the same WV DOP fees. I have been paying these fees, was hired under and have been following the same WVDOP policies as all WV state employees throughout the duration of my 5 year tenure with the Beckley-Raleigh County Health Department.

Furthermore, county / local employees across West Virginia, who currently are under the WVDOP, should be afforded the same options to transfer into open employment positions within the state of West Virginia. They should also be able to transfer and carry their current accumulated annual and sick leave hours and tenure credit into any position that they qualify and are selected for, under the WVDOP.

These proposed changes not only penalize county and local employees across the state of West Virginia, but, they appear to be blatant discrimination against them as well.

Respectfully,

B. C. Bell

Brian C. Bell, MS

cc:
Governor Earl Ray Tomblin
Senator Jeff Mullins
Honorable John O'Neal, IV
Honorable Rick Moye
Honorable Lynne Arvon
Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Charles Bess, MD
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. Bess, MD:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov
www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

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www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
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Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Gail Bickford, LPN
Beckley-Raleigh County Health Department
118 Front Ct.
Naoma, WV 25140

Dear Ms. Bickford, LPN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 03 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd. East Bldg.. 6, room 416

Dear Mr. Thomas:

I am an employee of a local county health department and been made aware of the recent Title 143, Legislative Rule of WV Division of Personnel , and have become very concerned over one section of that rule.

I understand that ours as well as all local health departments sign an agreement that they would abide by The Division of Personnel's rules and the pay for DOP's services. As we pay these fees and by participating in the DOP's policies and procedures I would think that we would be considered a member of the DOP system. However, according to Section 11.6a it considers county/local employees as a different agency than the state department.
According to this section local health employees are allowed to transfer to another position within another local agency and not to a state position. In order to transfer to a state position an individual would have to resign BUT from the local agency and then start at the beginning, salary and benefit rate. They would in turn then lose all the leave and sick time that they have accrued . Since we are a part of the DOP system I do not feel that is fair at all to the local agencies that participate in the DOP system.
Please , take into consideration how this would effect a great number of employees who have many years of service, and revise this section and allow local health staff to transfer to available state positions.

I feel that this is even more critical now that some people at the state level are suggesting that all local health department employees should become state employees. These proposed changes not only penalize county and local employees, it appears to be an obvious and blatant discrimination against them as well. Employees should be able to transfer and carry their current accumulated annual and sick leave hours and tenure credit into a position that they qualify for under the WVDOP .

Thank you for your consideration concerning this matter.

Very Sincerely Yours,

Gail Bickford LPN

Gail Bickford, LPN
Beckley- Raleigh County Health Dept.

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Stephanie M. Bittinger
Marion County Health Department
300 Second Street
Fairmont, WV 26554

Dear Ms. Bittinger:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd E
Building 6 Room 416
Charleston WV 25305-0139

Dear Mr. Thomas,

I am writing with regard to the proposed DOP rule that is currently open for public comment. As I read the proposed rule, I believe it unfairly removes many of the benefits that local health department employees are currently entitled to. The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. The proposed changed may discriminate against local health department employees and changes the dynamic between employer and employee.

I am in disagreement with the following changes:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested,

placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

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Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. This will greatly effect the recruitment, retention and advancement of employees based on their knowledge, abilities, and skill, which improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

Therefore, I respectfully ask that the proposed changes to the rule that involves employees of local health departments and the restriction that it places on them be removed.

Sincerely,

Stephanie N Bittinger

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Michael Bland
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. Bland:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

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MINERAL COUNTY HEALTH DEPARTMENT

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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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MINERAL COUNTY HEALTH DEPARTMENT

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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
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Karen Barrick, OAII	(Signature)	6/23/15 (Date)
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MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Heidi Bosley
Hardy County Health Department
411 Spring Ave, Suite 101
Moorefield, WV 26836

Dear Ms. Bosley:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

HARDY COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

State Personnel Board
West Virginia Division of Personnel
Building 6, Room 416
1900 Kanawha Boulevard, East
Charleston, WV 25305

June 17, 2015

Re: Public Comment on Proposed DOP Administrative Rule Change

Local Health Department Employees have been a part of the DOP system for many years. Those of us who make Public Health a career understand we will not become wealthy in this profession. Very often the benefits package is what draws and keeps us in what, very often, is a thankless job.

We are loyal, dedicated professionals and the proposed rule change is decidedly unfair to those who have dedicated large parts of their life to Public Health. Any benefit that was in place at the time of our employment should be honored until we retire.

We realize businesses must make changes to remain efficient. However, Health Departments have paid a substantial amount of money over the years to be protected by DOP policy. Losing seniority, leave days, our place on the Register and the ability to transfer into other state jobs feels like punishment at best.

We have ***earned*** the privileges you would like to take from us.

Sincerely,

William Ours, Administrat, Sanitar
Heidi Bosley, Sanitarian II
Helen Mathias, OA II
Tammy C... OA II
Shawna Long RN
Susan Mayse RN
Donna Mongold OA II

Address: 411 Spring Ave, Suite 101, Moorefield, WV 26836
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www.hardycountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Rodney J. Boyce, Administrator
Nicholas County Health Department
One Stevens Road, Suite 201
Summersville, WV 26651

Dear Mr. Boyce, Administrator:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Nicholas County Health Department

One Stevens Road, Suite 201
Summersville, WV 26651
Telephone: (304) 872-5329
Fax: (304) 872-5313
www.nicholashealthwv.com

June 24, 2015

West Virginia Division of Personnel
Employee Relations Division
Attn: Mr. Joe Thomas
1900 Kanawha Boulevard, East
Building 6, Room 416
Charleston, WV 25305

Mr. Thomas:

It is imperative that when establishing statute and rule to maintain equity for all affected parties; otherwise, discrimination may result. Some of the proposed sections of the amended 143 C.S.R. 1 Administrative Rule of the West Virginia Division of Personnel establish such inequity against Division of Personnel merit system participating local and municipal agencies.

Section 11.6.a. proposes to limit the transfer of local and municipal employees solely to agencies in equivalent levels of local government, prohibiting the transfer of local and municipal employees to a Division of Personnel regulated state agency. This pattern is maintained in Section 12.4.j. with regard to preference hiring, Section 12.6.a. with regard to reinstatement, Section 14.3.g.1. with regard to transfer of annual leave, and Section 14.4.i.1. with regard to transfer of sick leave. These proposals establish a second tier of merit within the personnel system, separate and unique from state employment.

Employees of participating local and municipal agencies are appointed to the merit system through the same job posting, application, testing, interview and hiring processes as state employees. Local and municipal employees are classified and compensated within the same structure as state employees. Throughout the tenure of a local or municipal employee, the personnel system participating local or municipal employer adheres to the same personnel policies and procedures as state employees.

Limiting local and municipal employees as proposed implies that despite meeting and participating in the same criteria as state employees, local and municipal employees are of lesser merit or status which prevents the full exercise of rights and privileges afforded to state participants within the personnel system. Doing so devalues the public service of local and municipal employees, limits career advancement, damages local and municipal public agencies and threatens to the personal property rights of local and municipal employees through the potential loss of tenure and accrued sick leave.

In order to create the desired equity throughout the system, two avenues exist: (1) remove the amendments to the previously mentioned sections in order to allow for free, unhindered movement of local and municipal employees across the merit system, or (2) establish a true second tier of employee through the creation of a separate and unique classification, compensation, testing, interview, appointment and personnel policy structure for local and municipal employees. If these provisions are retained, additional language should be inserted to "grandfather" existing participating local and municipal employees, and apply the standards to new hires only.

Sincerely,

Rodney J. Boyce, Administrator
Nicholas County Health Department

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Angela B. Brown
Clay County Health Department
178 Morgan Carr Rd
Wallback, WV 25285

Dear Ms. Brown:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 01 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

May 29, 2015

WV Division of Personnel
1900 Kanawha Blvd
East Building 6, Room 416
Charleston WV 25305

Dear Joe Thomas,

This letter is to address proposed amendments to the West Virginia Division of Personnel *Administrative Rule* (143CSR1) have been filed with the Secretary of State and Legislative Rule-Making Committee regarding Local Health Departments. I oppose all the changes that affect Local Health Department employees.

The changes would be detrimental to loyal employees with several years of services regarding sick leave accrual for retirement purposes. I do not understand why these changes are needed at this time. An email request explaining the need was sent to DOP Director, Sara Walker on May 28, 2015 without any response. The timing of these changes, especially regarding layoff, is suspect to the proposed changes that have been suggested (regional health departments instead of local/county) through the Task Force for Public Health. Why is it needed that DOP classified individuals that salaries have been approved and validated by DOP standards not be allowed to transfer that salary to another agency of the same system? Why would these employees, who are qualified and trained through DOP for positions not have a layoff call back preference? These seem like costly changes to the State. The hiring agency is going to use resources to advertise, hire and train a new employee when they have a roster of qualified trained applicants. WV State government is struggling financial, so why compound the problem?

I hope that these comments will be forwarded to Secretary of State, Natalie Tenant and the Legislative Rule-Making Committee for consideration. I also hope these individuals, including Roger Hanshaw, who is in my voting district will take into consideration the consequences of these changes and that we, local health department employees, will consider their decision when casting our next vote during the 2016 election.

Best Regards,

Angela B Brown

Angela B. Brown, Voting Citizen
Employee of the Clay County Health Department

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Carla T. Bulson, OA1
Mercer County Health Department
1017 Shenandoah Avenue
Bluefield, WV 24701

Dear Ms. Bulson, OA1:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

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JUN 29 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 23, 2015

Dear Sir:

While I have been employed by the local health department almost seven (7) years, all but two (2) of my fellow employees have many, many years of service and dedication to serving Mercer County in the capacity as public and/or civil servants.

I cannot begin to imagine what many of the residents of Mercer, or any other county for that matter, would do without the existence of the local health department.

My experience as an environmental/public health clerk has given me a wealth of knowledge on the poor shape our county would be in if our sanitarians were not available for inspections or if our nurses were not available to speak with clients re: treatment of communicable diseases. These are just to name two....there are many other capacities filled by these sanitarians and nurses, as well as all other staff, that are just too numerous to mention. It comes down to the fact that there would be disease and unhealthy sanitary conditions everywhere.

Second, we are informed that in the WVDOP Administrative Rule Revision, if we see we will be losing our position on the local health level and apply for a 'state' job, we have to start all over and LOSE ALL BENEFITS we have acquired. How fair is that? And I'm not just speaking for myself, but even more for my fellow employees who have so many years invested in their careers.

It is my plea with you that if you agree that this is a great injustice toward our county, as well as the local health department staff, will you please speak to the WVDOP on behalf of our local health department?!

Sincerely,

Carla T. Bulson, OA1
Mercer County Health Department

CC: Governor Earl Ray Tomblin
Senator William Cole
Senator Mark Maynard
Representative Joe Ellington
Representative Marty Gearheart
Representative John Shott

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Chad Bundy
West Virginia Association
of Local Health Departments
330 W Main St.
Clarksburg, WV 263011

Dear Mr. Bundy:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja



West Virginia Association
of Local Health Departments

RECEIVED
DIRECTORS OFFICE
JUL - 1 2015
WEST VIRGINIA
DIVISION OF PERSONNEL

June 22, 2015

Sara Walker, Director
Department of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston WV 25305-0139

Dear Director Walker,

This letter is sent on behalf of the West Virginia Association of Local Health Departments (WVALHD) and the 49 delegates who represent 100% of local health departments in all 55 counties in the state. We are writing with regard to the proposed DOP rule that are currently open for public comment. The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. The WVALHD is of the opinion that some of these changes, in fact, discriminate against local health department employees.

The West Virginia Association of Local Health Departments wishes to specifically state our disagreement with the following changes.

11.6 - Transfers

11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff

12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for

employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

In addition, in the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

West Virginia Association
of Local Health Departments

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written of state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Sincerely,

Joseph C. Bundy

Chad Bundy, President
West Virginia Association of Local Health Departments
c/o Harrison-Clarksburg Health Department
330 W Main St.
Clarksburg, WV 263011
Telephone: (304) 623-9308

cc: Bill Kearns, Vice President, WVALHD

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Renae Burnham, OA-III
Lincoln County Health Department
Building 6 Room 420
1900 Kanawha Blvd. E
Charleston, WV 25305-0139

Dear Ms. Burnham, OA-III:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Public Health
Prevent. Promote. Protect.
Lincoln County Health Department

P.O. Box 527
8008 Court Avenue
Hamlin, WV 25523
(304) 824-3330 office
(304) 824-3334 fax
www.lincolnhealthwv.com

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JUN 29 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

To Whom It May Concern,

I wanted to take some time and fully explain our high level concern and disagreement regarding proposed changes to Title 143 Legislative Rule of WV Division of Personnel. I appreciate you taking the time to review and consider the following concerns before moving forward.

The significant changes proposed in this Legislative Rule of the WV Division of Personnel will change various rules and guidelines for county and municipal agencies who participate in the merit system. We believe that these proposed changes actually discriminate against Local Health Department employees. We also feel as though these proposed changes will have just as much of a negative effect on state agencies who often find talented and qualified job candidates from local health departments. I would like to identify some specific examples which are outlined below.

11.6 Transfers: 11.6 a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This would limit qualified Health Department Employees to accept a better position in the merit system while hurting state agencies and taking away their ability to recruit these qualified employees to better their departments. State agencies have historically recruited and utilized the talents of Local Health Department employees. Either way, this proposal has a negative effect on growth and advancement. Local employees were hired into the classified system with the same opportunities to advance as their state counterparts.

12.4 Layoff: 12.4.j. "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change were to go into effect, employees from a Local Health Department, who were laid off, would not be placed on a preference list for employment with a state agency. Again, this negates any opportunity to utilize Local Employees in this situation for their experience, talent and skills for vacant positions. From another point of view, there is also nothing that states Local Health Departments would not have to give preference to state employees who were laid off.
14.3 Annual Leave: 14.3g. "Classified employees of county or municipal agencies may only transfer service credit and accrued unused annual leave to an agency within their local level of government". Even if an employee of a county Health Department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their accrued and earned annual leave or tenure to the state agency. Again, this has a big effect on State Agencies as they try and recruit the most qualified and seasoned candidates to fill open positions.

14.4 Sick Leave: 14.4.i. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, this would take away a Local Health Department Employee's earned and accrued sick time if they chose to better themselves by taking a state agency job that they desired. Once again, this would have a negative effect on State Agencies as they try and recruit qualified candidates and many come from Local Health.

The amended preamble to the Administrative Rule of the West Virginia Division of Personnel (143CSR1) reflects the determination to promote and appoint on merit and fitness and no person should be discriminated against with respect to state classified employment. The new proposed language goes against this process and concept as qualified and covered classified Local Health Department Employees would be discriminated against.
I believe that the state would gain financially while local employees would suffer as employees who would want to accept a state position would lose earned and accrued time, while the state could write off an uncalculated amount from state books.

The employees' ability to transfer or accept a position with a state agency benefits both the employee and the state. Both can grow professionally and should be able to grow together. The proposed changes regarding local employee transfers, layoffs, and reinstatements discriminates against local employees and changes the dynamic between employees and employers.

It is my hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully,

Renae Burnham

Renae Burnham, OA-III
Office Manager
Lincoln County Health Department
(304) 824-3330

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Judy Burnside
122 Sanford St.
Oak Hill, WV 25901

Dear Ms. Burnside:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

for Sara P. Walker
West Virginia Division of Personnel

SW/ja

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JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 10, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd. East Bldg. 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas:

I would like to comment on the Administrative Rule Title 143, section 11.6.a proposed changes on the subject of Transfers. In the proposed change, local health department employees will not be allowed to transfer to state agencies, only to agencies within their local level of government. If they do accept state employment, they would have to resign from their local agency and lose their accrued annual leave and sick leave and be required to take tests and be put on hiring lists. We would have to start as a new employee and begin at the minimum salary with no accrued annual or sick leave. If there is a layoff, local employees will not be on a preference list for state openings or eligible for reinstatement.

Our local health department has always participated in the WV Division of Personnel system and followed their rules and policies. We pay the annual fee of $180 per employee annually so that we can belong to the Division of Personnel's classified system. Having been an accountant/auditor for 11 years for the Beckley-Raleigh Co. Health Department, I think we are being unjustly singled out and losing a lot of our benefits which we earned through the system to which we belong.

The WV Public Health Impact Task Force is currently meeting to discuss changes to change local health employees to state employees. This would make us new employees with the state, which would take away the benefits that many of us have worked many years to earn.

I hope that you would consider the negative impact that these changes would have on every local health department employee in WV and not let this pass.

Sincerely,

Judy Burnside

Judy Burnside, Accountant/Auditor 2
122 Sanford St.
Oak Hill, WV 25901
(304) 640-3404

Cc:
Governor Earl Ray Tomblin
Senator Jeff Mullins
Honorable John O'Neal, IV
Honorable Rick Moye
Honorable Lynne Arvon
Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Ashley Butler
Greenbrier County Health Department
9207 Seneca Trail South
Ronceverte, WV 24970

Dear Ms. Butler:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

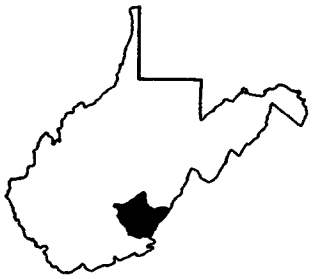
The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja



GREENBRIER COUNTY HEALTH DEPARTMENT

9207 SENECA TRAIL SOUTH
RONCEVERTE, WEST VIRGINIA 24970
Public Health Nursing 304-645-1787
Environmental Health 304-645-1539

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JUN 29 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

West Virginia Division of Personnel
Attn: Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

To Whom It May Concern:

I am deeply concerned about many of the proposed changes to the West Virginia Division of Personnel Administrative Rule (143CSR1). Many of the changes are detrimental, unfair, and discriminatory, particularly to local health employees, and should not be allowed.

First of all, local health employees are hired off a state register. They take the same exams as those that would be employed by the state and are placed on the same register. Names are removed from the state register when they accept employment, whether it is for state or non-state employment. Once the name is removed and individuals enter the system, they can then directly apply, also known as transferring, for other positions that they may qualify for. The changes in 11.6 regarding transfers would eliminate a local employee's ability to directly apply or transfer to a state position. This is unfair to employees who have dedicated their careers to public service because they would have difficulty advancing to state positions. Also, this is unfair to the state as they would have difficulty recruiting and hiring qualified and trained local employees because those employees would lose all their tenure and accrued annual and sick leave as would be amended in 14.3.g.1 regarding transfer of annual leave and 14.4.i.1 regarding transfer of sick leave. Furthermore, the loss of tenure and annual leave and sick leave would likely result in the loss of or reduction of insurance and retirement benefits, also known as post-employment benefits, when employees retire. For example, a local health employee is hired to be a Sanitarian. That employee must be sent to an 8 week training program at the expense of the agency. Once the 8 week training program is completed, that employee must pass an exam and work in an "in-training" status for 2 years. This is a very lengthy and costly process that results in competent, skilled Sanitarians. Please keep in mind that there isn't a private sector for this position so it is extremely rare to hire an employee that doesn't have to go through this process. Under the proposed amendments, that employee could work at the local level and even transfer to other local health departments without much consequence, however, that employee could not move to a district or state position without making a huge sacrifice of his/her accrued tenure, annual and sick leave, and insurance and retirement benefits. The state is used to hiring already trained Sanitarians to fill their district and state positions but the proposed amendments would prohibit their ability to do so. The resulting cost to the state would be huge.

Secondly, a task force has been created and there is currently a movement to redefine public health and potentially restructure local health departments. One outcome possibility is making health departments state run organizations which in turn would make the employees state not local. If this occurs, local health departments would be highly discriminated by the proposed amendments because, as clearly demonstrated in the above paragraph, no local health employee would be able to transfer to the new state positions or keep any tenure or annual and sick leave. Without transferability, layoffs would then have to occur. To make matters worse, if the proposed amendments are passed, 12.4.j. regarding layoff and preference hiring would eliminate a local health employee from having any sort of preference, regardless of experience, for those new state positions because they would only be allowed preference for vacancies at the local level. Essentially, they would have to start from scratch and compete for a position in which they would have to start their career over for doing the same job. This would also cost the state significantly in having to place these individuals on registers once again and in having to endure more a lengthy hiring process that is reduced with the utilization of transfers and reinstatements of laid off workers. While this is currently a what-if situation, restructuring like this has happened in the past and will likely happen again in the future, whether it be local health departments or another local type agency.

Thirdly, the proposed amended preamble to the rule states "The general purpose of the Division of Personnel is to attract, develop, and retain to the service of this State personnel of the highest ability and integrity..." The proposed amendments make it very difficult to attract and develop new staff on the local level as their ability for advancement would be very limited. It also makes it very difficult to retain staff on the local level as employees must move on to state jobs quickly if the opportunity arises as to not risk losing tenure, leave, and post-employment benefits. On the flip side, it makes it difficult to attract and develop new staff on the state level as recruitment of local employees would be very difficult because most local employees cannot afford to pay the price for this change in employment from local to state. These are all very contradictory to the first statement of the preamble. The proposed amended preamble goes on the state "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment..." Throughout the rule, there is proposed substantial new language which categorically discriminates against already covered classified local employees by creating a new class of individuals within the classified system and penalizing them. Those individuals remaining in the original class are not subject to extreme change. In fact, it appears they could continue as they currently are allowed and transfer to the local level with no penalties as there is no mention of them losing tenure, leave, or post-employment benefits. There are multiple examples of "classified employees of county or municipal agencies may only transfer to an agency within their local level of government", "classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual [and sick] leave to any agency within their local level of government", and other closely made statements but none vice versa. These two classes with different rules are a direct contradiction to the preamble as it is highly discriminatory.

Fourthly, as many of my previous examples demonstrate, the fiscal note stating "It is not anticipated these amendments will have a measurable impact of the costs and revenues to state government" is blatantly incorrect. Furthermore, the inconsideration of financial impact on the local level or to individuals is unjustified as the brunt of the burden is found here.

Lastly, the Greenbrier County Health Department follows the same guidelines for hire as would any agency under the jurisdiction of the West Virginia Division of Personnel but with the proposed amendments would be penalized for doing so. I ask, what are the justifications for these changes and who do they benefit? If adequate answers aren't available, then why make such drastic changes? It feels like these amendments are the Division of Personnel's way of forcing health departments to cancel their Service Level Agreements and seek their own merit based systems. This would be extremely financially burdensome on already strained health department budgets and particularly unfair to taxpayers and hardworking employees. Processes should be streamlined and systems that are already in place utilized. Let's build a working relationship, not create roadblocks. If amendments are necessary, seek input from those it affects before proposals are made and recommendations are approved. The recruitment, retention, and advancement of employees based on their knowledge, abilities, and skills improves the quality of public service and is in everyone's best interest. Let's not hinder that improvement with these proposed changes.

Thank you for your time and consideration of my comments. If you have any questions, please contact me at ashley.l.butler@wv.gov or (304)645-1787 ext. 25.

Sincerely,

Ashley Butler

Ashley Butler, Administrative Services Manager

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Mike Caputo
WV House of Delegates
1900 Kanawha Boulevard, East
Building 1, Room 258-M
Charleston, WV 25305

Dear Mr. Caputo:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

WEST VIRGINIA HOUSE OF DELEGATES
OFFICE OF THE MINORITY WHIP
STATE CAPITOL
1900 KANAWHA BOULEVARD, EAST
BUILDING 1, ROOM 258-M
CHARLESTON, WEST VIRGINIA 25305
(304) 340-3249

RECEIVED
DIRECTORS OFFICE
JUN 29 2015
WEST VIRGINIA
DIVISION OF PERSONNEL

June 29, 2015

MIKE CAPUTO
MINORITY WHIP

Sara Walker, Director
Department of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston WV 25305-0139

Dear Director Walker,

I am writing with regard to the proposed DOP rule that is currently open for public comment. As I read the proposed rule, I believe it unfairly removes many of the benefits that local health department employees are currently entitled to. The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. The proposed changed may discriminate against local health department employees and changes the dynamic between employer and employee.

I am in disagreement with the following changes:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for

employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. This will greatly effect the recruitment, retention and advancement of employees based on their knowledge, abilities, and skill, which improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

Therefore, I respectfully ask that the proposed changes to the rule that involves employees of local health departments and the restriction that it places on them be removed.

Sincerely,

Mike Caputo

Delegate Mike Caputo

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Carl Carter II
334 Morning Star Street
Princeton, WV 24739

Dear Mr. Carter II:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

June 18, 2015

Dear West Virginia Division of Personnel Board,

I would like to voice my extreme opposition to the proposed division of personnel changes under section 11.6a, page 38, stating that classified employees of county or municipal agencies may only transfer to an agency within their level of government.

I have been working with The Mercer County Health Department for 15 years. Thru out these 15 years I would have been able under the current law to transfer my time, sick and annual leave if I would choose to take a state jobs. If this proposed change is allowed to take place myself and many other long term employees would never be able to take the valuable knowledge that we have learned on this job and be able to help improve our wonderful state. In my opinion why would you want to hurt the state and people we protect by passing a change of law like this one. The only people you would be able to attract to the state would be employees that would lack the knowledge to be able to run the state.

Can you please inform me why you have made these proposed changes and what you hope to gain from this, and why you wish to discriminate against me and the other local health department employees in this great state?

Thank You,

Carl Carter II

334 Morning Star Street

Princeton, WV 24739

CC: Governor Tomblin

CC: Senator Bill Cole

CC: Delegate John Shott

CC: Delegate Joe Ellington

RECEIVED

JUN 22 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Gena L Carter, RN
Box 1763
Gilbert, WV 25621

Dear Ms. Carter, RN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

for Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 17 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 12, 2015

Dear West Virginia Division of Personnel Board,

I would like to voice my opposition to the proposed Division of Personnel changes under section 11.6.a, page 38, stating that classified employees of county or municipal agencies may only transfer to an agency within their local level of government.

I have worked at a local health department for the last 14 years with the option of being able to apply and transfer to a state position without the loss of my sick, annual leave and service credit. If this proposed change is allowed to pass it would unjustly penalize employees of county or municipal agencies. I should be afforded the same option to transfer and carry my current accumulated annual, sick leave and service credit to any positon under the DOP. If this change is approved it will limit the experienced pool of applicants for the state to hire.

The proposed changes penalize long term employees. With the potential change to make local health department employees state employees it appears to be blatant discrimination against Local County or municipal employees. I once again ask that you reconsider the changes under section 11.6.a, page 38.

Sincerely,

Gena L Carter, RN

Gena L. Carter, RN

P.O Box 1763

Gilbert, WV 25621

cc: Governor Earl Ray Tomblin

cc: Delegate Cliff Moore

cc: Delegate Linda Phillips

cc: Delegate Harry Keith White

cc: Senator Daniel J. Hall

cc: Senator Jeff Mullins

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Wendy M. Casto
62 N. Azalea Drive
Millwood, WV 25262

Dear Ms. Casto:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
JUN 30 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

May 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Boulevard, East
Building 6, Room 416
Charleston, West Virginia 25305

Re: Comment to Administrative Rule

Dear Mr. Thomas:

During this public comment period, I would like to take this opportunity to express my concern regarding the revised Administrative Rule of the West Virginia Division of Personnel, specifically section 11.6.a. The new insertion states "Provided, the classified employees of county or municipal agencies may only transfer to an agency with their local level of government." This restricts local health employees such as me from transferring to a state agency or vice versa.

The definition of "Agency" includes local health departments. The definition of "Affiliation" includes those county agencies that have been "added to the classified service through agreement between the local government and the Director with approval from the Board." The local health department that I am employed at adopted and follows the Administrative Rule and other regulations of the Division. Local health departments also pay Division of Personnel quarterly fees for each employee. Since we are part of the big picture, why should we be restricted from transferring to or from a State position?

Also, the West Virginia Department of Health and Human Resources and many other State agencies have "branches" out in the counties. Although they are not located in Charleston they are classified State positions and receive their paychecks from the State. Section 11.6.a. would restrict me from transferring into another agency which is only two miles away from me in Jackson County.

Let's face it. Most government employees take their job for the benefits and the chance for advancement, definitely not for the salary. I have twenty-five years in the system, part state and part local, with potentially 7 years before I am old enough to take early retirement. As local health departments are losing funding for services and reducing staff, there is always a potential that my position will not be here that long. Why should I have to start over as a new employee after devoting twenty-five years to public health?

Please don't pick one section of the Administrative Rule and make it not applicable to local health department staff. I am requesting that you remove the line that was added,

"Provided, the classified employees of county or municipal agencies may only transfer to an agency with their local level of government." from 11.6.a. and treat all employees of the West Virginia Division of Personnel system equally and fairly.

Sincerely,

Wendy M. Casto

Wendy M. Casto
62 N. Azalea Drive
Millwood, WV 25262

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Robin Childress
Clay County Health Department
PO Box 36
Clay, WV 25043-0036

Dear Ms. Childress:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 01 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

To: Joe Thomas

CC: All Senate and House Members on Legislative Rule-Making Review Committee by email.

RE: Administrative Law changes (143CSR1) see attached.

I absolutely oppose these changes, and I have many questions on this matter.

- Why now? We have been with DOP for over 20 years.
- What are we as a Local Health Department paying 4000 a year for? I think I may need clarification on exactly what DOP is doing for our Health Department.
- Why have I not seen anything about upcoming changes on any of recent DOP agendas?

These Changes will be disastrous for employees that have been at a Local Health Department for 10 years or more and in saying that; I would also like to add that the timing of these proposed changes are highly suspect at best. All Local Health Departments are well aware of the proposed regionalization of the Public Health System, which as far as I can tell could lead to a 50 percent reduction in the work force and a disastrous move for our rural community. The timing seems a little too convenient. So someone with 15 years in the Local Public Health System, if laid off would be starting from scratch if at all, oh excuse me they can transfer to local level government....of which there is none in our county with DOP! This is appalling to me. I would request that these proposed changes be looked at a little closer and make sure that no conflict of interest is taking place here. I don't feel Local Health Department Employees should be pawns in someone else's agenda.

Sincerely,
Robin Childress
Employee of Clay County Health Department

WV Division of Personnel, Administrative Rule
Proposed Rule Changes

LOCAL AGENCY CHANGES

Page 38 - 11.6 Transfers.
11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government. In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

Page 43 – 12.4 Layoff
12.4.j. Preference Hiring. -- When filling vacancies at agencies, appointing authorities shall, for a period of twelve (12) months after ~~the layoff of~~ a permanent classified employee in another agency has been placed on a preference register due to layoff, give preference to ~~those laid-off qualified permanent classified employees~~ such employee based on ~~seniority~~ tenure and fitness over all but existing classified employees of the agency or its facilities. This preference shall not supersede the recall rights of employees who have been laid off in the agency. Preference hiring shall be accomplished by original appointment. Provided, that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government.

Page 43-44 - 12.6 Reinstatement
12.6.a. A former employee who had attained permanent status under the Division of Personnel who has resigned in good standing, retired, or who has been laid off is eligible for reinstatement~~, provided~~. Provided, that he or she has previously worked in the occupational grouping of the job class and has been certified by the Director as meeting the current minimum qualifications as to training and experience of the class of position to which he or she is being appointed. Provided, that former classified employees of county or municipal agencies may only be reinstated to an agency within their local level of government. Prior to making the certification, the Director may require the employee to pass a qualifying examination. The Director may refuse to reinstate a former employee for any of the causes stipulated in subdivision 6.4.a. of this rule. Employees appointed through reinstatement shall serve a probationary period as provided in Section 10 of this rule.

Page 48 – 14.3 Annual Leave
14.3.g.Transfer of Annual Leave
14.3.g.1. When a classified employee transfers or otherwise changes employment from one agency to another, all service credit and ~~hours of~~ accrued and unused annual leave shall be transferred. Provided, that classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government. The previous employer shall provide written documentation of the

employee's annual leave balance computed in days and fractions of days to the other agency within thirty (30) ~~calendar~~ days after the employee commences work. The previous employer shall also provide the days of State and federal Military, ~~Family and Medical Leave Act~~ FMLA, Parental Leave Act, and Red Cross Disaster Service leave eligibility exhausted within the year, if applicable

Page 53 – 14.4 Sick Leave
14.4.i. Transfer of Sick Leave
14.4.i.1. When a classified employee transfers or otherwise changes employment from one agency to another, all accrued and unused sick leave shall be transferred. Provided, that classified employees of county or municipal agencies may only transfer accrued and unused sick leave to an agency within their local level of government. The previous employer shall provide written documentation of the sick leave balance computed in days and fractions of days to the other agency within thirty (30) ~~calendar~~ days after the employee commences work. The previous employer shall also provide the days of State and federal Military, ~~Family and Medical Leave Act~~ FMLA, Parental Leave Act, and Red Cross Disaster Service leave eligibility exhausted within the year, if applicable

[redacted]

Throughout the document
Change from "pay grade" to "compensation range" this is being done as part of the PLANS. The PLANS project has been on-going for years and is being done to update the Division of Personnel's classification and compensation plans.

Page 50 - 14.4. Sick Leave
14.4.e.2. All Other Separations. -- [redacted] ~~If an employee returns to eligible employment, as provided in subdivision b. of this subsection, within one year of the date and time of separation, including the first working day the reinstatement could be accomplished, all cancelled sick leave shall be restored. However, if the employee returns to eligible employment after more than one year from the date and time of separation from employment, no more than thirty (30) days of cancelled sick leave shall be restored.~~ If an employee who has been laid off is re-employed in eligible employment, all cancelled sick leave shall be restored.

Page 51 – 14.4. Sick Leave
14.4.f.6. Illness and/or Routine Dental and Medical Appointments - Immediate [redacted] -- Employees may use up to ~~40~~ [redacted] hours of accrued sick leave per calendar year to provide care to an immediate family member, as defined in this rule, who is incapacitated due to illness or injury or to accompany an immediate family member to routine healthcare appointments; provided such time is prorated for part-time employees. Reasonable travel time in addition to the time for the routine appointments may also be charged to sick leave; or,

Page 54 – 14.4 Sick Leave
14.4.j.Illness while on annual leave.—
An employee who becomes ill ~~and who is admitted to a hospital or has medical services performed in an emergency room~~ while on previously approved annual leave may request

that all or part of the time ~~spent in a hospital or emergency room~~ be charged to sick leave. This provision shall also apply when an employee requests to change annual leave to family sick leave due to the illness of an immediate family member. The employee shall request that action immediately, provided that any annual leave used prior to the request being made shall not be charged to sick leave. The employee must provide a physician's/ practitioner's statement immediately upon return to work. ~~upon return to work and shall provide a physician's statement or hospital statement listing the specific dates of hospitalization or emergency room services. Sick leave may be charged only for the period of time the employee is hospitalized or in the emergency room. The remainder of the time shall be charged to annual leave~~

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mrs. Sandra J. Cochran
479 Bell Street
Webster Springs, WV 26288

Dear Mrs. Cochran:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Sandra J. Cochran
479 Bell Street
Webster Springs, WV 26288

RECEIVED
JUN 22 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 18, 2015

Dear WV Division of Personnel,

I am writing in reference to the proposed changes in "Title 143 – Legislative Rules of the WV Division of Personnel". These changes will greatly affect many employees who participate in the Div. of Personnel merit system, and are discriminatory against local health department employees specifically. Listed below are changes that would cause much harm to many.

11.6 – Transfers

11.6.a. "Classified empoyees of county or municipal agencies may only transfter to an agency within their local level of government." If passed, this would prevent all local health department employees from transferring to a state agency, even though they may be qualified, and also limits their ability to accept a better position in the merit system. This change would also greatly limit the ability of state agencies to recruit qualified, trained local employees as they have done previously.

12.4 Layoff

12.4.j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave

14.3.g Transfer of Annual Leave

14.3.g.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave

14.4.1 Transfer of Sick Leave

14.4.i.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

I hope that you understand what a negative impact these changes will have on "local/health department" employees, and therefore reconsider these proposed changes.

Sincerely,

Sandra J. Cochran,
Div. of Personnel Employee

Sandra Cochran

cc. Goveror Earl Ray Tomlin
cc: Senator Robert Karnes
cc: Delegate Dana Lynch

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Tammy Critton
Hardy County Health Department
411 Spring Ave, Suite 101
Moorefield, WV 26836

Dear Ms. Critton:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

HARDY COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

State Personnel Board
West Virginia Division of Personnel
Building 6, Room 416
1900 Kanawha Boulevard, East
Charleston, WV 25305

June 17, 2015

Re: Public Comment on Proposed DOP Administrative Rule Change

Local Health Department Employees have been a part of the DOP system for many years. Those of us who make Public Health a career understand we will not become wealthy in this profession. Very often the benefits package is what draws and keeps us in what, very often, is a thankless job.

We are loyal, dedicated professionals and the proposed rule change is decidedly unfair to those who have dedicated large parts of their life to Public Health. Any benefit that was in place at the time of our employment should be honored until we retire.

We realize businesses must make changes to remain efficient. However, Health Departments have paid a substantial amount of money over the years to be protected by DOP policy. Losing seniority, leave days, our place on the Register and the ability to transfer into other state jobs feels like punishment at best.

We have ***earned*** the privileges you would like to take from us.

Sincerely,

William Ours, Administrat, Sanitar
Heidi Bailey, Sanitarian II
Hea Mathias, OA II
Tammy C OA II
Shawna Long RN
Susan Mayes RN
Donna Mongold OA II

Address: 411 Spring Ave, Suite 101, Moorefield, WV 26836
Telephone: 304-530-6355 • Fax: 304-530-7684 • Email: william.a.ours@wv.gov
www.hardycountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Karen Cummings, OAIII
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Ms. Cummings, OAIII:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov
www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov
www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. David Blair Couch
Mid-Ohio Valley Health Department
211 Sixth Street
Parkersburg, WV 26101

Dear Mr. Blair Couch:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MID-OHIO VALLEY HEALTH DEPARTMENT

211 SIXTH STREET, PARKERSBURG, WEST VIRGINIA 26101
Phone 304/485-7374 Fax 304/485-7383

June 23, 2015

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Division of Personnel
Employee Relations Section
1900 Kanawha Boulevard, East
Building 6, Room 416
Charleston, WV 25305

RE: PUBLIC COMMENTS
Regarding the Division of Personnel (DOP) Legislative Rule – 143CSR1
From the Mid-Ohio Valley Board of Health dba Mid-Ohio Valley Health Department

Division of Personnel;

The Mid-Ohio Valley Board of Health dba Mid-Ohio Valley Health Department (MOVHD) is West Virginia's largest local health department regional health system serving the City of Parkersburg, Calhoun, Pleasants, Ritchie, Roane, Wirt and Wood Counties. Thank you for this opportunity to make comments on the proposed amendments to the DOP's legislative rule, Administrative Rule of the WV Division of Personnel, 143CSR1. In an effort to be concise, we have clearly described in this letter the exact changes MOVHD is requesting. If you are interested in reading further to determine how MOVHD came to the conclusions contained in this letter, please see Attachment 1.

MOVHD has a contractual Agreement, called a Service Level Agreement (SLA) with the WV Division of Personnel which purports to define and govern the services and responsibilities of the DOP with respect to the participation of MOVHD in the West Virginia classified service. The SLA became effective in January of 2014 and continues in force and effect. It is authorized by the West Virginia Code §29-6-17. In exchange for regular periodic payments from MOVHD to the DOP, the DOP agrees to provide guidance, benefits and support of the MOVHD and to treat the employees of the MOVHD as participants in the classified service system in accordance with the WV Code §29-6-1, et seq.

The proposed rule would rescind or abate many of the protections that are required by the SLA. MOVHD would strenuously object to the enactment of the provisions of the proposed rule that alter and limit the protections and benefits for employees of our local health department. Those provisions will be identified and discussed in detail in these comments. However, as a general comment, MOVHD believes that the provisions of the rule that change the duties and responsibilities of the DOP toward employees of our Local Health Department constitute a BREACH of the SLA and have not been mutually agreed to by MOVHD and are not acceptable to MOVHD as modifications of the SLA. Furthermore, MOVHD can find no statutory authority for the DOP to propose these sweeping changes, either in the West Virginia Code or in our Service Level Agreement. We believe that the proposed amendments limiting the rights and protections for county and municipal employees covered by the classified service system throughout the state are outside of the scope of authority of the Division of Personnel.

Specific Substantive Changes Requested:

1. **§3.4. Delete** the new term "**Affiliation**" entirely. It is not needed. The only purpose it serves is to discriminate against covered employees who work for "affiliated" agencies, particularly local or county health departments. This change would also require the following revisions:

- §3.5. **delete** the 8-word phrase "**as well as any affiliated county health department**."; Replace it with the phrase "**and other county or municipal agencies whose employees are covered by the classified services system.**"
- §9.1.a. **delete** the 2-word phrase "**through affiliation**" twice in that subdivision, and,
- §21.1. **delete** the underlined word "**affiliated**".

2. **Delete the following Provisos:**
   - **§11.6.a.** "Provided, that classified employees of county and municipal agencies may only transfer to an agency within their local level of government.";
   - **§12.4.j.** "Provided, that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government.";
   - **§12.6.a.** "Provided, that former classified employees of county or municipal agencies may only be reinstated to an agency within their local level of government.";
   - **§14.3.g.1.** "Provided, that classified employees of county or municipal agencies may only transfer **service credit** and accrued and unused annual leave to an agency within their local level of government." (emphasis added)
   - **§14.4.i.1.** "Provided, that the classified employees of county or municipal agencies may only transfer accrued and unused sick leave to an agency within their local level of government."

The MOVHD, for its own staff and on behalf of the employees of local health departments throughout the state, implores the DOP to **REMOVE THE ABOVE LISTED PROVISIOS ENTIRELY.** These provisions are illegal and unfair. There is no statutory authority for the DOP to make this distinction or to discriminate against the classified employees working for county and municipal agencies and not extend to them the rights, privileges and benefits extended to all other members of the classified service.

We can name many examples, recent and within past decades, where employees from local health departments all around the state have transferred to jobs in the state government and been allowed to transfer their service credit, sick and annual leave and to enjoy the other protections that are being threatened by the proposed amendments. For example, all of the current Bureau for Public Health Office of Environmental Services Sanitarians and several supervisors were trained at local health departments and transferred into state service. **Please don't make these proposed changes! It is bad public policy.**

The DOP has submitted a "zero dollar" fiscal note, asserting that these amendments won't have a measureable impact on costs or revenues to state government. However, the effort to freeze county and municipal employees out of the search for jobs in the classified service with state agencies, or to treat them as if they have no prior service, seniority, and especially to cancel out their accrued annual and sick leave balances is CLEARLY a measure to save the state agencies money – while they either hire these employees at a severe disadvantage to those individuals, or they don't hire local employees and all of their knowledge and experience goes to waste. In any case, it is penny wise and pound foolish to save a little while hurting good people who have a great deal to offer to the state, not just in the field of public health, but to all other state government classified jobs that people from classified jobs at various county and municipal agencies are well qualified to fill.

Specific Technical Changes Suggested

Throughout the proposed rule there are a number of technical errors. These problems would likely be noted by the legal staff of the Legislative Rule-Making Review Committee (LRMRC) and corrected in the Modified version of the rule. We list them here, in case the DOP agrees with and wishes to make any of these changes or corrections.

1. There is no need to either ~~strike-through~~ or underscore punctuation. If a period (.) a comma (,) a colon (:) or a semi-colon (;) is being added or deleted – the rule should simply show the correct punctuation, NOT what the old (existing) rule had in that place or what the new (amended) rule proposes. This type of error appears frequently throughout the proposed rule.
2. Another error that is repeated throughout the rule is the Strike-through of the last period (~~.~~) when making reference to another section in this rule; for example, in §6.6.b. a reference is made to "Section 3~~.~~" The period after "3." is correct

and should not be struck through. This same error appears consistently throughout the rule. Another example appears in paragraph 7.3.a.1. where reference is made to "subdivision 6.4.a.~~:~~" The "a." should remain without a strike-through. A similar error appears in §7.3.b.1. where the reference is to "subdivision 7.3.a.~~:~~ of this rule;" §7.4.b.3. makes this error three times in that paragraph, and so on. Again, no strike-through is needed over the final "~~:~~" in a citation to another rule section.

3. Subsection numbering is wrong throughout Section 3., the Definitions section. The error that the drafters make in this section begins with subsection ~~3.10.~~ 3.11 for the term "Assembled Examination." This term will be deleted, therefore, there is no need to assign it a "new" (underscored "3.11.") subsection number. It is an existing term in the rule currently in effect as "3.10.". All that is required is to strike-through the subsection 3.10. in its entirety. Then the next term to be defined, "Available" will be assigned the subsection number 3.11., NOT 3.12. as it appears in this amended rule, because §3.10 is used for the previous term: "Appointment". This error is repeated several more times in Section 3, the Definitions section, because there are six (6) definitions deleted and four (4) being added. The subsection number of the last term defined "Year" should be 3.95.
4. The final sentence in subsection 4.7. should be struck-through. The exact same sentence appears as a new underscored subdivision 4.7.a. immediately below. It must have been an oversight.
5. In the new language of subdivision 7.3.c. I believe the sentence should read: "The applicant is responsible for updating his or her contact information and notifying the Director of changes." The word "or" where I have inserted "and" doesn't make sense in the context of the sentence.
6. Throughout the rule a phrase "by formal action" referring to actions of the Personnel Board has been deleted. However, in subsection 5.10., that 3-word phrase remains. For consistency, it should be struck-through.
7. In subdivision 6.4.c. all of the existing language is stricken and the language from the next 3 subdivisions is amended and consolidated into a new subdivision 6.4.c. The rule should omit the extra line breaks between the formerly separate subdivisions. §9.1.d. is another example of a dangling subdivision. It should be moved up to the end of the struck through language of the existing §9.1.d. Ditto subdivision 9.1.d., 11.4.c., paragraph 12.3.b.2. (unless it is supposed to be a new subdivision 12.3.c.) and the entire text of section 18.
8. Subdivision 6.6.b. also has a dangling paragraph that should either be included into §6.6.b. above, without a double spaced separation – or, it should be given its' own subdivision number of 6.6.c., and then the next subdivision should be re-numbered as 6.6.d. Also, at the end of the underscored language the term "veteran preference" should be "veterans' preference".
9. In subdivision 8.4.b. a reference to subdivision 6.4.a is missing the final period after the "a." Also, in subdivision 8.4.b., a reference is made to "appointment as in subdivision a of this subsection". That is incorrect. It should say "as in subdivision 8.4.a. of this subsection".

The Mid-Ohio Valley Health Department thanks you for the opportunity to submit these written comments to the proposed amendments to your rule, 142CSR1. We hope that you will take them to heart and make the requested changes outlined in the *Specific Substantive Changes Requested* section, as well as any of the technical suggestions that you choose to adopt.

Sincerely,

Drema G. Mace

Drema G. Mace, PhD
Executive Director

PRESIDENT

David Blair Couch
Board Chair/Wood County Commissioner

cc MOVBOH

Serving City of Parkersburg, Calhoun, Pleasants, Ritchie, Roane, Wirt & Wood Counties

MOVHD
Attachment #1

Review of Amendments to Legislative rule, 143CSR1, and the impact on MOVHD

EXECUTIVE SUMMARY

The terms of the Service Level Agreement (SLA) between the West Virginia DOP and the MOVHD are valid and continue to bind the two parties until rescinded by mutual agreement or until rendered unenforceable by the failure of one or the other party to live up to and comply with all of the terms of the SLA. Under the express provisions of the SLA, MOVHD, and its' employees, are governed and protected by the WV DOP with respect to all employment actions taken by MOVHD. The DOP agrees to work with MOVHD to provide guidance and other forms of assistance to help MOVHD comply with all DOP laws, rules and policies. For their part, MOVHD must keep records and follow DOP law, rules and policies. MOVHD is living up to their part of the Agreement.

One of the rules that the MOVHD is obligated to follow is the DOP's Legislative rule, Administrative Rule of the West Virginia Division of Personnel, Title 143 Series 1 of the Code of State Rules. **This proposed rule constitutes a serious breach of the SLA since it purports to take away or severely restrict rights and privileges that the employees of local health departments are currently entitled to under existing law and rule.** The changes made in this amendment to 143CSR1 inure only to the detriment of those MOVHD workers, without any reduction in the cost for the services and without the required "mutual consent of the Parties" needed for a modification in section 2.3 of the SLA.

The amendments to this DOP rule that have an impact on the MOVHD, and all local health departments, are to the disadvantage of MOVHD and all LHD employees. **They are treated as 2nd class employees in the classified service and are subject to restrictions not placed on any other persons covered by the classified service.** Nevertheless, Local Health Departments are still required, by the terms of their SLAs, to pay the DOP for the benefits, protections and the right to participate in the civil service system under the West Virginia Code §29-6-1, et seq.

It is interesting to note the difference in the treatment of persons who would move from County employment (such as LHDs) to State employment versus those who move in the other direction. For the 1st group, if this rule is enacted as written, they will no longer be eligible to transfer or to retain their accrued sick and annual leave balances in their new State jobs, as has been done for decades. **However, those people moving from State jobs to the County government will still be able to move as transfers within the civil service system and retain their leave balances. This is patently unfair and discriminatory.**

It is also contrary to law. It is an *ultra vires* action. WV Code §29-6-17 is the statutory authority for the DOP to enter into Service Level Agreements with Local Health Departments. That section states, in pertinent part:

> "(a) Subject to the approval of the board the director may enter into agreements with any municipality or other political subdivision of the state to furnish services and facilities of the division to such municipality or political subdivision in the administration of its personnel on merit principles." (emphasis added) ... and

"Subject to the approval of the board, the director may enter into an agreement with the state department of health for the inclusion of personnel of local health departments under the classified service system established by this article." (emphasis added)

Nothing in this section of law allows the DOP to offer lesser services to the employees of Local Health Departments than other employees covered by civil service. Nor do the SLA agreements themselves authorize the exclusion of LHD employees from some of the valuable benefits and protections of the classified system.

The DOP Summary of Amendments describes the addition of a definition for the term "Affiliation" (Definitions, §3.4.) to have been included "since the term is found throughout the Rule." However, that is curiously not true. There are only three examples of the term "affiliation" or "affiliated", used in accordance with the "new" definition of that term, and they appears in §3.5., §9.1.a. and §21.1. All other instances of the word "affiliation" in the proposed rule are in the current (existing) rule and have the usual and customary definition of that term. **It appears that the DOP is trying to establish some distance between the regular classified employees who work for the state of West Virginia and those who word for "affiliated agencies" or an "affiliated county health department." (this is a new phrase embedded in the revised definition of "Agency" (Definitions, §3.5.).** This distinction is then referred to again and again throughout the rule to limit and restrict the rights of employees of county and municipal agencies to do such typical employment actions as: transfer, receive preference in hiring, be eligible for reinstatement or transfer sick or annual leave balances. In these sections, the county or municipal employees (i.e. – persons employed by local health departments) are repeatedly told that they may ONLY exercise their rights within their level of local (i.e. county or municipal) government and are specifically NOT eligible to move to jobs in the state classified system.

My biggest question for the drafters of this rule is – WHY? What is the justification for such a distinction? and also – **WHERE does the DOP derive the legal authority? What provision of state law gives the DOP the right to make these highly prejudicial distinctions among classified employees, all of whom are paying into the DOP system for the benefits and protections that it claims to provide?**

Section 2 of the rule, called the "Preamble", adds the 2-word phrase - "or classified" - in two places. In the 14-page - Summary of Amendments - which appears at the end of the rule filing, DOP says that the change to this section "Added language to encompass classified employees of local health departments." That statement is a striking contradiction to the numerous subsequent amendments which do nothing to include those particular employees, but rather they specifically exclude or restrict the employees of local health departments from enjoying the benefits and protections of the classified civil service system.

SUBSTANTIVE COMMENTS

As mentioned above, the Preamble amendments are described by DOP as being added for the purpose of including classified employees at local health departments. The terms "Affiliation" and "Agency" are amended to specifically include employees of county or municipal agencies in the same category with state government employees. The new definition of Affiliation itself, the revised definition of Agency, §9.1.a. and §21.1. are the only places in the rule that mention affiliation in the context of the new

definition. **It is a veiled attempt to distance the local health department employees who are a part of the classified service through agreements with the DOP as a sub-class of only "affiliated" employees.**

The term "Annual Leave" is amended to read: "An accrued benefit of paid time off from work that is earned by an employee to be used with prior approval of the appointing authority or designee." **The term makes no reference to a difference for county, municipal or state employees.**

The term "Employee" remains unchanged, and says and employee is: "Any person who lawfully occupies a position in an agency and who is paid a wage or salary and who has not severed the employee-employer relationship." **That definition clearly includes MOVHD and LHD employees.**

The word "Layoff" is also unchanged. It is: "A reduction in the number of employees resulting in involuntary separation from employment or reduction in work schedule due to business necessity.

The new term "Recall" is defined as: "The re-employment from a recall list of a former permanent classified employee separated due to layoff." **No distinction is made between state or local employees in this definition.**

"Reinstatement" means "A type of re-employment of a former permanent classified employee. And the term "Permanent Employee" is: "Any classified employee who was hired from a register and who has completed the probationary period prescribed by the Board for the job class, or any classified-exempt employee who was hired to fill a position for an unlimited period of time, notwithstanding the appointing authority's right to terminate the employee for cause or at his or her will."

"Sick Leave – An accrued benefit of paid time off for illnesses, injuries and other health related circumstances as specified in this rule." There is ambiguity in this definition since sick leave and the transfer of sick leave is addressed more specifically in section 14 of the rule to impose restrictions on the employees of county or municipal agencies so that they may only transfer sick leave or service credit to an agency within their local level of government. **We don't even know what that means! Does it mean a health department employee may transfer to the County Commission and keep all accrued leave? What about a transfer to the City? The Sheriff's office? Circuit Court? Parks and Recreation? It is very unclear. In addition to the lack of clarity, there is a lack of justification or authority for this discrimination.**

Finally, the term "Transfer" is defined as: "The movement of an employee to a different subdivision of an agency or geographic location of the same or a different agency." (emphasis added) Since most full time jobs in state government are squarely within the definition of agency, then it would seem that local health department employees would be eligible for transfers to those positions. However, Subsection §11.6 of the proposed rule arbitrarily denies the right to transfer to classified employees of county or municipal agencies, again, restricting those employees movement to a transfer ONLY to an agency within their local level of government. **That is internally inconsistent, discriminatory and just plain wrong.**

Subsection §4.6. on Reclassification concerns me. Although it is written in broad terms, this provision, when examined in connection with §12.4.f. on Separations, **could possibly lead to elimination of one or more entire class(es) of local health department employees.** Whole classifications of LHD employees

could be maneuvered out of their jobs by the unilateral actions of the DOP. **It appears to give the DOP sweeping power to eliminate jobs through "reclassification".**

Subdivision §9.1.a. of the rule represents the one of three uses of the term "affiliation" that is new to the rule from its' current active version. This section, as written, seems only to confirm the inclusion of employees of local health departments by agreement (SLAs) and the date for the addition of county and municipal employees to be covered by the classified service shall be fixed by agreement (i.e. when the SLA are signed). **In reality, LHD employees have been operating under the auspices of the DOP for many years in a quasi-official manner. The execution of SLAs with local health departments in 2014 made the relationship official and binding on both parties.**

Subsection §11.6. is where the subject of transfers is discussed. It is also the first of many instances where the classified employees of county or municipal agencies (such as a LHD) are discriminated against. On its' face, it appears to prohibit the transfer of an employee from a local government agency to a state agency. We can cite many examples of county or municipal employees who have transferred to state agencies and it has been very beneficial, both to the employee and to the state agencies who have hired well trained and experienced individuals. The amendment suggests that any county or municipal employee who applies for a position in a state agency would have to start from scratch, fill out the a civil service application, take any necessary tests and be added to a register without consideration of their tenure, experience, current or former time spent in a classification of the classified service.

Subsection §12.4. deals with layoffs. Again, as in the section on transfers, whereas employees of state agencies covered by the classified service will enjoy preferential hiring after a layoff, according to the amendments proposed by this rule, the "laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." (*see §* 12.4.j.) **This is a serious curtailment of employee rights. It is also unsupported by the law.** §12.6.a. offers a similar restriction on reinstatement rights. It states: "that former classified employees of county or municipal agencies may only be reinstated to an agency within their local level of government." The discrimination is only applied to county and municipal employees and appears targeted at employees of local health departments.

As has been mentioned earlier, one of the most significant detrimental impacts of this rule on local health department employees appears in the sections that allow other members of the classified service to transfer leave balances for either annual or sick leave to their new jobs when moving within the classified service. In §14.3.g., specifically in § 14.3.g.1., county and municipal agency employees are only permitted to transfer annual leave service credit and accrued and unused leave to an agency within their local level of government. The same restriction is applied to those same local government employees with respect to their ability to transfer sick leave in §14.4.i.1.

The proposed rule, as has been shown, discriminates against employees of county and municipal governments in many ways. It is noteworthy then, that with respect to §14.9. on Military leave protections ARE extended to local government employees! §§14.9.a. & 14.9.b. extend the exact same benefits and protections to county and municipal government employees who are called to state active duty and reserve military service as well as federal active duty. This is the best thing in the document.

Subsection §21.1. contains the third and final use of the newly defined term "Affiliation" by inserting the word "affiliated" before "agencies" and requiring the affiliated agencies, such as LHDs, to comply with all of the same duties and obligations that other state agencies have to abide by the laws and rules of the Division of Personnel. **This could be described as the section that allows MOVHD to have all of the duties and fewer of the benefits than other agencies similarly situated.**

Fiscal notes are a component of the rule-making process, as they are also a component of the process to propose bills at the legislature. The primary question that is asked in the Fiscal Note is whether the proposed rule (or bill) will have an impact on costs or revenues of state government. The Fiscal Note for this rule states that it will not have any fiscal impact. That is wrong. It would be difficult to measure the dollar amount of the impact with precision, but the measure it proposed to restrict the free movement from local to state government and to strip employees of earned leave balances will clearly save the state money. It will also set up the circumstances that will probably lead to a class action lawsuit being brought against DOP for discrimination against the employees of local health departments, at least, or against all employees of county and municipal government.

This document is focused on the impact of this proposed Rule change on MOVHD. However, the description of the class of employees who will be injured goes way beyond those employed by a local health department and would include county commission and city council employees, county clerks and assessor offices, sheriffs, circuit and municipal courts, sanitation workers, etc. There are other interest groups, like the Municipal League and the West Virginia Association of Counties, who should be taking a hard look at the policies and changes proposed by this rule.

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. J. Larry Crawford
Cabell-Huntington Health Department
703 Seventh Avenue
Huntington, WV 25701

Dear Mr. Crawford:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Cabell-Huntington Health Department
703 Seventh Avenue / Huntington, West Virginia 25701
(304) 523-6483

June 24, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Dear West Virginia Division of Personnel Board,

This letter is in opposition to the changes to 143CSR1, the Administrative Rule of the West Virginia Division of Personnel. The Cabell County Board of Health does not support the changes to the Administrative Rule due to the reasons listed below.

In the preamble, the first statement is "The general purpose of the Division of Personnel is to attract, develop and retain to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state or classified employment." The changes offered in the 143CSR1 are in conflict to this very statement. The changes offered develop two classified systems in that one is for state employees and one is for local employees. When seeking to develop, retain and transfer employees of the highest ability and integrity, you are limiting the ability of local employees to transfer a high level skill set to the state of West Virginia. The local health employees are providing service to the citizens of the state of West Virginia and should not encounter a barrier when seeking a career in state government.

In the preamble, it states "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliation or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or state law." By classifying a local agency differently than a state government agency, the emphasis does not place priority of those employees employed at a local government agency.

In the document, transfers to state government are outlined with specifics on how this is accomplished. However, there is no mention of the transfer from a state employee to local government. This is a cost that will be absorbed by the local agency and should be similar in nature. It also places a high cost on the

individual employee should they choose a career path in state government that begins with a local agency. The local employee will lose all access to those benefits he/she earned while in public service for the citizens in the state of West Virginia.

It is our position as a Local Board of Health to support an equitable Service Level Agreement allowing the Cabell-Huntington Health Department to enter the West Virginia Division of Personnel Civil Service System Virginia. If 143CSR1 is adopted, there will be a different set of rules of the West Virginia Division of Personnel Civil Service System for local agencies compared to state agencies.

We, as a Board of Health, oppose 143CSR1.

Respectfully submitted,

Thomas H. Gilpin,

Chairperson
Cabell-Huntington Board of Health

Harriet Cyrus

Vice Chairperson
Cabell-Huntington Board of Health

J. Larry Crawford

Cabell-Huntington Board of Health

Omayma T. Touma, MD

Cabell-Huntington Board of Health

Kevin Yingling, MD

Cabell-Huntington Board of Health

Donna F. Rumbaugh

Cabell-Huntington Board of Health

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Harriet Cyrus
Cabell-Huntington Health Department
703 Seventh Avenue
Huntington, WV 25701

Dear Ms. Cyrus:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Cabell-Huntington Health Department

703 Seventh Avenue / Huntington, West Virginia 25701
(304) 523-6483

June 24, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

RECEIVED

JUN 26 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

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We, as a Board of Health, oppose 143CSR1.

Respectfully submitted,

Thomas H. Gilpin,

Chairperson
Cabell-Huntington Board of Health

Harriet Cyrus

Vice Chairperson
Cabell-Huntington Board of Health

J. Larry Crawford

Cabell-Huntington Board of Health

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Kevin Yingling, MD

Cabell-Huntington Board of Health

Donna F. Rumbaugh

Cabell-Huntington Board of Health

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Sherry E. Daniels
232 Rock House Road
Lester, WV 25965

Dear Ms. Daniels:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
JUN 05 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

WV Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Building 6, Room 416
Charleston, WV 25301

June 2, 2015

Dear Mr. Thomas:

This letter is in regard to my concern over the recently proposed changes to the Title 143, Legislative Rule WV Division of Personnel Administrative Rule , section 11.6.a on page 38. This proposed change deeply concerns me due to the fact that I am a local health department employee and have accrued annual leave, sick leave and 15 years of service. I have followed the WVDOP policies and procedures during this time. We have paid the DOP fees just like every other state employee. If this rule gets passed we local employees will not be able to transfer into a state position without losing our seniority and accrued annual and sick leave. That would be devastating considering the time and dedication we have put in to get to where we are now.

Currently meetings are being held in which the state is suggesting to make local health employees become state employees. If this happens and this rule passes, all local health employees will be affected and will be a new employee of the state starting over at ground zero **IF** we get to keep our positions. Should we not be allowed to keep our jobs, our seniority and accrued annual and sick leave and transfer into employment with the state of West Virginia just like any other employee who has followed WVDOP policies and procedures? How can we be discriminated against?

My request is that you reconsider these changes and allow local employees to be treated equal with state employees.

Respectfully,

Sherry E. Daniels

Sherry E. Daniels
232 Rock House Road
Lester, WV 25965

cc: Governor Earl Ray Tomblin
Senator Jeff Mullins
Delegate John O'Neal, IV
Delegate Rick Moy
Delegate Lynne Arvon
Delegate Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. John DelSignore, RS
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. DelSignore, RS:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov
www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
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14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

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MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

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www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Stephanie DeWees, RN BSN
5141 Gill Ridge Road
Letart, WV 25253

Dear Ms. DeWees, RN BSN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 11, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd. 6 Room 416
Charleston WV 25305

Dear Mr. Thomas:

I am writing to express my concern and opposition to the proposed changes to Legislative Rule, WVDOP Administrative Rule, section 11.6a, page 38 stating that classified employees of county or municipal agencies may only transfer to an agency within their local government. I do not understand why local health employees would be excluded from this advancement and opportunity to work at the state level when my agency as well as many other local health departments follows WVDOP policies and pays the required fees to be a part of this system.

I have dedicated 23 years of service to a local health department to now have the fear of returning to the bottom of a list losing all annual and sick leave accrued if I would chose to transfer to a state position under this new proposed rule. I was hired under the same system and classifications as state employees. I feel like this is a discrimination against local county health departments, municipal employees and more personally me.

Please consider removing the proposed changes to the Legislative Rule, WVDOP Administrative Rule, section 11.6a, page 38 and give local health department and municipal employees the same opportunities as state employees they have dedicated and worked so hard for. Thank you for your consideration and time.

Respectfully,

Stephanie DeWees RN BSN

Stephanie DeWees, RN BSN
5141 Gill Ridge Road
Letart,WV 25253
(304) 895-3878

cc: Governor Earl Ray Tomblin
cc: Senator Mitch Carmichael
cc: Delegate Steve Westfall
cc: Delegate Scott Cadle
cc: Delegate Michael Ihle

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Patricia Droppleman, RN
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Ms. Droppleman, RN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

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Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

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Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

Mineral County Board of Health

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Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Amy Edwards
Berkley County Health Department
400 W. Stephen St, Suite 204
400 W. Stephen St, Suite 204, WV 25401

Dear Ms. Edwards:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
DIRECTORS OFFICE
JUN 29 2015
WEST VIRGINIA
DIVISION OF PERSONNEL

June 25, 2015

WV Division of Personnel
Capitol Complex, Bldg. 6, Room 436
Charleston, West Virginia 25305

Dear Director Walker,

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. As a Sanitarian with a Local Health Department, I feel that some of these changes, in fact, discriminate against local health department employees and could very much eliminate their abilities for possible future promotions.
Personally and professionally, as a Classified Employee for the State of West Virginia, I specially would like to mention my concerns and disagreement with the following:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.
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12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.
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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Ronald L. Facemire, President
Braxton County Commission
Susan K. Lunceford, Clerk
PO Box 486
Sutton, WV 26601

Dear Mr. Facemire, President:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

THE BRAXTON COUNTY COMMISSION

Gary T. Ellyson II, Commissioner
Ronald L. Facemire, Commissioner
George F. Skidmore, Commissioner
TDD (304)765-7366
FAX (304)765-2883

Susan K. Lunceford, Clerk
FAX (304)765-2093

June 12, 2015

RECEIVED

JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd.
East Building, Room 416
Charleston, West Virginia 25301

Re: Braxton County Health Department

Dear Mr. Thomas:

It has been brought to our attention that there are changes being proposed that would remove transfer of benefits and tenure to employees who would be changing employment from the county to the state level. If the regionalization of health departments occurs, then current employees who have worked and served our county health department would be rehired as state employees and essentially lost seniority and take a substantial pay cut if theses propositions are allowed to pass.

We must insist that the governing body reconsider these changes. It would be unconscionable to effectively punish individuals for years of service by removing their tenure when changing from county to state employees. If these changes come to pass, we may lose our most experienced employees, ones that would be vital in teaching and training less experienced staff members and important in helping the health departments run efficiently.

Sincerely,

Ronald L. Facemire

BCC:rf

Ronald L. Facemire, Presient
George F. Skidmore, Commissioner
Gary T. Ellyson, II, Commissioner

cc: Governor Earl Ray Tomblin
Senator Douglas E. Facemire
Senator Mike Romano
Delegate Brent Boggs

West Virginia Association of Local Health Departments
Talking Points for Public Comment to Proposed DOP Rule Changes

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
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West Virginia Association
of Local Health Departments

June 2015

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Kathi Farrish
457 Bailey Avenue
Beckley, WV 25801

Dear Ms. Farrish:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

June 1, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd, East Bldg. 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas:

Title 143, Legislative Rule, WV Division of Personnel is open for public comment for proposed changes. I would like to call your attention specifically to section 11.6.a. under transfers. The Rule is proposing "Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government." Please see attached. If this change takes place, the employees of local health that would like to transfer to a state agency would have to relinquish their accumulated sick and annual leave, tenure and benefits as if they are a brand new employee.

There has been meetings held in which the state is trying to regionalize and make local health department employees state employees. If this goes through, this would devastate people such as myself who would have to apply with the state system and be interviewed for the job they currently have and would have to start at the beginning salary, tenure and annual accrual.

I work for a local county health department that has been a part of the Division of Personnel I know of at least since 1961. We comply with the Division of Personnel Rules and Regulations. I have been with the Beckley-Raleigh County Health Department for 25 years. I was hired through the WV Division of Personnel system already once and I think employees of local health should be afforded the same options to transfer to a state agency.

Please consider removing "Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government." from proposed changes to the Title 143, Legislative Rule, WV Division of Personnel and give local health employees the opportunities they have dedicated and worked so hard for. Thank you for your consideration.

Respectfully,

Kathi Farrish

Kathi Farrish
457 Bailey Avenue
Beckley, WV 25801
304-575-7343

cc: Governor Earl Ray Tomblin
Senator Jeff Mullins
Honorable John O'Neal, IV
Honorable Rick Moye
Honorable Lynne Arvon
Honorable Mick Bates

11.4.c. give the employee a minimum of fifteen (15) days' advance notice of the demotion to allow the employee a reasonable time to reply to the demotion in writing, or upon request to appear personally and reply to the appointing authority or his or her designee.

The appointing authority shall file the reasons for the demotion and the reply, if any, with the Director. A predetermination conference and fifteen (15) ~~days~~ days' notice are not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied.

11.5. Lateral Class Change. -- An appointing authority may move a permanent employee from a position in one class to a vacant position in another class in the same ~~pay grade~~ compensation range if the employee is found by the Director to qualify for the vacant position.

11.6. Transfers.

11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government. In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

11.6.b. Appointing authorities shall report all inter- and intra-agency transfers within a class to the Director on appropriate forms at the time of the transfer. The Director shall approve transfers to comparable classes prior to the transfers and shall require that the ~~employee~~ employees meet the minimum qualifications of the new ~~class~~ classes.

§ 143-1-12. Separations, Suspension, and Reinstatement.

12.1. Resignation.

12.1.a. An employee who resigns shall present the reasons for the resignation in writing to the appointing authority. The appointing authority shall forward a copy of the resignation to the Director who shall record the resignation. If a written resignation cannot be obtained, the appointing authority shall notify the Director in writing of the resignation of the employee and the circumstances of the resignation.

12.1.b. ~~Transfer within the classified service, without a break in service, shall not be considered as a resignation.~~

~~12.1.c.~~ The appointing authority shall notify the Director when an employee resigns

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. J.K. Fife, Administrator
Wayne County Health Department
PO Box 368
Wayne, WV 25570-0368

Dear Mr. Fife, Administrator:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Wayne County Health Department

P. O. Box 368 • Wayne, WV 25570-0368 • Telephone: (304) 272-6761 • Fax: (304) 272-6763

RECEIVED

JUN 22 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 16, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

To Whom It May Concern,

I wanted to take some time and fully explain our high level concern and disagreement regarding proposed changes to Title 143 Legislative Rule of WV Division of Personnel. I appreciate you taking the time to review and consider the following concerns before moving forward.

The significant changes proposed in this Legislative Rule of the WV Division of Personnel will change various rules and guidelines for county and municipal agencies who participate in the merit system. We believe that these proposed changes actually discriminate against Local Health Department employees. We also feel as though these proposed changes will have just as much of a negative effect on state agencies who often find talented and qualified job candidates from local health departments. I would like to identify some specific examples which are outlined below.

11.6 Transfers: 11.6 a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This would limit qualified Health Department Employees to accept a better position in the merit system while hurting state agencies and taking away their ability to recruit these qualified employees to better their departments. State agencies have historically recruited and utilized the talents of Local Health Department employees. Either way, this proposal has a negative effect on growth and advancement. Local employees were hired into the classified system with the same opportunities to advance as their state counterparts.

12.4 Layoff: 12.4.j. "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change were to go into effect, employees from a Local Health Department, who were laid off, would not be placed on a preference list for employment with a state agency. Again, this negates any opportunity to utilize Local Employees in this situation for their experience, talent and skills for vacant positions. From another point of view, there is also nothing that states Local Health Departments would not have to give preference to state employees who were laid off.

14.3 Annual Leave: 14.3g. "Classified employees of county or municipal agencies may only transfer service credit and accrued unused annual leave to an agency within their local level of government". Even if an employee of a county Health Department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their accrued and earned annual leave or tenure to the state agency. Again, this has a big effect on State Agencies as they try and recruit the most qualified and seasoned candidates to fill open positions.

14.4 Sick Leave: 14.4.i. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, this would take away a Local Health Department Employee's earned and accrued sick time if they chose to better themselves by taking a state agency job that they desired. Once again, this would have a negative effect on State Agencies as they try and recruit qualified candidates and many come from Local Health.

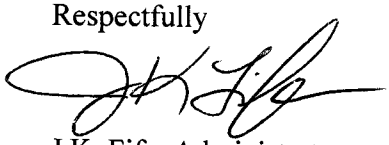
The amended preamble to the Administrative Rule of the West Virginia Division of Personnel (143CSR1) reflects the determination to promote and appoint on merit and fitness and no person should be discriminated against with respect to state classified employment. The new proposed language goes against this process and concept as qualified and covered classified Local Health Department Employees would be discriminated against.

I believe that the state would gain financially while local employees would suffer as employees who would want to accept a state position would lose earned and accrued time, while the state could write off an uncalculated amount from state books.

The employees' ability to transfer or accept a position with a state agency benefits both the employee and the state. Both can grow professionally and should be able to grow together. The proposed changes regarding local employee transfers, layoffs, and reinstatements discriminates against local employees and changes the dynamic between employees and employers.

My hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully



J.K. Fife, Administrator

Wayne County Health Department

304-272-6761

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Jack Fields
Clay County Health Department
PO Box 36
Clay, WV 25043-0036

Dear Mr. Fields:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

CLAY COUNTY HEALTH DEPT.
"CREATING A HEALTHY COMMUNITY"
452 Main St., P.O. Box 36 • Clay, WV 25043-0036 • Telephone: (304) 587-4269 • FAX: (304) 587-7415

RECEIVED
JUN 17 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

FAX COVER SHEET

DATE: 5-29-15

TO: JOE THOMAS

FROM: JACK FIELDS

# of pages including this one 2

COMMENTS:

If you do not received all the above pages, or if they are not legible, please contact me.

IMPORTANT
The information contained in this facsimile transmission is only for the use of the individuals or entity named above and may contain information that is privileged, confidential, or exempt or protected from disclosure under applicable law. If the reader or this transmission is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the address above via the US Postal Service. Thank you.

May 29, 2015

WV Division of Personnel
1900 Kanawha Blvd
East Building 6, Room 416
Charleston WV 25305

Dear Mr. Thomas,

Regarding the proposed changes of Division of Personnel, I would like to pass on my thoughts as a long time employee.

Hidden deep within its 77 pages are something I find troubling. The sections referring to local employees, specifically employees of local health departments, would seem to be rather arbitrary and discriminatory. Either we are members of DOP or we are not. As an employee of a local health department, to single us out of such major changes raises my suspicions. Especially when talk of regionalization is making the rounds, it makes me wonder if someone high up in the department of public health is forcing this through.

It would be much easier to hand pick "cooperative" employees if DOP rules weren't in the way.

State government should be open and transparent. This effort to sidestep the rules about as "transparent" as it gets.

Please forward these comments to the appropriate committees and agencies.

Sincerely,

Jack Fields
Employee of the Clay County Health Department

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Kathleen A. Frame
176 Frame Mountain
Sutton, WV 26601

Dear Ms. Frame:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

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JUN 10 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd.
East Building, Room 416
Charleston, WV 25301

Dear Mr. Thomas

I am writing to express my concern of the proposed changes to Title 143, Legislative Rule, and WVDOP Administrative Rule. Currently proposed changes would negatively impact local/county employees, especially those at local health departments, which are following WVDOP policies and procedures. As an employee of a local health department that has not only followed WVDOP policies, but also paid the required fees, it seems that we should be allowed to continue to have the same opportunities for transfer and advancement without losing seniority and accrued annual leave and sick leave. Under the proposed changes, local level employees would, in the end, be penalized for advancing to a state level position by losing their accrued leave.

Local/county employees have put in many years of dedicated service to now fear returning to the bottom of the list with ZERO annual and sick leave that they have worked for under the current rule. The proposed changes for the WVDP Administrative Rule, along with the current

Please consider the current proposed changes to the rule so that local/county employees are given the same opportunities and consideration as those at the state level.

Respectfully,

Kathleen A Frame

Kathleen. A. Frame
176 Frame Mountain
Sutton, WV 26601

Cc: Governor Earl Ray Tomblin
Senator Douglas E. Facemire
Senator Mike Romano
Delegate Brent Boggs

11.4.c. give the employee a minimum of fifteen (15) days' advance notice of the demotion to allow the employee a reasonable time to reply to the demotion in writing, or upon request to appear personally and reply to the appointing authority or his or her designee.

The appointing authority shall file the reasons for the demotion and the reply, if any, with the Director. A predetermination conference and fifteen (15) ~~days~~ days' notice are not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied.

11.5. Lateral Class Change. -- An appointing authority may move a permanent employee from a position in one class to a vacant position in another class in the same ~~pay grade~~ compensation range if the employee is found by the Director to qualify for the vacant position.

11.6. Transfers.

11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. ~~Provided, that classified employees of county or municipal agencies may only transfer to another agency within their local level of government.~~ In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

11.6.b. Appointing authorities shall report all inter- and intra-agency transfers within a class to the Director on appropriate forms at the time of the transfer. The Director shall approve transfers to comparable classes prior to the transfers and shall require that the ~~employee~~ employees meet the minimum qualifications of the new ~~class~~ classes.

§ 143-1-12. Separations, Suspension, and Reinstatement.

12.1. Resignation.

12.1.a. An employee who resigns shall present the reasons for the resignation in writing to the appointing authority. The appointing authority shall forward a copy of the resignation to the Director who shall record the resignation. If a written resignation cannot be obtained, the appointing authority shall notify the Director in writing of the resignation of the employee and the circumstances of the resignation.

12.1.b. ~~Transfer within the classified service, without a break in service, shall not be considered as a resignation.~~

~~12.1.c.~~ The appointing authority shall notify the Director when an employee resigns

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Ronda Francis
Marshall County Health Department
PO Box 429
Moundsville, WV 26041

Dear Ms. Francis:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Marshall County Health Department

P.O. BOX 429 PHONE 845-7840

MOUNDSVILLE, WEST VIRGINIA 26041

RECEIVED

JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 11, 2015

Joe Thomas, Assistant Director
WV Division of Personnel
1900 Kanawha Blvd, East
Charleston, WV 2505-0139

Dear Mr. Thomas:

The Marshall County Health Department believes that some of the proposed changes to Title 143 – Legislative Rules of the WV Division of Personnel are discriminatory to classified local health department employees. It would eliminate the ability for local employees to transfer to other covered entities and to carry tenure and leave when applying for state employment. It would also prohibit laid-off employees from preference hiring outside of their local level.

The proposed changes will also have a direct effect on other covered entities, such as the Bureau for Public Health, which frequently hires highly trained and skilled employees from local health departments. Local health department employees would have no incentive to accept positions with state agencies if they would be required to forfeit tenure and leave.

The sections we specifically take issue with are 11.6 – Transfers; 12.4 – Layoff; 14.3 – Annual Leave; and 14.4 – Sick Leave.

In the preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CR1, there is specific language against discrimination of any person in classified employment, yet these proposed changes clearly discriminate against all local health department employees. We ask that local health departments be allowed to remain in the merit system as it exists today.

Sincerely,

Ronda Francis

Ronda Francis
Administrator

Cc: Senator Jeff Kessler
Senator Kent Leonhardt
Delegate Mike Ferro
Delegate Dave Evans

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Howard P Gamble
Wheeling-Ohio County Health Department
City County Bldg., Rm. 106
1500 Chapline Street
Wheeling, WV 26003

Dear Mr. Gamble:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Thomas, Joe F

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JUN 17 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

From: Gamble, Howard P
Sent: Monday, June 01, 2015 2:25 PM
To: Thomas, Joe F
Cc: Walker, Sara P
Subject: Administrative Rule Changes Comments

I am submitting the following comments in regards to the proposed changes to the WV Administrative Rule 143CSR1.

Regarding the addition of language in 11.6a, 12.4.j, 12.6.a, 14.3.g, and 14.4.i it seems that these changes segregate out the local/county agencies, which are members of the WV DOP, and prohibit them from doing what other organizations and their employees, that are also members of the WV DOP, from doing.

Why are classified employees of a county or municipal agency, that are participants in the WV DOP program being targeted and treated differently? If a county or municipal agency is a current member of the WV DOP they should be granted that same privileges (transfers, layoffs, reinstatement, transfer of annual leave and transfer of sick leave) that the other members of the WV DOP are provided.

By prohibiting local employees, who are participants in the WV DOP, from being able to transfer from a local agency to a state agency, the available pool of qualified (state resident, tax paying citizens) potential employees decreases.

The proposed changes also potentially increases the cost on the local level. If a local employee (who is participating in the WV DOP system) accepts state employment, they would have to resign from the local agency. This would mean that the local agency would then have to pay the employee's accrued annual leave, rather than the employee being able to carry this leave to their new state position. By doing this, these changes will increase the cost of doing business on the local level.

I would ask that the provision be removed that segregate out local/county agencies.

Howard Gamble, MPH, Administrator
Wheeling-Ohio County Health Department
City County Bldg., Rm. 106
1500 Chapline Street
Wheeling, WV 26003
Main Phone: (304) 234-3682
Fax: (304) 234-6405
Cell: (304) 830-0420
Website: ohiocountyhealth.com

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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. William C. Garrett, R.S.
427 Braxton Street
Gassaway, WV 26624

Dear Mr. Garrett, R.S.:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 11 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 8, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd.
East Building, Room 416
Charleston, WV 25301

Dear Mr. Thomas:

I am writing to express my concern of the proposed changes to Title 143, Legislative Rule, and WVDOP Administrative Rule. Currently proposed changes would negatively impact local/county employees, especially those at local health departments, which are following WVDOP policies and procedures. As an employee of a local health department that has not only followed WVDOP policies, but also paid the required fees, it seems that we should be allowed to continue to have the same opportunities for transfer and advancement without losing seniority, accrued annual leave and sick leave.

More specifically, I find the language at times to be prejudicial towards county/local employees. For example, please refer to the proposed language on page 38: "Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This limits or traps the employee within the local health system unless the employee is willing to forfeit all rights and benefits accumulated. Page 48 continues with this prejudicial agenda towards county/local employees: "When a classified employee transfers or otherwise changes employment from agency to another, all service credit and accrued and unused annual leave shall be transferred. Provided that classified employees of county and municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government."

After 10 plus years of service in local government, I do not recall a more egregious example of being treated so unfairly as the proposed rule changes in Title 143. What could be the purpose and message of these new changes? County/local employees aren't deserving of the same opportunities?

Please consider the current proposed changes to the rule so that local/county employees are given the same opportunities and consideration as those at the state level.

Respectfully,

William C. Garrett, R.S.
427 Braxton Street
Gassaway, WV 26624

Cc: Governor Earl Ray Tomblin
Senator Douglas E. Facemire
Senator Mike Romano
Delegate Brent Boggs

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Diana Gaviria, MD, MPH
Berkeley County Health Department
800 Emmett Rousch Drive
Martinsburg, WV 25401

Dear Ms. Gaviria, MD, MPH:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

CLINICAL
(304) 263-5131

ENVIRONMENTAL
(304) 267-7130

RECEIVED
DIRECTORS OFFICE
JUL - 2 2015
WEST VIRGINIA
DIVISION OF PERSONNEL

Berkeley County Health Department
800 Emmett Rousch Drive
Martinsburg, West Virginia 25401

June 29, 2015

Sara Walker, Director
WV Division of Personnel
Capitol Complex, Bldg. 6, Room 436
Charleston, West Virginia 25305

Dear Director Walker,

I would like to voice my concerns about changes proposed to *Title 143 - Legislative Rules of the WV Division of Personnel.* As the Health Officer of a local health department I believe that these changes unfairly pose significant barriers to local public health employees who wish to advance their careers and would also prove to be counterproductive for the state Bureau for Public Health which has frequently hired individuals with expertise that was acquired while working in local health departments. Local public health employees do vital work in the state of West Virginia. Many have carried that experience to the state level where they have made significant contributions. These proposed changes would serve to marginalize and demean the work of local public health employees unnecessarily. The proposed changes would be particularly deleterious should future restructuring of the public health system result in local health employees being redefined as state employees.

These are the areas that I find concerning:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency for which he/she was qualified. This would set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff

Fax (304) 263-1067
www.bchealthdept.org

12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department were tested, placed on a register, and accept employment with a state agency, he/she would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, an employee of a local health department would lose all sick leave if he/she were to accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."
While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.
DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits. Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus

creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed change to the transfer, layoff and reinstatement a policy discriminate against local employees and changes the dynamic between employees and employers.

In light of these concerns, I am respectfully requesting that the proposed changes to the Administrative Rule be reconsidered for the potential damaging impact to Public Health in the State of West Virginia.

Respectfully Submitted,

Diana Gaviria, MD, MPH
Health Officer

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Thomas H. Gilpin
Cabell-Huntington Health Department
703 Seventh Avenue
Huntington, WV 25701

Dear Mr. Gilpin:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Cabell-Huntington Health Department

703 Seventh Avenue / Huntington, West Virginia 25701
(304) 523-6483

June 24, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

RECEIVED

JUN 26 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Dear West Virginia Division of Personnel Board,

This letter is in opposition to the changes to 143CSR1, the Administrative Rule of the West Virginia Division of Personnel. The Cabell County Board of Health does not support the changes to the Administrative Rule due to the reasons listed below.

In the preamble, the first statement is "The general purpose of the Division of Personnel is to attract, develop and retain to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state or classified employment." The changes offered in the 143CSR1 are in conflict to this very statement. The changes offered develop two classified systems in that one is for state employees and one is for local employees. When seeking to develop, retain and transfer employees of the highest ability and integrity, you are limiting the ability of local employees to transfer a high level skill set to the state of West Virginia. The local health employees are providing service to the citizens of the state of West Virginia and should not encounter a barrier when seeking a career in state government.

In the preamble, it states "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliation or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or state law." By classifying a local agency differently than a state government agency, the emphasis does not place priority of those employees employed at a local government agency.

In the document, transfers to state government are outlined with specifics on how this is accomplished. However, there is no mention of the transfer from a state employee to local government. This is a cost that will be absorbed by the local agency and should be similar in nature. It also places a high cost on the

individual employee should they choose a career path in state government that begins with a local agency. The local employee will lose all access to those benefits he/she earned while in public service for the citizens in the state of West Virginia.

It is our position as a Local Board of Health to support an equitable Service Level Agreement allowing the Cabell-Huntington Health Department to enter the West Virginia Division of Personnel Civil Service System Virginia. If 143CSR1 is adopted, there will be a different set of rules of the West Virginia Division of Personnel Civil Service System for local agencies compared to state agencies.

We, as a Board of Health, oppose 143CSR1.

Respectfully submitted,

Thomas H. Gilpin,

Chairperson
Cabell-Huntington Board of Health

Harriet Cyrus

Vice Chairperson
Cabell-Huntington Board of Health

J. Larry Crawford

Cabell-Huntington Board of Health

Omayma T. Touma, MD

Cabell-Huntington Board of Health

Kevin Yingling, MD

Cabell-Huntington Board of Health

Donna F. Rumbaugh

Cabell-Huntington Board of Health

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Brent Glover, MD
Braxton County Health Department
1900 Kanawha Blvd,
East Building, Room 416
Charleston, WV 25301

Dear Mr. Glover, MD:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Braxton County Health Department
617 Old Turnpike Road
Sutton, West Virginia 26601-1641
Phone: **(304)765-2851**

RECEIVED
JUN 15 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

6/10/15

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd,
East Building, Room 416
Charleston, WV 25301
To whom it may concern:

Dear Mr. Thomas:

It has been brought to my attention that there are changes being proposed that would remove transfer of benefits and tenure to employees who would be changing employment from the county to the state level. If the regionalization of health departments occurs, then current employees who have worked and served at county health departments would be rehired as state employees and essentially lose seniority and take a substantial pay cut if these propositions are allowed to pass. Having personally worked with the employees at several health departments throughout the state, especially Braxton County, I must insist that the governing body reconsider these changes. It would be unconscionable to effectively punish individuals for years of service by removing their tenure when changing from county to state employees. If these changes come to pass, we may lose our most experienced employees, ones that would be vital in teaching and training less experienced staff members and important in helping the health departments run efficiently.

Brent Glover MD

Brent Glover, MD
Health Officer
Braxton County Health Department

Cc: Governor Earl Ray Tomblin
Senator Douglas E. Facemire
Senator Mike Romano
Delegate Brent Boggs

West Virginia Association of Local Health Departments
Talking Points for Public Comment to Proposed DOP Rule Changes

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

West Virginia Association
of Local Health Departments

June 2015

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. D. Scott Gossard
Grant County Board of Health
PO Box 608
Petersburg, WV 26847-0608

Dear Mr. Gossard:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
JUN 22 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

State of West Virginia

GRANT COUNTY HEALTH DEPARTMENT
P.O. Box 608 · Petersburg, WV 26847-0608
Telephone (304) 257-4922
Fax (304) 257-2422
www.grantcountyhealthdepartment.com

June 16, 2015

Division of Personnel

1900 Kanawha Blvd E # 416

Charleston, WV 25305

The Grant County Board of Health would like to specifically state our disagreement with the following proposed changes in "Title 143-Legislative Rules of the WV Division of Personnel" that would change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of the changes discriminate against local health department employees.

11.6 - Transfers

11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff

12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave

14.3. g. Transfer of Annual Leave

14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave

14.4.1. Transfer of Sick Leave

14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Thank you for your consideration to this matter.



D. Scott Gossard

Chairman

Grant County Board of Health

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Angela Gray, BSN, RN
Berkeley County Health Department
800 Emmett Rousch Drive
Martinsburg, WV 25401

Dear Ms. Gray, BSN, RN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUL 09 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

WV Division of Personnel
Capitol Complex, Bldg. 6, Room 436
Charleston, West Virginia 25305

Dear Director Walker,

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. As the nurse director for a Local Health Department, it is my feeling that some of these changes would be devastating to local health employees.

West Virginia's Public Health System structure is currently under review for change. One possible scenario could be to model other state systems with local health employees becoming state employees. If such changes are made to West Virginia's Public Health structure then the vast number of local health employees who have been public servants for the state of West Virginia would lose all of their years of service and ability to transfer any existing benefits. I personally and professionally feel this would be a poor and unprofessional way to treat these dedicated public servants in our great state.

As a Classified Employee for the State of West Virginia, I specially would like to mention my concerns and disagreement with the following:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.
12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.
14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.
14.4 Sick Leave

14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."
While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.
DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

I am respectfully requesting reconsideration of the proposed changes to the Administrative Rule.

Respectfully Submitted,

Angela Gray, BSN, RN

Angela Gray, BSN, RN
Berkeley County Health Department

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Derrick Haggerty
Hampshire County Health Department
HC 71 Box 9
Augusta, WV 26704

Dear Mr. Haggerty:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
JUN 30 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Hampshire County Health Department
HC 71, Box 9
Augusta, WV 26704
Nursing: (304) 496-9640 Environmental: (304) 496-9641
Fax: (304) 496-9650

June 24, 2015

Re: Title 143 – Legislative Rules of the WV Division of Personnel

To Whom It May Concern:

The employees of the Hampshire County Health Department would like to state our disagreement with the following changes:

11.6 Transfers
11.6.a "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." **Due to the classification of local health departments, our employees would not be able to transfer to a state agency under this new rule, even if they are a highly qualified and trained person.**

12.4 Layoff
12.4.j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." **Any employee laid off from a local health department would not be placed on a preference list for a state position; however, any state employee that has been laid off would be given preference for a local health department position. We feel this is a highly discriminatory practice.**

14.3 Annual Leave
14.3.g. Transfer of Annual Leave
14.3.g.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." **If a local health department employee would take a state position, they would lose service credit and annual leave. This deters employees from wanting to advance their career to higher levels of government.**

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4.i.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of

government." **If a local health department employee would take a state position, they would lose service credit and sick leave. This deters employees from wanting to advance their career to higher levels of government.**

Please consider the impact these changes would have on our employees' ability to advance in their careers. As Human Resource professionals, you should understand the importance of fair and equal treatment to all employees who fall under your rule and the impact on morale and retention when career advancement is diminished.

Sincerely,

Stephanie Shoemaker
Administrator

Melissa Murphy
Office Assistant

Tamitha Wilkins
Nurse

Juanita Yowell
Office Assistant

Bonnie Welty
Office Assistant

Tina Steelman
Health and Human Resources Specialist

Derrick Haggerty
Sanitarian

Carolyn Kimble
Nurse

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Meoldy Hampton
PO Box 218
Coal City, WV 25823

Dear Ms. Hampton:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Melody Hampton

Po Box 218

Coal City, WV 25823

To Whom It May Concern:

I am writing in reference to the proposed changes to the WVDOP Administrative Rule Title 143, Legislative Rule Section 11.6a on page 38. I have worked at the Beckley-Raleigh County Health Department for 10 years. I was hired under and still follow the same guidelines and I also have been paying the fees under the WVDOP, and I believe we should have the same benefits as WV state employees that follow the same WVDOP guidelines. I also believe that county/local employees should have the same option to transfer positions within the state of WV without losing their benefits that they have worked hard for.

There have been meetings in which it has been suggested to make local health employees to state employees. If this is the case and this rule is changed, all local health employees will be considered a new employee within the state and we will lose all our vacation, sick leave, and our tenure credit that we have worked so hard for, and I think that it's unfair and it's blatant discrimination.

Sincerely,

Melody Hampton

CC:

Governor Earl Ray Tomlin

Senator Jeff Mullins

Honorable John O'Neal IV

Honorable Lynne Arvon

Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Donald L. Hannah
Summers County Health Department
151 Pleasant Street
Hinton, WV 25951

Dear Mr. Hannah:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Summers County Board of Health

151 Pleasant Street
PO Box 898, Hinton, WV 25951
(304) 466-3388
Fax: (304) 466-1230

RECEIVED

JUN 29 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

WV Division of Personnel
1900 Kanawha Blvd, East
Charleston, WV 25305

Dear Personnel Board:

After reviewing and discussing purposed changes to the DOP rules we respectfully request that you reconsider the areas which have a significant effect on local employees.
The Summers County Board of Health has participated in the WV Division of Personnel system for several decades and all current employees have been hired into system which allows them the opportunity for transfer to a state position.

Implementing these proposed rule changes would be a failure of the DOP to provide local employees with the same opportunities as state employees. This proposed rule penalizes long time employees. I respectfully request that you please reconsider the changes under section 11.6.a, page 38.

Sincerely,

Donald Lee Hannah

Donald L. Hannah, Chairman
Summers County Board of Health

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Melissa Hartman
Pendleton County Health Department
PO Box 520
273 Mill Road
Franklin, WV 26807-0520

Dear Ms. Hartman:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 26 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 22, 2015

Dear WV Division of Personnel Board Members:

I would like to take this opportunity to provide you with my comments regarding the proposed Division of Personnel Administrative Rule changes.

My first concern is Section 11.6 Transfers, under 11.6a. The suggested changes would prevent a county employee from advancing in the D.O.P merit system by not allowing transfers to State level positions. This would greatly hinder the ability of state agencies in recruiting and hiring qualified and quite possibly, already trained local health department employees to fill empty positions. I feel that this would deprive our state's public health system of a great asset; knowledge and experience that many of us possess.

My second concern is Section 14.3, Annual Leave, under 14.3g, Transfer of Annual Leave, under 14.3.g.1, as well as 14.4 sick Leave, under 14.4.1 Transfer of Sick Leave, under 14.4.i.1, both proposed changes in the Annual Leave and Sick Leave again restricts a county employee from progressing in the D.O.P merit system by banning the transfer of any annual leave, sick leave or tenure to a State agency. This is very unfair to those of us who have been dedicated in serving our communities as public health employees and at the same time planning for our future.

County agencies are required to pay Division of Personnel fees for covered employees and must be obedient to hiring practices, paperwork, training, etc. fixed by D.O.P. We as county agencies should continue to have the same rights as the State employees that are covered by the same Administrative Rule. Making these suggested changes that are affecting only the county and municipality employees would be considered blatant discrimination and would have legal consequences.

I ask that the board would seriously reconsider the proposed changes to the Administrative Rule. Thank you for your consideration.

Sincerely,

Melissa Hartman, R.N.

Melissa Hartman, R.N.

Public Health Nurse

Pendleton County Health Department

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

The Hathaway's
201 Prager Place
Morgantown, WV 26505

Dear The Hathaway's:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

201 Prager Place
Morgantown, WV 26505

RECEIVED

JUN 24 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 21, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Boulevard East
Building 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas:

I am writing to make official comment regarding the proposed amendments to 142CSR1, *Administrative Rule of the Division of Personnel*, specifically those sections that pertain to the hiring, transfer, and leave retention for classified employees of participating local agencies. The specific amendments that I am writing about are:

- **11.6.a.** *... Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government...*
- **14.3.g.1.** *...Provided, that classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government...*
- **14.4.i.1.** *...Provided, that classified employees of county or municipal agencies may only transfer accrued and unused sick leave to an agency within their local level of government...*

I work at a local health department. Our employees work for county boards of health as is required by statue statute. Most of the duties they carry out, however, are the statutory duties and programs of the State Health Officer. This means that many local health employees have exactly the same qualifications and DOP classifications as state employees. State government has historically reaped the benefits from having a pool of well-qualified local candidates from which to hire.

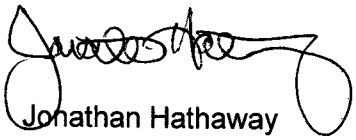
If the proposed amendments are enacted, the most qualified and dependable local health employees will almost certainly be less inclined to take employment with the state. What employee should be willing to give up years of tenure and accrued leave for a lateral transfer? The proposed changes are clearly a detriment to the DOP's statutory purpose of attracting, developing, and retaining personnel of the highest ability.

The proposed amendments essentially create two classes of employees; one retaining all previous rights and benefits and the other with diminished rights and benefits -- yet there are virtually no differences in classifications, qualifications, or duties between them. This certainly seems discriminatory. If the DOP cannot demonstrate a compelling administrative need to enact these amendments, they must be removed.

Since tenure and accrued leave benefits both translate directly into dollars, it certainly appears as though the real intent of the proposed amendments is to save money for the state by taking from the pockets of the local employees who have earned it. While it is the statutory role of the DOP to set salary and benefits, such action is to be scientifically based on market rates and trends, not politics or whim.

The proposed amendments are problematic at every level. They will decrease the ability of the state to attract experienced personnel and may have a chilling effect on hiring at local agencies as well. These changes create a new class of employee with reduced rights and benefits, who have otherwise been and will continue to be full participants in the DOP system in every other sense. Since the proposed changes can be reasonably expected to run counter to fulfilling the core mission and objectives of the Division of Personnel, they are therefore unnecessary, arbitrary, and capricious. I urge the Board to reject these changes.

Respectfully,



Jonathan Hathaway

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Timothy D. Hazelett
Cabell-Huntington Health Department
703 Seventh Avenue
Huntington, WV 25701

Dear Mr. Hazelett:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Cabell-Huntington Health Department

703 Seventh Avenue / Huntington, West Virginia 25701
(304) 523-6483

June 25, 2015

RECEIVED

JUN 26 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

Dear West Virginia Division of Personnel Board,

I am submitting this letter in opposition to the changes to 143CSR1, the Administrative Rule of the West Virginia Division of Personnel. I do not support the changes to administrative rule for the reasons listed below.

In the preamble, the first statement is "The general purpose of the Division of Personnel is to attract, develop and retain to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state or classified employment." The changes offered in the 143CSR1 are in conflict to this very statement. As an administrator of a local health department with a focus on the development, training and skill enhancements of employees, the Division of Personnel should not enact any changes in administrative rule that limits an employee's advancement of his/her career. By limiting the ability to transfer to a state agency, you are in turn removing the ability to develop and retain highly trained employees willing to serve the citizens of the state of West Virginia. The local health employees are providing service to the citizens of the state of West Virginia and should not encounter a barrier when seeking a career in state government, whether in the local or state agencies.

In the preamble, it states "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliation or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or state law." By classifying a local agency differently than a state government agency, the emphasis does not place priority of those employees employed at a local government agency.

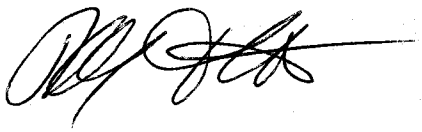
In the document, transfers to state government are outlined with specifics on how this is accomplished. However, there is no mention of the transfer from a state employee to local government. This is a cost that will be absorbed by the local agency and should be similar in nature. It also places a high cost on the individual employee should they choose a career path in state government that begins with a local agency. The local employee will lose all access to those benefits he/she earned while in public service for the citizens in the state of West Virginia.

It is my position that any change to administrative rule that has a negative impact on an employee serving the state of West Virginia should not be enacted. These are highly trained and loyal employees that seek to serve the citizens of our state. As a state agency, there should not be any changes that create inequality among individuals in the classified civil service system of the state of West Virginia.

I strongly oppose the changes to 143CSR1, Administrative Rule for the State of West Virginia as the local agencies will be placed at a disadvantage in recruiting individuals with a strong skill set and the opportunity to access a career path in state government. Employees of the state of West Virginia, at the state and local level, should retain the rights equally and not in a manner that is a disadvantage to the local government employee.

I appreciate the opportunity to share my concern as the Administrator of Cabell-Huntington Health Department.

Respectfully submitted,



Timothy D. Hazelett
Administrator
Cabell-Huntington Health Department

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Amber L. Hedrick
PO Box 114
Franklin, WV 26807

Dear Ms. Hedrick:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 26 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 22, 2015

Dear WV Division of Personnel Board Members:

I would like to submit comments concerning some of the purposed changes currently being considered for the Administrative Rule of the West Virginia Division of Personnel.

Concerning Section 11.6 Transfers, under 11.6a, changes purposed would limit a county employee to "move up" in the Division of Personnel merit system by disallowing transfers to State level positions. This would most certainly also limit the ability of state agencies to recruit and hire qualified and quite possibly, already trained local health department employees to fill vacant positions.

Concerning Section 14.3, Annual Leave, under 14.3g, Transfer of Annual Leave, under 14.3.g.1, as well as 14.4 Sick Leave, under 14.4.1 Transfer of Sick Leave, under 14.4.i.1, both purposed changes in the Annual Leave and Sick Leave again limits a county employee to advance in the Division of Personnel merit system by disallowing the transfer of any of the annual leave, sick leave or tenure to a State agency.

The county agencies pay Division of Personnel fees for covered employees and must be compliant with hiring practices, paperwork, training, etc. set forth by D.O.P. The county agencies should continue to have the same rights as the State employees that are covered by the same Administrative Rule. It seems that making the proposed changes that are affecting only the county and municipality employees would be considered discrimination and would have legal ramifications.

I would ask that the proposed changes contained in the above mentioned sections be reconsidered by the board. Thank you for your time and consideration.

Sincerely,

Amber L. Hedrick, Administrator

Pendleton County Health Department

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Lisa Holstein
68 Horse Branch Hollow Road
Danville, WV 25053

Dear Ms. Holstein:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 9, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd.
East Building, Room 416
Charleston, WV 25301

Dear Mr. Thomas,
I am writing concerning the subject of the proposed change the West Virginia Division of Personnel (DOP) wants to take effect for local health department employees transferring to a state position. As you are most likely aware, if I as a local health department employee would want to transfer to an available state job, I would lose all seniority that I have acquired.

I am stating that I am in opposition to Section 11.6.a to the proposed Title 143 Legislative Rule, WV DOP which proposes in part, "Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This proposed change would be not only detrimental but heartbreaking to the citizens of West Virginia.

West Virginia is hurting at this time, especially Southern WV. Our coal mines are losing in the battle of production and operation. People are trying to survive. We work to support ourselves and our families. Please don't let our years of service and working for our local communities lose this battle. We do not know what the future holds and may have to transfer for economic reasons. As an employee of the Boone County Health Department, I feel local agency employees bring knowledge and experience when transferring to a state agency.

I encourage you to reconsider the changes to the aforementioned DOP Administrative Rule.

Thank you for your time.

Sincerely,

Lisa Holstein

Lisa Holstein
68 Horse Branch Hollow Road
Danville, WV 25053
lisa.m.holstein@wv.gov

cc. Governor Earl Ray Tomblin
Senator William P. Cole, III
Senator Art Kirkendoll
Senator Ron Stollings
Speaker Tim Armstead
Delegate Justin Marcum
Delegate Joshua Nelson
Delegate Harry Keith White
Delegate Ralph Rodighiero
Delegate Rupert Phillips, Jr.

11.4.c. give the employee a minimum of fifteen (15) days' advance notice of the demotion to allow the employee a reasonable time to reply to the demotion in writing, or upon request to appear personally and reply to the appointing authority or his or her designee.

The appointing authority shall file the reasons for the demotion and the reply, if any, with the Director. A predetermination conference and fifteen (15) ~~days~~ days' notice are not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied.

11.5. Lateral Class Change. -- An appointing authority may move a permanent employee from a position in one class to a vacant position in another class in the same ~~pay grade~~ compensation range if the employee is found by the Director to qualify for the vacant position.

11.6. Transfers.

11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government. In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

11.6.b. Appointing authorities shall report all inter- and intra-agency transfers within a class to the Director on appropriate forms at the time of the transfer. The Director shall approve transfers to comparable classes prior to the transfers and shall require that the ~~employee~~ employees meet the minimum qualifications of the new ~~class~~ classes.

§ 143-1-12. Separations, Suspension, and Reinstatement.

12.1. Resignation.

12.1.a. An employee who resigns shall present the reasons for the resignation in writing to the appointing authority. The appointing authority shall forward a copy of the resignation to the Director who shall record the resignation. If a written resignation cannot be obtained, the appointing authority shall notify the Director in writing of the resignation of the employee and the circumstances of the resignation.

12.1.b. ~~Transfer within the classified service, without a break in service, shall not be considered as a resignation.~~

~~12.1.c.~~ The appointing authority shall notify the Director when an employee resigns

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Brooke Hott, R.S.
Pendleton County Health Department
PO Box 529
273 Mill Road
Franklin, WV 2680-0520

Dear Ms. Hott, R.S.:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 26 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

June 22, 2015

Dear WV Division of Personnel Board Members:

I would like to take this opportunity to voice my opposition in regards to the proposed changes for the Division of Personnel Administrative Rule. In my opinion I do not believe that the new rules have been fully considered, nor have the possible detrimental effects that could happen to the State, along with its' employees. I have several concerns about these changes that I will address.

My first concern is with Section 11.6 Transfers, under 11.6a, changes proposed would limit a county employee to advance in the Division of Personnel merit system by disallowing transfers to State level positions. This would most certainly limit the ability of state agencies to recruit and hire highly skilled, and already trained local health department personnel to fill vacant positions, this would be an injustice to those individuals who are fully capable of fulfilling those needed positions.

Secondly, Section 14.3 Annual Leave, under 14.3g, as well as 14.4 Sick Leave, under 14.4.1 Transfer of Sick Leave, under 14.4.i.1, both purposed changes in the Annual Leave and Sick Leave again is limiting a county employee the opportunity to advance in the DOP merit system by disallowing the transferring of any annual or sick leave, along with tenure to a State agency. Many of us have spent countless years in the service of public health for the benefit of others, only to allow this change to blatantly disregard our own.

Each county agency pays the Division of Personnel fees for covered employees and must be compliant with hiring practices, paperwork, training, etc. set forth for the D.O.P. Each agency should continue to have the same rights at the State employees that are covered by the same Administrative Rule. These proposed changes are singling out the county and municipality employees, and would certainly be considered discrimination and should be subject to legal ramifications.

We have all worked extremely hard to earn these privileges that would be taken from us with this careless rule change. I ask that the board do some serious reconsideration in regards to making these radical changes. Thank you for your time and consideration on this critical issue.

Sincerely,

Brooke L. Hott R.S.

Brooke Hott, R.S.
Registered Sanitarian
Pendleton County Health Department

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Amber Humphrey, RN
127 Silverpeak Avenue
Beaver, WV 25813

Dear Ms. Humphrey, RN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

6/5/15

RECEIVED

JUN 08 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel

Joe Thomas, Assistant Director

1900 Kanawha Blvd. East Bldg. 6, Room 416

Charleston, WV 25305

Dear Mr. Thomas:

I am writing this letter in concern over the Title 143, Legislative Rule, section 11.6a on page 38 of the Administrative Rule that is up for review and public comment. I have been a county employee for 16 years during which we have always followed WVDOP policies and procedures and paid WVDOP fees. I feel that this rule is stating that we, local/county employees, are not considered a part of the system even though we have abided by their rules and paid their fees. With that being said, I feel that we should be afforded the same consideration as other WVDOP employees.

There are meetings being held where they are discussing making local health departments regional health departments and in doing that the local employees would then be considered state employees. The new rule, if passed, would not let these employees transfer their accrued annual and sick leave over as state employees. Also, these employees would essentially have to start their careers over as new employees with the state. I feel this is discriminatory to single us out and not allow us to transfer our positions, if able, and lose our seniority and accrued annual and sick leave.

I want to ask you to take this into consideration and not penalize the county/local employees across West Virginia, several of whom have dedicated their careers to help and serve fellow West Virginians.

Respectfully,

Amber Humphrey

Amber Humphrey, RN
127 Silverpeak Avenue
Beaver, WV 25813
(304)575-8346

CC:
Governor Earl Ray Tomblin
Senator Jeff Mullins
Honorable John O'Neal, IV
Honorable Rick Moye
Honorable Lynne Arvon
Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Candace Hurd, RN, BS
118 Mayapple Lane
Mount Hope, WV 25880

Dear Ms. Hurd, RN, BS:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
JUN 03 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

May 27, 2015

Dear West Virginia Division of Personnel Board,

I would like to voice my opposition to the proposed Division of Personnel changes under section 11.6.a, page 38, stating that classified employees of county or municipal agencies may only transfer to an agency within their local level of government.

I have worked at a local health department for the last 27 years with the option of being able to apply and transfer to a state position without the loss of my sick, annual leave and service credit. If this proposed change is allowed to pass it would unjustly penalize employees of county or municipal agencies. I was hired under the same system as the state employees in 1988, paid the same DOP fees and followed the same policies. I should be afforded the same option to transfer and carry my current accumulated annual, sick leave and service credit to any position under the DOP. If this change is approved it will limit the experienced pool of applicants for the state to hire.

The proposed changes penalize long term local employees. I am 5 years from retirement and with the potential change to make local health department employees state employees it appears to be blatant discrimination against Local County or municipal employees. I once again ask that you reconsider the changes under section 11.6.a, page 38.

Sincerely,

Candance Hurd

Candance Hurd, RN, BS
118 Mayapple Lane
Mount Hope, WV 25880
(304) 575-0705

cc: Governor Ear Ray Tomlin
cc: Honorable John O'Neal IV
cc: Honorable Lynne Arvon
cc: Senator Jeff Mullins
cc: Honorable Rick Moye
cc: Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Brenda C. Isaac, RN, BSN, MA, MCSN
Kanawha-Charleston Health Department
108 Lee Street, East
PO Box 927
Charleston, WV 25323-0927

Dear Ms. Isaac, RN, BSN, MA, MCSN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

KANAWHA-CHARLESTON HEALTH DEPARTMENT
108 Lee Street, East /PO Box 927
Charleston, WV 25323-0927
(304) 344-KCHD (5243)

www.kchd.wv.org

RECEIVED
JUN 30 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

Jason Pizatella, Chairman
State Personnel Board
Building 6, Room 420
1900 Kanawha Boulevard, East
Charleston, WV 25305-0139

Attention: Joe F. Thomas
West Virginia Division of Personnel
Employee Relations Section
Building 6, Room 416
Charleston, WV 25305

Hand-Delivered

Sent via email:
Joe.f.thomas@wv.gov

Dear Chairman Pizatella:

Re: Comments regarding 143CSR01
Administrative Rule of the West Virginia Division of Personnel

Thank you for the opportunity to comment. While we have addressed our particular areas of concern with some specificity, it is fair to state universally that we find the proposed amendment to the current rule discriminatory to county and municipal employees. The Division of Personnel is exceeding the scope of its authority by creating a new class of county and municipal employees. County and municipal employees have for years enjoyed equal protection and opportunity in the classified service. If that protection is to be altered, it should be done by action of the legislature approving a distinct bill with a single object, not by administrative fiat in a legislative rule. Finally, the fiscal note does not reflect the possible shifting of Other Post-Employment Benefits (OPEB) debt from state government to county and municipal governments.

Amendment Language

143-1-2. Preamble
...All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliations or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or State law.

Discussion

We endorse specifically adding language to include classified employment in the preamble.

Suggested changes to amendment language

We have no suggested changes to this language.

Amendment Language

11.6. Transfers
11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government. In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual leave and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

Discussion

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified service who are limited to transfer and advancement only on the local level. Only the legislature by passage of a specific, distinct bill with a single object should make the decision about creating a new class of employees. While county and municipal employees are not state employees, they have for decades been equal and participating members of the classified service. Any action to remove that equality should be made by the legislature.

Suggested changes to amendment language

After the word "time.," strike the underlined language, as noted by double strikethroughs.

11.6.a. Except as otherwise provided in subsection 10.4. Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. ~~Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government.~~ In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

Amendment Language

12.4.j. Preference Hiring.—When filling vacancies at agencies, appointing authorities shall, for a period of twelve (12) months after ~~the layoff of~~ a permanent classified employee in another agency has been placed on a preference register due to layoff, give preference ~~to those laid off qualified permanent classified employees~~ such employee based on ~~seniority~~ tenure and fitness over all but existing classified employees of the agency ~~or its facilities~~. This preference shall not supersede the recall rights of employees who have been laid off in the agency. Preference hiring shall be accomplished by original appointment. Provided, that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government.

Discussion

Local employees were hired into the classified service with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. Before any such action preventing transfers is taken, we would request a trend analysis of transfers. Is the trend more from transfers from local government to the state, or from the state to local government? A trend analysis would identify if DOP has a basis for the Draconian measures provided in the proposed amendment to this rule. If the trend analysis shows more employees transferring from county or municipal positions to state positions, it would indicate, according to the language of the proposed amendment, that moving from a county or municipal job to a state job would be an original appointment and that the individual accepting the appointment would lose sick leave and annual leave accrued while employed on the county or municipal level. It is also unclear how the employees inability to transfer accrued sick leave would affect his or her retirement benefits.

Suggested changes to the amendment language

After the word "appointment.," strike the proposed new language, as noted by the double strikethroughs. (In this instance, underlining denotes new language in the proposed amendment.)

12.4.j. Preference Hiring.—When filling vacancies at agencies, appointing authorities shall, for a period of twelve (12) months after the layoff of a permanent classified employee in another agency has been placed on a preference register due to layoff, give preference to those laid off qualified permanent classified employees such employee based on seniority tenure and fitness over all but existing classified employees of the agency or its facilities. This preference shall not supersede the recall rights of employees who have been laid off in the agency. Preference hiring shall be accomplished by original appointment. ~~Provided, that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government.~~

Amendment Language

14.3.g. Transfer of Annual Leave
14.3.g.1. When a classified employee transfers or otherwise changes employment from one agency to another, all service credit and ~~hours of~~ accrued and unused annual leave shall be transferred. Provided, that classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government...

Discussion

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition. An as yet uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits. DOP must provide legislators and the public some idea of the true fiscal impact of the rule.

Suggested changes to the amendment language

After the word "transferred," delete the proposed new language as shown with double strikethroughs.

14.3.g.1. When a classified employee transfers or otherwise changes employment from one agency to another, all service credit and hours of accrued and unused leave shall be transferred~~. Provided, that classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government~~...

Amendment Language

14.4.e.2. All Other Separations. – All accumulated sick leave shall be cancelled as of the date and time of separation. ~~If an employee returns to eligible employment, as provided in subdivision b of this subsection, within one year of the date and time of separation, including the first working day the reinstatement could be accomplished, all cancelled sick leave shall be restored. However, if the employee returns to eligible employment after more than one year from the date and time of separation from employment, no more than thirty (30) days of cancelled sick leave shall be restored.~~ If an employee who has been laid off is re-employed in eligible employment, all cancelled sick leave shall be restored.

Discussion

The wording of the proposed language is ambiguous. While county and municipal employees are not specifically included, neither are they excluded. While it is unclear if this is a drafting problem or a policy issue, the ambiguous language should be made clearer.

Suggested changes to the amendment language

After the word "separation," delete the proposed new language as shown with double strikethroughs.

14.4.e.2. All Other Separations. – All accumulated sick leave shall be cancelled as of the date and time of separation. ~~If an employee returns to eligible employment, as provided in subdivision b of this subsection, within one year of the date and time of separation, including the first working day the reinstatement could be accomplished, all cancelled sick leave shall be restored. However, if the employee returns to eligible employment after more than one year from the date and time of separation from employment, no more than thirty (30) days of cancelled sick leave shall be restored.~~

Insert in lieu thereof (shown by underlining): If an employee returns to eligible employment, all cancelled sick leave shall be restored. If the employee returns to eligible employment after more than one year from the date of separation, no more than 30 days of cancelled sick leave shall be restored….

Amendment Language

14.4.i. Transfer of Sick Leave
14.4.i.1. When a classified employee transfers or otherwise changes employment from one agency to another, all accrued and unused sick leave shall be transferred. Provided, that classified employees of county or municipal agencies may only transfer accrued and unused sick leave to an agency within their local level of government. The previous employer shall provide written documentation of the sick leave balance computed in days and fractions of days to the other agency within thirty (30) ~~calendar~~ days after the employee commences work. The previous employer shall also provide the days of State and federal Military, ~~Family and Medical Leave Act~~ FMLA, Parental Leave Act, and Red Cross Disaster Service leave eligibility exhausted within the year, if applicable.

Discussion

DOP officials have stated to local health officials that poor record keeping on the part of some local health departments prevents DOP officials from certifying applicants seeking to transfer to state jobs from county or municipal jobs meet the minimum requirements for the state jobs. DOP currently has the authority to request all documentation related to employment through the service level agreements signed with individual local boards of health Any local board of health not able to meet DOP requirements should be individually remediated. We have included suggested new language to address the need for the Division of Personnel to be able to document leave.

Suggested changes to the amendment language

After the word "transferred," delete new language as shown by double strikethroughs.

14.4.i.1. When a classified employee transfers or otherwise changes employment from one agency to another, all accrued and unused sick leave shall be transferred~~. Provided, that classified employees of county or municipal agencies may only transfer accrued and unused sick leave to an agency within their local level of government.~~

After the word "written," insert the following language: (In this case, underlining denotes proposed new language suggested by KCHD.) The previous employer shall provide written documentation of the sick leave balance computed in days and fractions of days to the other agency within thirty (30) calendar days after the employee commences work. The documentation shall be in a form and manner prescribed by the Division of Personnel. Only leave that is accounted for in this manner shall be considered eligible for transfer.

Amendment language

14.4.i.2. At the discretion of the appointing authority, sick leave accrued while in other state or classified employment may be transferrable to covered agency employment.

Discussion

Does this give a state agency the ability to transfer sick leave accrued on a county or municipal level at the agency's discretion? If the decision is left to the discretion of the appointing authority, it does not afford equal protection to all employees transferring with accrued sick leave.

Suggested changes to the amendment language

We have no suggested changes.

Amendment Language

143-1-18. Payroll certification.
~~18.1.~~ No state, county or municipal disbursing or auditing officer shall make, ~~or~~ approve or take any part in making or approving any payment for personal service to any person holding a position in the classified service unless the ~~payroll voucher or account of the pay bears the certification of the Director, or of his or her authorized agent, that the persons named in the voucher or account have~~ person has been appointed and employed in accordance with the provisions of this rule. An appointing authority may not modify the wages of a person in the classified service unless the Director has approved the modification in accordance with the provisions of this rule....

Discussion

We agree with the proposed amendment language in that it will require uniformity in payment for employees in the classified service.

Please contact me or John D. Law if you have any questions. John's email address is John.D.Law2@wv.gov. His cellphone number is 304-546-5162.

Sincerely,

Arthur B. Rubin

Brenda C Isaac

Arthur B. Rubin, DO, FACOP, MHA
Kanawha County Health Officer

Brenda Isaac, RN, BSN, MA, NCSN
Executive Director

Copies:

Kanawha Legislative Delegation
Chairman Mark Maynard
Chairman Kelly Sobonya
Chairman Ryan Ferns
Chairman Joe Ellington

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Debra B. Jackson
Nicholas County Health Department
1 Stevens Road, Suite 201
Summersville, WV 26651

Dear Ms. Jackson:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Thomas, Joe F

RECEIVED
JUN 17 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

From: Jackson, Debra B
Sent: Tuesday, June 16, 2015 1:27 PM
To: Thomas, Joe F
Subject: Revised Adm Rule - public comment

Mr. Thomas,
Ever since I started to work here in 2002, I have been advising young kids I know to apply to a county or state job-good benefits and can move laterally if choose too and there are openings. Now you change the some of the rules. I had to take the civil service test to be hired here for an office assistant and then when there was an opening for an account tech – I had to take another test to qualify to change positions. It was not labeled a county account tech or office assistant it was civil service. So why now are you labeling the county service workers different. We pay the fees for our employees the same as state agencies I am assuming or do they pay?
It is like you put us in a rock and hard place position the local health departments signed the service level agreements now you change the rules, when we were trying to abide by the rules before the agreement. And it has been about 1 year since the agreement was signed and we were told how many things were wrong and we have yet to see what we were doing wrong, not to mention the Plans Project, we had to get the information in because the jobs had to be reviewed and 6 years later still nothing.
I have been told all my life "life is not fair" handle it. But there comes a time where you have to say it a little louder. Please reconsider these changes you are telling county employees they aren't good enough to work for our state, how can that be a good thing.
Thank you for reconsidering this change. The state benefits from experienced workers that got their start from counties, where did you start??
Thank you sincerely,
Debra Jackson

Debra B. Jackson
Nicholas County Health Department
1 Stevens Road, Suite 201
Summersville, WV 26651
304-872-5329 ext. 104

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Elizabeth A. Jones
157 Brownine Pl
Princeton, WV 24740

Dear Ms. Jones:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

151 Brownie Place
Princeton, WV 24740
June 26, 2015

RECEIVED
JUN 29 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

WV Division of Personnel
1900 Kanawha Boulevard, East
Charleston, WV 25305-0139

Dear West Virginia Division of Personnel Board:

I would like to voice my opposition to the proposed Division of Personnel changes under Section 11.6a, Page 38, stating that classified employees of county or municipal agencies may only transfer to an agency within their local level of government.

I have worked at a local health department for the last 25 years with the option of being able to apply and transfer to a state position without the loss of my sick, annual leave and service credit. If this proposed change is allowed to pass it would unjustly penalize employees of county or municipal agencies. I was hired under the same system as the state employees in 1989, paid the same DOP fees and followed the same policies. I should be offered the same option to transfer and carry my current accumulated annual, sick leave and service credit to any position under the DOP.

With the potential change to make local health department employees state employees it appears to be blatant discrimination against Local County or municipal employees. I once again ask that you reconsider the changes under Section 11.6.a, Page 38.

Sincerely,
Elizabeth A. Jones

Cc: Governor Earl Ray Tomblin
Representative Joe Ellington
Representative Marty Gearheart
Representative John Shott
Senator Mark Maynard
Joe Thomas, Assistant Director, DOP

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms Linda K. Judy
17 Central Avenue
Petersburg, WV 26847

Dear Ms Judy:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
DIRECTORS OFFICE

JUN 25 2015

WEST VIRGINIA
DIVISION OF PERSONNEL

RECEIVED

JUN 25 2015

WEST VIRGINIA
DIVISION OF PERSONNEL

Linda K. Judy
17 Central Avenue
Petersburg, WV 26847

This letter is in regard to the DOP proposed Title 143 for employees of county or municipal agencies.

The amendment clearly discriminates local health department employees. We have worked our years of service at the health departments some of us with 20-30 years of service anticipating our benefits and retirement for the years ahead of us. We were hired with the promise of being able to transfer, use our sick leave, annual leave for our future years.

This amendment if passed would be totally a hardship on us the employees of the health departments. This amendment if passed will be another financial hardship for us. After retirement we still have bills to pay and myself being a widow is tremendously hard for me. I have counted on being able to retire with benefits for my senior years.

Please do not let this amendment pass and please do not take our jobs, we have worked so hard in these past years to build the health departments in our communities to better others lives through the services that we offer. We here at the Grant County Health Department do great things for our communities not only here, but for people that come here from various counties such as Randolph, Pendleton, Hardy and other counties as well.

Sincerely,
Linda K. Judy
17 Central Avenue
26847

Employee of Grant County Health Department
P.O. Box 608 / 739 Northfork Hwy
Petersburg, WV 26847

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Amy Justice, RN
HC 76 Box 75E
Nimitz, WV 25978

Dear Ms. Justice, RN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Amy Justice, RN
HC 76 Box 75E
Nimitz, WV 25978
(304) 573-7013
06-03-2015

WV Division on Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas:

I have been employed by the Beckley-Raleigh County Health Department for over 5 years now. I'm writing to express my opposition to recently proposed changes to the WVDOP Administrative Rule, Title 143, in particular, section 11.6a, on pg. 38.

I understand that ours as well as all local health departments sign an agreement that they abide by the DOP's rules and they pay for DOP's services. Since we pay these fees and abide by the DOP's policies and procedures, I would think that we should be considered a member of the DOP system. However, according to Section 11.6a, it considers county/local employees as a different agency than the state department.

According to this section, local health employees are allowed to transfer to another position within another local agency, but not to a state position. In order to transfer to a state position an individual would have to resign from the local agency and then start at the beginning salary and benefit rate. They would then lose all the annual and sick time they have accrued. Since we are a part of the DOP system, I do not feel that is fair to all the local agencies that participate in the DOP system.

Please, consider how this will affect numerous employees who have many years of loyal service. Please revise this section and allow local health staff the ability to transfer to all available state positions.

This matter is critical if in the future health departments may become state operated facilities. These proposed changes not only penalize county and local employees, it appears to be obvious and blatant discrimination against them. These changes show

obvious disregard to employees, and their dedicated years of service. Employees should be able to transfer and carry their accumulated annual and sick leave hours and tenure credit into a position that they qualify for under the WVDOP.

Thanks for your consideration, assistance, and time spent helping resolve this matter.

Sincerely,

Amy Justice RN

Amy Justice, RN

cc:

Governor Earl Ray Tomblin

Senator Jeff Mullins

Honorable John O'Neal, IV

Honorable Rick Moye

Honorable Lynne Arvon

Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Phyllis Susan Paris Kadar,
Administrator
Mercer Board of Health
978 Blue Prince Road
Bluefield, WV 24701

Dear Ms. Paris Kadar,:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

June 22, 2015

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

Dear Sir:

It is with utmost respect that I voice my opinion. Local Health Department (LHD) employees are being treated as lepers in the West Virginia Department of Personnel Administrative Rule Revision.

We have been serving the residents of our counties and, yes, the state, for decades as public/civil servants.

Local Health is the backbone/underlying foundation of all Public Health in the state.

Take us out of the equation and picture all the disease and poor sanitary conditions you'd be living in.

We are your first line of defense and have a mind-boggling wealth of experienced/knowledgeable employees and to make us start over at zero should we desire a position with the state is a travesty.

Who would want to apply for any state position when all their hard work, earning time and tenure means absolutely nothing.

You have just put a serious dent in finding experienced persons who also have inside knowledge of WV's populations and demographics.

We "locals" have served our state as well as any other state employee; paid fees to the DOP to even serve on the local level.

I and many of my public health fellows feel this is truly a tremendous slap in the face.

My only reasoning for all this is that if regionalization comes about and we have to become state employees, this will really cut the state's price tag...**at our expense!**

Sincerely,

Phyllis Susan Paris Kadar

Phyllis Susan Paris Kadar, Administrator
Mercer County Health Department

cc: Governor Earl Ray Thomblin
Senator William Cole
Senator Mark Maynard
Representative Joe Ellington
Representative Marty Gearheart
Representative John Shott

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Jane E. Keaton, OA III
Summers County Health Department
151 Pleasant Street
Hinton, WV 25951

Dear Ms. Keaton, OA III:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Summers County Board of Health

151 Pleasant Street
PO Box 898, Hinton, WV 25951
(304) 466-3388
Fax: (304) 466-1230

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

Dear West Virginia Division of Personnel Board:

On Friday, May 22, 2015 proposed changes were posted for public comment pertaining to DOP Administrative Rule. While many of these changes are logical there are some that pertain specifically to local employees and will affect them significantly. I as an employee with 23 years of service with the SCHD would like to submit my comments relating to these purposed changes.

When hired as an office assistant in 1992 by the SCHD BOH it too had to be approved by the WV DOP because they were a participating local agency in the classified system. Prior to my employment I was given the information on the process and what it meant to be a covered employee in the system. I also knew what my opportunities and rights would be as well and one of those would be to have the opportunity to transfer to a state agency without losing tenure and leave benefits. I felt that this was one of my benefits to taking the job.

If these purposed changes do take place then I feel that this would be a failure of the WV DOP to provide me with the opportunities and assurances that were stated in the DOP Administrative Rule. I respectfully request that you please reconsider these changes particularly for all current local employees who rely upon the DOP to assist in protecting and supporting local employees.

Sincerely,

Jane E. Keaton, OA III

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Beverly Keener
Marion County Health Department
300 Second Street
Fairmont, WV 26554

Dear Ms. Keener:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

for Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd E
Building 6 Room 416
Charleston WV 25305-0139

Dear Mr. Thomas,

I am writing with regard to the proposed DOP rules that are currently open for public comment. I believe the changes unfairly remove many of the benefits that local health department employees currently have. The important changes to be implemented in the proposed "Title 143 - Legislative Rules of the WV Division of Personnel" will change some current rules and guidelines for employees of county or municipal agencies who participate in the merit system. The proposed changed will discriminate against local health department employees and changes the relationship between employee and employer.

I disagree with the following changes:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and this change sets limits on their opportunities to advance to a better position in the merit system. This limits the ability of state agencies to hire qualified, trained local employees .

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." With this change, laid off employees of local health departments would not be placed on a preference list for employment with a state agency. There is nothing stated to require that local health departments would give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested,

placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave

14.4.1. Transfer of Sick Leave

14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Throughout the proposed change amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," creating a new class of people within the classified system who are limited to transfer and advancement only on the local level. This will hinder the recruitment, retention and advancement of employees based on their knowledge, abilities, and skill, which improves the quality of public service. The proposed amendment only blocks that improvement.

I respectfully ask that the proposed changes to the rule that involves employees of local health departments and the restrictions that it places on them be removed.

Sincerely,

Beverly Keener

Beverly Keener, RTPC TTS Health Educator II
Marion County Health Department
300 2nd Street
Fairmont WV 26554
Office: 304-366-3360 ext. 111 Fax: 304-363-8217 Beverly.h.keener@wv.gov

Marion County Health Department
300 Second Street
Fairmont, West Virginia 26554
Phone: 304-366-3360
FAX: 304-363-8217

TELECOPIER INFORMATION SHEET
*CONFIDENTIAL

INDIVIDUAL: Joe Thomas

FIRM: WV Division of Personnel

CITY AND STATE: Charleston WV

FAX NUMBER: 304 957 0395 **PHONE NUMBER:**

FROM: Beverly Keener

TOTAL NUMBER OF PAGES: 3 **(Including information sheet)**

DATE TRANSMITTED: 6/29/15

OPERATOR: Beverly

COMMENTS:

If you do not receive all the pages, please call back as soon as possible. Thank you.

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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Vickie D. Key
PO Box 1
Sutton, WV 26601

Dear Ms. Key:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 08 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd.
East Building, Room 416
Charleston, WV 25301

Dear Mr. Thomas

I am writing to express my concern of the proposed changes to Title 143, Legislative Rule, and WVDOP Administrative Rule. Currently proposed changes would negatively impact local/county employees, especially those at local health departments, which are following WVDOP policies and procedures. As an employee of a local health department that has not only followed WVDOP policies, but also paid the required fees, it seems that we should be allowed to continue to have the same opportunities for transfer and advancement without losing seniority and accrued annual leave and sick leave. Under the proposed changes, local level employees would, in the end, be penalized for advancing to a state level position by losing their accrued leave.

Local/county employees have put in many years of dedicated service to now fear returning to the bottom of the list with ZERO annual and sick leave that they have worked for under the current rule. The proposed changes for the WVDP Administrative Rule, along with the current

Please consider the current proposed changes to the rule so that local/county employees are given the same opportunities and consideration as those at the state level.

Respectfully,

Vickie D. Key
PO Box 1
Sutton, WV 26601

Cc: Governor Earl Ray Tomblin
Senator Douglas E. Facemire
Senator Mike Romano
Delegate Brent Boggs

11.4.c. give the employee a minimum of fifteen (15) days' advance notice of the demotion to allow the employee a reasonable time to reply to the demotion in writing, or upon request to appear personally and reply to the appointing authority or his or her designee.

The appointing authority shall file the reasons for the demotion and the reply, if any, with the Director. A predetermination conference and fifteen (15) ~~days~~ days' notice are not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied.

11.5. Lateral Class Change. -- An appointing authority may move a permanent employee from a position in one class to a vacant position in another class in the same ~~pay grade~~ compensation range if the employee is found by the Director to qualify for the vacant position.

11.6. Transfers.

11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. ~~Provided that classified employees of county or municipal agencies may only transfer to an~~ agency within their local level of government. In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

11.6.b. Appointing authorities shall report all inter- and intra-agency transfers within a class to the Director on appropriate forms at the time of the transfer. The Director shall approve transfers to comparable classes prior to the transfers and shall require that the ~~employee~~ employees meet the minimum qualifications of the new ~~class~~ classes.

§ 143-1-12. Separations, Suspension, and Reinstatement.

12.1. Resignation.

12.1.a. An employee who resigns shall present the reasons for the resignation in writing to the appointing authority. The appointing authority shall forward a copy of the resignation to the Director who shall record the resignation. If a written resignation cannot be obtained, the appointing authority shall notify the Director in writing of the resignation of the employee and the circumstances of the resignation.

12.1.b. ~~Transfer within the classified service, without a break in service, shall not be considered as a resignation.~~

~~12.1.c.~~ The appointing authority shall notify the Director when an employee resigns

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Michael E. Kilkenny, MD, MS
Cabell-Huntington Health Department
703 Seventh Avenue
Huntington, WV 25305

Dear Mr. Kilkenny, MD, MS:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Cabell-Huntington Health Department

703 Seventh Avenue / Huntington, West Virginia 25701
(304) 523-6483

RECEIVED

JUN 24 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel

Employee Relations Section

1900 Kanawha Blvd East

Building 6, Room 416

Charleston, WV 25305

Email: joe.f.thomas@wv.gov

June 17, 2015

Dear Sir or Madam:

I am writing in public comment concerning proposed changes to the Administrative Rule of the West Virginia Department of Personnel under WV Code 29-6-10. As the Physician Director of the Cabell-Huntington Health Department, I oppose those changes which restrict the freedom of or inflict an economic penalty on classified employees of county or municipal agencies seeking to transfer employment to a state agency. These changes seem to contradict the purpose of the Division of Personnel as stated in the preamble.

Internal auditing of employment attitudes in our organization has revealed that employee benefits are viewed positively among our employees, whereas salary is viewed negatively. Loss of benefits on transfer to a state agency, which would occur under the proposed rule changes, would place employees in a position of viewing both salary and benefits negatively. This would hinder state agencies' ability to attract these employees. It also hinders staff development in that employees seeking to advance their careers or personal opportunities would feel confined to their current positions.

I would ask that those additions to current rule which would place these barriers to attraction and development not be implemented.

Sincerely,

Michael E. Kilkenny, MD, MS

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Lolita Kirk
2770 Daniels Avenue
South Charleston, WV 25303

Dear Ms. Kirk:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Lolita Kirk
2770 Daniels Avenue
South Charleston, WV 25303
(304) 741-4021
lolitakirk@frontier.com

RECEIVED
DIRECTORS OFFICE
JUN 30 2015
WEST VIRGINIA
DIVISION OF PERSONNEL

Joe Thomas, Assistant Director
West Virginia Division of Personnel
1900 Kanawha Blvd., East
Building 6, Room 416
Charleston, WV 25305

Re: Comment on the proposed amendments to the West Virginia Division of Personnel Administrative Rule (143CSR1)

VIA: USPS and Fax to 304-957-0395

Dear Mr. Thomas:

In 1985, I began my career as a West Virginia public employee. Since then, I have held positions at two state agencies and one local agency. Over my 29 year career, I have held five job titles and with each advancement, have gained skills and knowledge that has benefitted not only myself, but the agencies that I have been privileged to serve.

My current agency throughout its history in the classified system has transferred employees to state agencies. No state agency has benefitted more from these transfers than the West Virginia Department of Health and Human Resources (WVDHHR). WVDHHR often transfers to its programs trained qualified local health department staff. My agency has also been very fortunate to hire qualified staff from state agencies, through transfers, reinstatements and from the preference lists. Under the proposed rules, employees who are hired at the local level, after working for several years to become proficient in their fields will be less willing to accept positions at the state level, if they are required, as the proposed amendments state, to be hired as an original appointment. Similarly, a state employee knowing that they will be placed in a new category of classified employees may not be willing to accept local level employment. At a time when government agencies are struggling to maintain a trained and qualified workforce, the proposed amendments to the Administrative Rule will only add to the struggle.

While, I am near the end of my career in public service, my concern is for the next generation of candidates considering a career in public service. When I conduct interviews for openings within my agency, one of the most frequently asked questions during the interview process, especially for employees at the entry level is; "are there

opportunities for advancement? Job candidates, who seek to begin a career path and not just accept a job for a paycheck, are looking for opportunities for growth both personally and professionally. The proposed rule amendments, with regards to local employees, will eliminate the majority of career advancement opportunities for these hardworking public servants.

Per §143-1-2. of the Administrative Rule of the West Virginia Division of Personnel: "The general purpose of the Division of Personnel is to attract to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state employment. All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state employment because of his or her political or religious opinions or affiliations or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or State law". The proposed amendments to the Administrative Rule of the West Virginia Division of Personnel, essentially creates a new, but NOT EQUAL, classified system for the employees of local agencies.

Additionally, I am concerned about employees who find themselves separated from classified service, i.e. laid off, or who for personal and family reasons must temporarily separate from the classified service. These employees often wish to rejoin the classified system, but if the proposed amendments are adopted their sick leave will not be reinstated. As an administrator, I understand changes must be made to reduce the ever increasing costs of employee benefits, but when rules regarding benefits have changed in other sectors, i.e., PEIA and PERS, the rules have been applied in such a manner as to not harm employees who were hired under prior rules.

Thank you for the opportunity to comment on the proposed amendments to the West Virginia Division of Personnel Administrative Rule (143CSR1)

Sincerely,

Lolita Kirk

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Kimberly S. Kline
3512 Blue Gray Trl
Franklin, WV 26807-6554

Dear Ms. Kline:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 29 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 22, 2015

Dear Mr. Thomas,

I am writing in comment to the proposed changes to the Division of Personnel Administrative Rules 143CSR1 as they pertain to local public health department employees. It is my opinion that the effects from these changes have not been well thought out, and the repercussions in years to come will have a very detrimental effect on our state in not only physical health, but fiscal health as well. It is my opinion that the proposed changes to the rule should be rescinded in their entirety.

The main thrust of this proposed rule is to carry out blatant discrimination against local health department employees simply because they are local health department employees.

Local health departments have been part of the state's classified system for nearly 50 years, and currently pay $180 per FTE for participation in the system. Over the course of those years, many public health nurses, sanitarians, office assistants, epidemiologists and others have gained significant experience and expertise, and have proudly served the people of our state to protect their health and well-being. Local health department personnel are the only local employees that are in the classified system of the Division of Personnel. Therefore, if local health department employees are laid off, there is no job position in their county in which their benefits and seniority will transfer. Thus, long time employees with accrued sick leave and annual leave, which can be used to help cover the exorbitant cost (in non-state agencies) of insurance premiums, or to be used toward years of service counting toward retirement, will lose that benefit. This outcome could very well cause law suits to be filed to alleviate this situation.

Officials in Charleston have no concrete idea of what goes on day to day in a local health department, where we actually do the work of public health in our communities. Many local public health employees have been at their post longer than our state counterparts. However, this proposition is saying that because we are in local health, we don't know enough or aren't experienced enough to be able to transfer to vacancies in state agencies without starting out from the very beginning. In many instances, we are well qualified for those positions, and in

some cases, more qualified than the incumbent. Furthermore, there is nothing in the proposed rule to prohibit laid off state employees from receiving preference for vacant local health department positions.

The fiscal note which accompanies the proposed rule, stating "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government" is disingenuous. If folks are unemployed, they will seek work elsewhere. While they are unemployed, they will be drawing unemployment, which is going to cost someone money. If unable to find work within West Virginia, they will go somewhere else to find gainful employment. When that happens, our already dismal tax base will continue to dwindle. The proposed savings to state government might be there, but state government is going to have a whole lot less income tax dollars to work with from the population forced to move out of the state.

Local health department employees having to work to save their livelihoods is taking away valuable time that could be spent doing the jobs they were hired to do. Thank you for your reconsideration of this critical issue.

Sincerely,

Kimberly S. Kline

Kimberly S. Kline
Regional Epidemiologist
District 3

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Roger Leatherman
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. Leatherman:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: minerallhd@wv.gov
www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment …"

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may…establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

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MINERAL COUNTY HEALTH DEPARTMENT

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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

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www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Richard Lechliter
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. Lechliter:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

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12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

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14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

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While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

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www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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MINERAL COUNTY HEALTH DEPARTMENT

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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
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www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Jerry Linville
Lincoln County Health Department
Building 6 Room 420
1900 Kanawha Blvd. E
Charleston, WV 25305-0139

Dear Mr. Linville:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Public Health
Prevent. Promote. Protect.
Lincoln County Health Department

P.O. Box 527
8008 Court Avenue
Hamlin, WV 25523
(304) 824-3330 office
(304) 824-3334 fax
www.lincolnhealthwv.com

RECEIVED
JUN 29 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

To Whom It May Concern,

I wanted to take some time and fully explain our high level concern and disagreement regarding proposed changes to Title 143 Legislative Rule of WV Division of Personnel. I appreciate you taking the time to review and consider the following concerns before moving forward.

The significant changes proposed in this Legislative Rule of the WV Division of Personnel will change various rules and guidelines for county and municipal agencies who participate in the merit system. We believe that these proposed changes actually discriminate against Local Health Department employees. We also feel as though these proposed changes will have just as much of a negative effect on state agencies who often find talented and qualified job candidates from local health departments. I would like to identify some specific examples which are outlined below.

11.6 Transfers: 11.6 a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This would limit qualified Health Department Employees to accept a better position in the merit system while hurting state agencies and taking away their ability to recruit these qualified employees to better their departments. State agencies have historically recruited and utilized the talents of Local Health Department employees. Either way, this proposal has a negative effect on growth and advancement. Local employees were hired into the classified system with the same opportunities to advance as their state counterparts.

12.4 Layoff: 12.4.j. "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change were to go into effect, employees from a Local Health Department, who were laid off, would not be placed on a preference list for employment with a state agency. Again, this negates any opportunity to utilize Local Employees in this situation for their experience, talent and skills for vacant positions. From another point of view, there is also nothing that states Local Health Departments would not have to give preference to state employees who were laid off.
14.3 Annual Leave: 14.3g. "Classified employees of county or municipal agencies may only transfer service credit and accrued unused annual leave to an agency within their local level of government". Even if an employee of a county Health Department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their accrued and earned annual leave or tenure to the state agency. Again, this has a big effect on State Agencies as they try and recruit the most qualified and seasoned candidates to fill open positions.

14.4 Sick Leave: 14.4.i. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, this would take away a Local Health Department Employee's earned and accrued sick time if they chose to better themselves by taking a state agency job that they desired. Once again, this would have a negative effect on State Agencies as they try and recruit qualified candidates and many come from Local Health.

The amended preamble to the Administrative Rule of the West Virginia Division of Personnel (143CSR1) reflects the determination to promote and appoint on merit and fitness and no person should be discriminated against with respect to state classified employment. The new proposed language goes against this process and concept as qualified and covered classified Local Health Department Employees would be discriminated against.
I believe that the state would gain financially while local employees would suffer as employees who would want to accept a state position would lose earned and accrued time, while the state could write off an uncalculated amount from state books.

The employees' ability to transfer or accept a position with a state agency benefits both the employee and the state. Both can grow professionally and should be able to grow together. The proposed changes regarding local employee transfers, layoffs, and reinstatements discriminates against local employees and changes the dynamic between employees and employers.

It is my hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully,

Jerry Linville
Member
Lincoln County Board of Health
(304) 824-3330

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Shauna Long
Hardy County Health Department
411 Spring Ave, Suite 101
Moorefield, WV 26836

Dear Ms. Long:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

HARDY COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

State Personnel Board
West Virginia Division of Personnel
Building 6, Room 416
1900 Kanawha Boulevard, East
Charleston, WV 25305

June 17, 2015

Re: Public Comment on Proposed DOP Administrative Rule Change

Local Health Department Employees have been a part of the DOP system for many years. Those of us who make Public Health a career understand we will not become wealthy in this profession. Very often the benefits package is what draws and keeps us in what, very often, is a thankless job.

We are loyal, dedicated professionals and the proposed rule change is decidedly unfair to those who have dedicated large parts of their life to Public Health. Any benefit that was in place at the time of our employment should be honored until we retire.

We realize businesses must make changes to remain efficient. However, Health Departments have paid a substantial amount of money over the years to be protected by DOP policy. Losing seniority, leave days, our place on the Register and the ability to transfer into other state jobs feels like punishment at best.

We have ***earned*** the privileges you would like to take from us.

Sincerely,

William Ours, Administrat, Sanitar
Heidi Bailey, Sanitarian II
Helen Mathias, OA II
Tammy C... OA II
Shawna Long RN
Susan Mayse RN
Donna Mongold OA II

Address: 411 Spring Ave, Suite 101, Moorefield, WV 26836
Telephone: 304-530-6355 • Fax: 304-530-7684 • Email: william.a.ours@wv.gov
www.hardycountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Phyllis L. Lowe, R.S.
13 Wheatley Branch Road
Chapmanville, WV 25508

Dear Ms. Lowe, R.S.:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
JUN 18 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 15, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd.
Charleston, WV 25301

Dear Mr. Thomas:

I would like to state my opposition to Section 11.6.a. to the proposed Title 143, Legislative rule, West Virginia Division of Personnel, which is open for public comment. This section proposes in part, "Provided, the classified employees of county or municipal agencies may only transfer to an agency within their local government." This proposed change would be detrimental to the citizens of West Virginia.

First, local agency employees bring a wealth of knowledge and experience when transferring to a state agency, which has been allowed for the past 32 years that I have been a sanitarian working for both Logan County and Boone County Health Departments. State agencies have benefited when employees from local agencies have transferred, bring their expertise with them, but requiring someone to start over in seniority and pay scale would discourage that person from making a move that has always been good for both the employee and the state.

In addition, as an employee of a local health department which has paid DOP fees and followed DOP policies during my tenure with Boone County, and as someone with 32 total years in the system, I believe that this would be grossly unfair to everyone involved. Not only would highly qualified individuals be treated as if they have no time invested in the duties they have been performing, the people served by state agencies would not receive the quality of service that is expected.

I encourage you to reconsider the changes to the aforementioned DOP Administrative Rule, which are proposed in the portion of Section 11.6.a. that I have discussed. Please feel free to contact me at your earliest convenience.

Respectfully,

Phyllis L. Lowe, R.S.

Phyllis L. Lowe, R.S.
13 Wheatley Branch Road
Chapmanville, WV 25508

cc: Governor Earl Ray Tomblin
Senator Art Kirkendoll
Senator Ron Stollings
Delegate Joshua Nelson
Delegate Ralph Rodighiero
Delegate Rupert Phillips, Jr.

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. William B Ludwich, DDS
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. Ludwich, DDS:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: minerallhd@wv.gov

www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

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Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

M.L. R.
Brooke County Health Department
204 Courthouse Square
Wellsburg, WV 26070-1748

Dear M.L. R.:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Brooke County Health Department

204 Courthouse Sq. Wellsburg, WV 26070

Phone: 304-737-3665 Fax: 304-737-3689 Hours: 8:30 – 4:30
www.brookecountyhealthdepartment.com

Administrator, Karen McClain, M.S.N

RECEIVED
DIRECTORS OFFICE
JUN 25 2015
WEST VIRGINIA
DIVISION OF PERSONNEL

June 22, 2015

Sara Walker, Director
WV Division of Personnel
Building 6, Room 420
1900 Kanawha Blvd E
Charleston WV 25305-0139

Dear Ms. Walker:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Brooke County Board of Health wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state

agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Additional Talking Points
Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."
While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Respectfully,



Cc: Joe Thomas, DOP Employee Relations

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Drema G. Mace, PhD
Mid-Ohio Valley Health Department
211 Sixth Street
Parkersburg, WV 26101

Dear Ms. Mace, PhD:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MID-OHIO VALLEY HEALTH DEPARTMENT

211 SIXTH STREET, PARKERSBURG, WEST VIRGINIA 26101
Phone 304/485-7374 Fax 304/485-7383

June 23, 2015

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JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Division of Personnel
Employee Relations Section
1900 Kanawha Boulevard, East
Building 6, Room 416
Charleston, WV 25305

RE: PUBLIC COMMENTS
Regarding the Division of Personnel (DOP) Legislative Rule – 143CSR1
From the Mid-Ohio Valley Board of Health dba Mid-Ohio Valley Health Department

Division of Personnel;

The Mid-Ohio Valley Board of Health dba Mid-Ohio Valley Health Department (MOVHD) is West Virginia's largest local health department regional health system serving the City of Parkersburg, Calhoun, Pleasants, Ritchie, Roane, Wirt and Wood Counties. Thank you for this opportunity to make comments on the proposed amendments to the DOP's legislative rule, Administrative Rule of the WV Division of Personnel, 143CSR1. In an effort to be concise, we have clearly described in this letter the exact changes MOVHD is requesting. If you are interested in reading further to determine how MOVHD came to the conclusions contained in this letter, please see Attachment 1.

MOVHD has a contractual Agreement, called a Service Level Agreement (SLA) with the WV Division of Personnel which purports to define and govern the services and responsibilities of the DOP with respect to the participation of MOVHD in the West Virginia classified service. The SLA became effective in January of 2014 and continues in force and effect. It is authorized by the West Virginia Code §29-6-17. In exchange for regular periodic payments from MOVHD to the DOP, the DOP agrees to provide guidance, benefits and support of the MOVHD and to treat the employees of the MOVHD as participants in the classified service system in accordance with the WV Code §29-6-1, et seq.

The proposed rule would rescind or abate many of the protections that are required by the SLA. MOVHD would strenuously object to the enactment of the provisions of the proposed rule that alter and limit the protections and benefits for employees of our local health department. Those provisions will be identified and discussed in detail in these comments. However, as a general comment, MOVHD believes that the provisions of the rule that change the duties and responsibilities of the DOP toward employees of our Local Health Department constitute a BREACH of the SLA and have not been mutually agreed to by MOVHD and are not acceptable to MOVHD as modifications of the SLA. Furthermore, MOVHD can find no statutory authority for the DOP to propose these sweeping changes, either in the West Virginia Code or in our Service Level Agreement. We believe that the proposed amendments limiting the rights and protections for county and municipal employees covered by the classified service system throughout the state are outside of the scope of authority of the Division of Personnel.

Specific Substantive Changes Requested:

1. **§3.4. Delete** the new term "**Affiliation**" entirely. It is not needed. The only purpose it serves is to discriminate against covered employees who work for "affiliated" agencies, particularly local or county health departments. This change would also require the following revisions:

- §3.5. **delete** the 8-word phrase "**as well as any affiliated county health department.**"; Replace it with the phrase "**and other county or municipal agencies whose employees are covered by the classified services system.**"
- §9.1.a. **delete** the 2-word phrase "**through affiliation**" twice in that subdivision, and,
- §21.1. **delete** the underlined word "**affiliated**".

2. **Delete the following Provisos:**
   - **§11.6.a.** "Provided, that classified employees of county and municipal agencies may only transfer to an agency within their local level of government.";
   - **§12.4.j.** "Provided, that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government.";
   - **§12.6.a.** "Provided, that former classified employees of county or municipal agencies may only be reinstated to an agency within their local level of government.";
   - **§14.3.g.1.** "Provided, that classified employees of county or municipal agencies may only transfer **service credit** and accrued and unused annual leave to an agency within their local level of government." (emphasis added)
   - **§14.4.i.1.** "Provided, that the classified employees of county or municipal agencies may only transfer accrued and unused sick leave to an agency within their local level of government."

The MOVHD, for its own staff and on behalf of the employees of local health departments throughout the state, implores the DOP to **REMOVE THE ABOVE LISTED PROVISIOS ENTIRELY.** These provisions are illegal and unfair. There is no statutory authority for the DOP to make this distinction or to discriminate against the classified employees working for county and municipal agencies and not extend to them the rights, privileges and benefits extended to all other members of the classified service.

We can name many examples, recent and within past decades, where employees from local health departments all around the state have transferred to jobs in the state government and been allowed to transfer their service credit, sick and annual leave and to enjoy the other protections that are being threatened by the proposed amendments. For example, all of the current Bureau for Public Health Office of Environmental Services Sanitarians and several supervisors were trained at local health departments and transferred into state service. **Please don't make these proposed changes! It is bad public policy.**

The DOP has submitted a "zero dollar" fiscal note, asserting that these amendments won't have a measureable impact on costs or revenues to state government. However, the effort to freeze county and municipal employees out of the search for jobs in the classified service with state agencies, or to treat them as if they have no prior service, seniority, and especially to cancel out their accrued annual and sick leave balances is CLEARLY a measure to save the state agencies money – while they either hire these employees at a severe disadvantage to those individuals, or they don't hire local employees and all of their knowledge and experience goes to waste. In any case, it is penny wise and pound foolish to save a little while hurting good people who have a great deal to offer to the state, not just in the field of public health, but to all other state government classified jobs that people from classified jobs at various county and municipal agencies are well qualified to fill.

Specific Technical Changes Suggested

Throughout the proposed rule there are a number of technical errors. These problems would likely be noted by the legal staff of the Legislative Rule-Making Review Committee (LRMRC) and corrected in the Modified version of the rule. We list them here, in case the DOP agrees with and wishes to make any of these changes or corrections.

1. There is no need to either ~~strike-through~~ or underscore punctuation. If a period (.) a comma (,) a colon (:) or a semi-colon (;) is being added or deleted – the rule should simply show the correct punctuation, NOT what the old (existing) rule had in that place or what the new (amended) rule proposes. This type of error appears frequently throughout the proposed rule.
2. Another error that is repeated throughout the rule is the Strike-through of the last period (~~.~~) when making reference to another section in this rule; for example, in §6.6.b. a reference is made to "Section 3~~.~~" The period after "3." is correct

and should not be struck through. This same error appears consistently throughout the rule. Another example appears in paragraph 7.3.a.1. where reference is made to "subdivision 6.4.a." The "a." should remain without a strike-through. A similar error appears in §7.3.b.1. where the reference is to "subdivision 7.3.a. of this rule;" §7.4.b.3. makes this error three times in that paragraph, and so on. Again, no strike-through is needed over the final "." in a citation to another rule section.

3. Subsection numbering is wrong throughout Section 3., the Definitions section. The error that the drafters make in this section begins with subsection ~~3.10.~~ 3.11 for the term "Assembled Examination." This term will be deleted, therefore, there is no need to assign it a "new" (underscored "3.11.") subsection number. It is an existing term in the rule currently in effect as "3.10.". All that is required is to strike-through the subsection 3.10. in its entirety. Then the next term to be defined, "Available" will be assigned the subsection number 3.11., NOT 3.12. as it appears in this amended rule, because §3.10 is used for the previous term: "Appointment". This error is repeated several more times in Section 3, the Definitions section, because there are six (6) definitions deleted and four (4) being added. The subsection number of the last term defined "Year" should be 3.95.
4. The final sentence in subsection 4.7. should be struck-through. The exact same sentence appears as a new underscored subdivision 4.7.a. immediately below. It must have been an oversight.
5. In the new language of subdivision 7.3.c. I believe the sentence should read: "The applicant is responsible for updating his or her contact information and notifying the Director of changes." The word "or" where I have inserted "and" doesn't make sense in the context of the sentence.
6. Throughout the rule a phrase "by formal action" referring to actions of the Personnel Board has been deleted. However, in subsection 5.10., that 3-word phrase remains. For consistency, it should be struck-through.
7. In subdivision 6.4.c. all of the existing language is stricken and the language from the next 3 subdivisions is amended and consolidated into a new subdivision 6.4.c. The rule should omit the extra line breaks between the formerly separate subdivisions. §9.1.d. is another example of a dangling subdivision. It should be moved up to the end of the struck through language of the existing §9.1.d. Ditto subdivision 9.1.d., 11.4.c., paragraph 12.3.b.2. (unless it is supposed to be a new subdivision 12.3.c.) and the entire text of section 18.
8. Subdivision 6.6.b. also has a dangling paragraph that should either be included into §6.6.b. above, without a double spaced separation – or, it should be given its' own subdivision number of 6.6.c., and then the next subdivision should be re-numbered as 6.6.d. Also, at the end of the underscored language the term "veteran preference" should be "veterans' preference".
9. In subdivision 8.4.b. a reference to subdivision 6.4.a is missing the final period after the "a." Also, in subdivision 8.4.b., a reference is made to "appointment as in subdivision a of this subsection". That is incorrect. It should say "as in subdivision 8.4.a. of this subsection".

The Mid-Ohio Valley Health Department thanks you for the opportunity to submit these written comments to the proposed amendments to your rule, 142CSR1. We hope that you will take them to heart and make the requested changes outlined in the *Specific Substantive Changes Requested* section, as well as any of the technical suggestions that you choose to adopt.

Sincerely,

Drema G. Mace, PhD
Executive Director

PRESIDENT

David Blair Couch
Board Chair/Wood County Commissioner

cc MOVBOH

MOVHD
Attachment #1

Review of Amendments to Legislative rule, 143CSR1, and the impact on MOVHD

EXECUTIVE SUMMARY

The terms of the Service Level Agreement (SLA) between the West Virginia DOP and the MOVHD are valid and continue to bind the two parties until rescinded by mutual agreement or until rendered unenforceable by the failure of one or the other party to live up to and comply with all of the terms of the SLA. Under the express provisions of the SLA, MOVHD, and its' employees, are governed and protected by the WV DOP with respect to all employment actions taken by MOVHD. The DOP agrees to work with MOVHD to provide guidance and other forms of assistance to help MOVHD comply with all DOP laws, rules and policies. For their part, MOVHD must keep records and follow DOP law, rules and policies. MOVHD is living up to their part of the Agreement.

One of the rules that the MOVHD is obligated to follow is the DOP's Legislative rule, Administrative Rule of the West Virginia Division of Personnel, Title 143 Series 1 of the Code of State Rules. **This proposed rule constitutes a serious breach of the SLA since it purports to take away or severely restrict rights and privileges that the employees of local health departments are currently entitled to under existing law and rule.** The changes made in this amendment to 143CSR1 inure only to the detriment of those MOVHD workers, without any reduction in the cost for the services and without the required "mutual consent of the Parties" needed for a modification in section 2.3 of the SLA.

The amendments to this DOP rule that have an impact on the MOVHD, and all local health departments, are to the disadvantage of MOVHD and all LHD employees. **They are treated as 2nd class employees in the classified service and are subject to restrictions not placed on any other persons covered by the classified service.** Nevertheless, Local Health Departments are still required, by the terms of their SLAs, to pay the DOP for the benefits, protections and the right to participate in the civil service system under the West Virginia Code §29-6-1, et seq.

It is interesting to note the difference in the treatment of persons who would move from County employment (such as LHDs) to State employment versus those who move in the other direction. For the 1st group, if this rule is enacted as written, they will no longer be eligible to transfer or to retain their accrued sick and annual leave balances in their new State jobs, as has been done for decades. **However, those people moving from State jobs to the County government will still be able to move as transfers within the civil service system and retain their leave balances. This is patently unfair and discriminatory.**

It is also contrary to law. It is an *ultra vires* action. WV Code §29-6-17 is the statutory authority for the DOP to enter into Service Level Agreements with Local Health Departments. That section states, in pertinent part:

> "(a) Subject to the approval of the board the director may enter into agreements with any municipality or other political subdivision of the state to furnish services and facilities of the division to such municipality or political subdivision in the administration of its personnel on merit principles." (emphasis added) ... and

"Subject to the approval of the board, the director may enter into an agreement with the state department of health for the inclusion of personnel of local health departments under the classified service system established by this article." (emphasis added)

Nothing in this section of law allows the DOP to offer lesser services to the employees of Local Health Departments than other employees covered by civil service. Nor do the SLA agreements themselves authorize the exclusion of LHD employees from some of the valuable benefits and protections of the classified system.

The DOP Summary of Amendments describes the addition of a definition for the term "Affiliation" (Definitions, §3.4.) to have been included "since the term is found throughout the Rule." However, that is curiously not true. There are only three examples of the term "affiliation" or "affiliated", used in accordance with the "new" definition of that term, and they appears in §3.5., §9.1.a. and §21.1. All other instances of the word "affiliation" in the proposed rule are in the current (existing) rule and have the usual and customary definition of that term. **It appears that the DOP is trying to establish some distance between the regular classified employees who work for the state of West Virginia and those who word for "affiliated agencies" or an "affiliated county health department." (this is a new phrase embedded in the revised definition of "Agency" (Definitions, §3.5.).** This distinction is then referred to again and again throughout the rule to limit and restrict the rights of employees of county and municipal agencies to do such typical employment actions as: transfer, receive preference in hiring, be eligible for reinstatement or transfer sick or annual leave balances. In these sections, the county or municipal employees (i.e. – persons employed by local health departments) are repeatedly told that they may ONLY exercise their rights within their level of local (i.e. county or municipal) government and are specifically NOT eligible to move to jobs in the state classified system.

My biggest question for the drafters of this rule is – WHY? What is the justification for such a distinction? and also – **WHERE does the DOP derive the legal authority? What provision of state law gives the DOP the right to make these highly prejudicial distinctions among classified employees, all of whom are paying into the DOP system for the benefits and protections that it claims to provide?**

Section 2 of the rule, called the "Preamble", adds the 2-word phrase - "or classified" - in two places. In the 14-page - Summary of Amendments - which appears at the end of the rule filing, DOP says that the change to this section "Added language to encompass classified employees of local health departments." That statement is a striking contradiction to the numerous subsequent amendments which do nothing to include those particular employees, but rather they specifically exclude or restrict the employees of local health departments from enjoying the benefits and protections of the classified civil service system.

SUBSTANTIVE COMMENTS

As mentioned above, the Preamble amendments are described by DOP as being added for the purpose of including classified employees at local health departments. The terms "Affiliation" and "Agency" are amended to specifically include employees of county or municipal agencies in the same category with state government employees. The new definition of Affiliation itself, the revised definition of Agency, §9.1.a. and §21.1. are the only places in the rule that mention affiliation in the context of the new

definition. **It is a veiled attempt to distance the local health department employees who are a part of the classified service through agreements with the DOP as a sub-class of only "affiliated" employees.**

The term "Annual Leave" is amended to read: "An accrued benefit of paid time off from work that is earned by an employee to be used with prior approval of the appointing authority or designee." **The term makes no reference to a difference for county, municipal or state employees.**

The term "Employee" remains unchanged, and says and employee is: "Any person who lawfully occupies a position in an agency and who is paid a wage or salary and who has not severed the employee-employer relationship." **That definition clearly includes MOVHD and LHD employees.**

The word "Layoff" is also unchanged. It is: "A reduction in the number of employees resulting in involuntary separation from employment or reduction in work schedule due to business necessity.

The new term "Recall" is defined as: "The re-employment from a recall list of a former permanent classified employee separated due to layoff." **No distinction is made between state or local employees in this definition.**

"Reinstatement" means "A type of re-employment of a former permanent classified employee. And the term "Permanent Employee" is: "Any classified employee who was hired from a register and who has completed the probationary period prescribed by the Board for the job class, or any classified-exempt employee who was hired to fill a position for an unlimited period of time, notwithstanding the appointing authority's right to terminate the employee for cause or at his or her will."

"Sick Leave – An accrued benefit of paid time off for illnesses, injuries and other health related circumstances as specified in this rule." There is ambiguity in this definition since sick leave and the transfer of sick leave is addressed more specifically in section 14 of the rule to impose restrictions on the employees of county or municipal agencies so that they may only transfer sick leave or service credit to an agency within their local level of government. **We don't even know what that means! Does it mean a health department employee may transfer to the County Commission and keep all accrued leave? What about a transfer to the City? The Sheriff's office? Circuit Court? Parks and Recreation? It is very unclear. In addition to the lack of clarity, there is a lack of justification or authority for this discrimination.**

Finally, the term "Transfer" is defined as: "The movement of an employee to a different subdivision of an agency or geographic location of the same or a different agency." (emphasis added) Since most full time jobs in state government are squarely within the definition of agency, then it would seem that local health department employees would be eligible for transfers to those positions. However, Subsection §11.6 of the proposed rule arbitrarily denies the right to transfer to classified employees of county or municipal agencies, again, restricting those employees movement to a transfer ONLY to an agency within their local level of government. **That is internally inconsistent, discriminatory and just plain wrong.**

Subsection §4.6. on Reclassification concerns me. Although it is written in broad terms, this provision, when examined in connection with §12.4.f. on Separations, **could possibly lead to elimination of one or more entire class(es) of local health department employees.** Whole classifications of LHD employees

could be maneuvered out of their jobs by the unilateral actions of the DOP. **It appears to give the DOP sweeping power to eliminate jobs through "reclassification".**

Subdivision §9.1.a. of the rule represents the one of three uses of the term "affiliation" that is new to the rule from its' current active version. This section, as written, seems only to confirm the inclusion of employees of local health departments by agreement (SLAs) and the date for the addition of county and municipal employees to be covered by the classified service shall be fixed by agreement (i.e. when the SLA are signed). **In reality, LHD employees have been operating under the auspices of the DOP for many years in a quasi-official manner. The execution of SLAs with local health departments in 2014 made the relationship official and binding on both parties.**

Subsection §11.6. is where the subject of transfers is discussed. It is also the first of many instances where the classified employees of county or municipal agencies (such as a LHD) are discriminated against. On its' face, it appears to prohibit the transfer of an employee from a local government agency to a state agency. We can cite many examples of county or municipal employees who have transferred to state agencies and it has been very beneficial, both to the employee and to the state agencies who have hired well trained and experienced individuals. The amendment suggests that any county or municipal employee who applies for a position in a state agency would have to start from scratch, fill out the a civil service application, take any necessary tests and be added to a register without consideration of their tenure, experience, current or former time spent in a classification of the classified service.

Subsection §12.4. deals with layoffs. Again, as in the section on transfers, whereas employees of state agencies covered by the classified service will enjoy preferential hiring after a layoff, according to the amendments proposed by this rule, the "laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." (*see §* 12.4.j.) **This is a serious curtailment of employee rights. It is also unsupported by the law.** §12.6.a. offers a similar restriction on reinstatement rights. It states: "that former classified employees of county or municipal agencies may only be reinstated to an agency within their local level of government." The discrimination is only applied to county and municipal employees and appears targeted at employees of local health departments.

As has been mentioned earlier, one of the most significant detrimental impacts of this rule on local health department employees appears in the sections that allow other members of the classified service to transfer leave balances for either annual or sick leave to their new jobs when moving within the classified service. In §14.3.g., specifically in § 14.3.g.1., county and municipal agency employees are only permitted to transfer annual leave service credit and accrued and unused leave to an agency within their local level of government. The same restriction is applied to those same local government employees with respect to their ability to transfer sick leave in §14.4.i.1.

The proposed rule, as has been shown, discriminates against employees of county and municipal governments in many ways. It is noteworthy then, that with respect to §14.9. on Military leave protections ARE extended to local government employees! §§14.9.a. & 14.9.b. extend the exact same benefits and protections to county and municipal government employees who are called to state active duty and reserve military service as well as federal active duty. This is the best thing in the document.

Subsection §21.1. contains the third and final use of the newly defined term "Affiliation" by inserting the word "affiliated" before "agencies" and requiring the affiliated agencies, such as LHDs, to comply with all of the same duties and obligations that other state agencies have to abide by the laws and rules of the Division of Personnel. **This could be described as the section that allows MOVHD to have all of the duties and fewer of the benefits than other agencies similarly situated.**

Fiscal notes are a component of the rule-making process, as they are also a component of the process to propose bills at the legislature. The primary question that is asked in the Fiscal Note is whether the proposed rule (or bill) will have an impact on costs or revenues of state government. The Fiscal Note for this rule states that it will not have any fiscal impact. That is wrong. It would be difficult to measure the dollar amount of the impact with precision, but the measure it proposed to restrict the free movement from local to state government and to strip employees of earned leave balances will clearly save the state money. It will also set up the circumstances that will probably lead to a class action lawsuit being brought against DOP for discrimination against the employees of local health departments, at least, or against all employees of county and municipal government.

This document is focused on the impact of this proposed Rule change on MOVHD. However, the description of the class of employees who will be injured goes way beyond those employed by a local health department and would include county commission and city council employees, county clerks and assessor offices, sheriffs, circuit and municipal courts, sanitation workers, etc. There are other interest groups, like the Municipal League and the West Virginia Association of Counties, who should be taking a hard look at the policies and changes proposed by this rule.

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Vivian Malcolm, OAIII
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Ms. Malcolm, OAIII:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

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www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

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MINERAL COUNTY HEALTH DEPARTMENT

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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Gerri Mason
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Gerri Mason:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

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West Virginia Division of Personnel

SW/jft

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John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

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14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment …"

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may…establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

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www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	Jerry Whisner (Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
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Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Helen Mathias
Hardy County Health Department
411 Spring Ave, Suite 101
Moorefield, WV 26836

Dear Ms. Mathias:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

HARDY COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

State Personnel Board
West Virginia Division of Personnel
Building 6, Room 416
1900 Kanawha Boulevard, East
Charleston, WV 25305

June 17, 2015

Re: Public Comment on Proposed DOP Administrative Rule Change

Local Health Department Employees have been a part of the DOP system for many years. Those of us who make Public Health a career understand we will not become wealthy in this profession. Very often the benefits package is what draws and keeps us in what, very often, is a thankless job.

We are loyal, dedicated professionals and the proposed rule change is decidedly unfair to those who have dedicated large parts of their life to Public Health. Any benefit that was in place at the time of our employment should be honored until we retire.

We realize businesses must make changes to remain efficient. However, Health Departments have paid a substantial amount of money over the years to be protected by DOP policy. Losing seniority, leave days, our place on the Register and the ability to transfer into other state jobs feels like punishment at best.

We have ***earned*** the privileges you would like to take from us.

Sincerely,

William Ours, Administrat, Sanitar
Heidi Bosley, Sanitarian II
Helen Mathias, OA II
Tammy [illegible] OA II
Shawna Long RN
Susan Mayse RN
Donna Mongold OA II

Address: 411 Spring Ave, Suite 101, Moorefield, WV 26836
Telephone: 304-530-6355 • Fax: 304-530-7684 • Email: william.a.ours@wv.gov
www.hardycountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Karen McClain, MSN
Brooke County Health Department
204 Courthouse Square
Wellsburg, WV 26070-1748

Dear Ms. McClain, MSN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Brooke County Health Department

204 Courthouse Sq. Wellsburg, WV 26070

Phone: 304-737-3665 Fax: 304-737-3689 Hours: 8:30 – 4:30
www.brookecountyhealthdepartment.com

Administrator, Karen McClain, M.S.N

RECEIVED
DIRECTORS OFFICE

JUN 24 2015

WEST VIRGINIA
DIVISION OF PERSONNEL

June 22, 2015

Sara Walker, Director
WV Division of Personnel
Building 6, Room 420
1900 Kanawha Blvd E
Charleston WV 25305-0139

Dear Ms. Walker:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Brooke County Board of Health wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state

agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Additional Talking Points
Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."
While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Respectfully,

Karen McCann, MSW, Administrator
Brooke County Health Dept.

Cc: Joe Thomas, DOP Employee Relations

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Carol McCormick
104 Fairview Drive
Ripley, WV 25271

Dear Ms. McCormick:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Jason Pizatella, Chairman
State Personnel Board
Building 6, Room 420
1900 Kanawha Boulevard, East
Charleston, WV 25305-0139

June 25, 20

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Attention: Joe Thomas

Regarding Public Comment: Administrative Rule Proposed Changes

I have worked for the Kanawha-Charleston Health Department since September 15, 2002. My husband has worked for WV Division of Juvenile Services since February 02, 2015. He is a Twenty Year USAF Retired Veteran and I also served in the USAF for four years. We both chose to return to West Virginia. We both chose to enter the State System by going through the WV Division of Personnel System and getting Division of Personnel classified covered jobs.
A system that by its own Administrative Rule Preamble states:
§143-1-2 The general purpose of the Division of Personnel is to **attract** to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state employment.

The rule change includes develop and retain.

Several issues I want to address in the proposed changes but the most significant is the changes and or elimination of benefits for county and municipal employees in the Administrative Rule and the prejudicial treatment against local government employees which will affect the state on a fiscal and public service basis.

The current Division of Personnel definition of an Agency: Any administration department of state government, including any authority, board, bureau, commission, committee, council, division, section, office or any county health department.

The WV Division of Personnel now wants to change the definition of an Agency to: Any authority, board, bureau, commission, division or other entity of state government, however designated, transferred to or incorporated in one of the departments created in W. Va. Code §5F-1-2, as well as any **affiliated** county health department. Provided, that individual districts, offices, regions, sections and units within the same agency, however designated, shall not be considered a separate agency.

The "affiliation" addition is very troublesome since it requires legislative action or executive order of the Governor with the consent of the Board and the appointing authority concerned, and when additional county or municipal agencies are added to the classified service through agreement between the local government and the Director with the approval of the Board. It basically has become a political decision based on what

local board, agency, or municipal agency may or may not be added. This is disturbing since several parts of the proposed administrative rule exclusively designates local health departments which implies only local health departments are being eliminated or excluded from the Division of Personnel System.

The designated changes include:
11.6 a. Transfers.-- appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency of a position in another organizational subdivision of the same or another agency at any time. Provided, that classified employees of county or municipal agencies may only transfer to an agency with their local level of government.
12.4 j. Preference Hiring.—Preference hiring shall be accomplished by original appointment. Provided, that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government.
12.6 a. Reinstatement—Provided, that former classified employees of county or municipal agencies may only be reinstated to an agency within their local level of government.
14.3 g. Transfer of Annual Leave—Provided, that classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government.
14.4 j. Transfer of Sick Leave --- Provided, that classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government.

It is discriminatory that employees of county or municipal agencies are required to follow the administrative rule but are being asked to give up what is considered a principal benefit of a covered merit system.

Roger W. Tompkins, Attorney General Opinion dated April 18, 1990 stated in part: "West Virginia code §29-6-17(a) provides, I part: "Subject to the approval of the board the director may enter into an agreement with the state health department of health for the inclusion of personnel of local health departments under the classified service system established by this article. This provision was included in the original civil service statute and served as the basis for the inclusion of the local boards of health in the classified service by agreement between the Civil Service Commission and the Department of Health in the late 1960's. Since that time, county employees of local boards of health have been included in the classified service.

Also note worthy in that opinion: The Division of Health has, as have the county boards of health, adopted the West Virginia Civil Service Merit System for its employees. At its meeting of December 18, 1948, the Merit System Council approved the proposal of the Department of Health to adopt guidelines governing **affiliation** of local public health units with the State Department.

As a condition of eligibility for many federal funds, state and local agencies that receive federal grants must establish merit personnel systems for personnel engaged in the administration of the grant program.

The opinion states that county health departments must comply with all rules and regulations, orders, etc. of the Personnel Board under penalty of law.

If the federal government questions the merit system proposals this may jeopardize federal funding coming into the state specifically for state local health programs.

In the Code of Federal Regulations Title 5 Administrative Personnel Subpart F—Standards for a Merit System of Personnel Administration, Authority 42 U.S.C. § 900.601 Purpose: (a) The purpose of these regulations is to implement provisions of Title II of the Intergovernmental Personnel Act of 1970, as amended, relating to Federally required merit personnel systems in State and Local agencies, in a manner that recognizes fully the rights, powers, and responsibilities of State and Local governments and encourages innovation and allows for diversity among State and Local Governments in the design, execution, and management of their systems of personnel administration, as provided by that Act.
(b) Certain Federal grant programs require, as a condition of eligibility, that State and Local agencies (several are specified for Local Health Departments) that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific Federal Grant Statues and in other cases are required by regulations of the Federal Grantor Agencies.
If a grant program (this includes subrecipient grants to local health departments via West Virginia Bureau of Public Health) requires that a state or local agency comply with a merit personnel system, the state or local agency must certify in writing that it agrees to meet the following standards.

- recruiting, selecting and advancing employees of the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment;
- providing equitable and adequate compensation;
- training employees, as needed, to assure high-quality performance;
- retaining employees on the basis of adequacy of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected;
- assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens and

- assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

The state health department receives federal grant funding on an annual basis specified for local health departments. The proposed changes to the administrative rule that specifies local government employees as a separate entity threatens the receipt of federal grant opportunities.

Since my employment with the Kanawha-Charleston Health Department I have seen several employees transfer to state agencies. The abundant experience and training they receive at the local level has supported and benefited the State.

Sincerely,

Carol. J. McCormick
104 Fairview Drive
Ripley, WV 25271

Copies: Mitch Carmichael

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Randy W. McCormick
104 Fairview Drive
Ripley, WV 25271

Dear Mr. McCormick:

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The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Jason Pizatella, Chairman
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Building 6, Room 420
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Charleston, WV 25305-0139

June 25, 2015

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WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

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The "affiliation" addition is very troublesome since it requires legislative action or executive order of the Governor with the consent of the Board and the appointing authority concerned, and when additional county or municipal agencies are added to the classified service through agreement between the local government and the Director with the approval of the Board. It basically has become a political decision based on what

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If the federal government questions the merit system proposals this may jeopardize federal funding coming into the state specifically for state local health programs.

In the Code of Federal Regulations Title 5 Administrative Personnel Subpart F—Standards for a Merit System of Personnel Administration, Authority 42 U.S.C. § 900.601 Purpose: (a) The purpose of these regulations is to implement provisions of Title II of the Intergovernmental Personnel Act of 1970, as amended, relating to Federally required merit personnel systems in State and Local agencies, in a manner that recognizes fully the rights, powers, and responsibilities of State and Local governments and encourages innovation and allows for diversity among State and Local Governments in the design, execution, and management of their systems of personnel administration, as provided by that Act.
(b) Certain Federal grant programs require, as a condition of eligibility, that State and Local agencies (several are specified for Local Health Departments) that receive grants establish merit personnel systems for their personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific Federal Grant Statues and in other cases are required by regulations of the Federal Grantor Agencies.
If a grant program (this includes subrecipient grants to local health departments via West Virginia Bureau of Public Health) requires that a state or local agency comply with a merit personnel system, the state or local agency must certify in writing that it agrees to meet the following standards.

- recruiting, selecting and advancing employees of the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment;
- providing equitable and adequate compensation;
- training employees, as needed, to assure high-quality performance;
- retaining employees on the basis of adequacy of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected;
- assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens and

- assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

The state health department receives federal grant funding on an annual basis specified for local health departments. The proposed changes to the administrative rule that specifies local government employees as a separate entity threatens the receipt of federal grant opportunities.

Since my employment with the Kanawha-Charleston Health Department I have seen several employees transfer to state agencies. The abundant experience and training they receive at the local level has supported and benefited the State.

Sincerely,

Randy W. McCormick
104 Fairview Drive
Ripley, WV 25271

Copies: Mitch Carmichael

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Joel McKinney, BA
Lincoln County Health Department
Building 6 Room 420
1900 Kanawha Blvd. E
Charleston, WV 25305-0139

Dear Mr. McKinney, BA:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Public Health
Prevent. Promote. Protect.
Lincoln County Health Department

P.O. Box 527
8008 Court Avenue
Hamlin, WV 25523
(304) 824-3330 office
(304) 824-3334 fax
www.lincolnhealthwv.com

RECEIVED

JUN 29 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

To Whom It May Concern,

I wanted to take some time and fully explain our high level concern and disagreement regarding proposed changes to Title 143 Legislative Rule of WV Division of Personnel. I appreciate you taking the time to review and consider the following concerns before moving forward.

The significant changes proposed in this Legislative Rule of the WV Division of Personnel will change various rules and guidelines for county and municipal agencies who participate in the merit system. We believe that these proposed changes actually discriminate against Local Health Department employees. We also feel as though these proposed changes will have just as much of a negative effect on state agencies who often find talented and qualified job candidates from local health departments. I would like to identify some specific examples which are outlined below.

11.6 Transfers: 11.6 a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This would limit qualified Health Department Employees to accept a better position in the merit system while hurting state agencies and taking away their ability to recruit these qualified employees to better their departments. State agencies have historically recruited and utilized the talents of Local Health Department employees. Either way, this proposal has a negative effect on growth and advancement. Local employees were hired into the classified system with the same opportunities to advance as their state counterparts.

12.4 Layoff: 12.4.j. "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change were to go into effect, employees from a Local Health Department, who were laid off, would not be placed on a preference list for employment with a state agency. Again, this negates any opportunity to utilize Local Employees in this situation for their experience, talent and skills for vacant positions. From another point of view, there is also nothing that states Local Health Departments would not have to give preference to state employees who were laid off.
14.3 Annual Leave: 14.3g. "Classified employees of county or municipal agencies may only transfer service credit and accrued unused annual leave to an agency within their local level of government". Even if an employee of a county Health Department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their accrued and earned annual leave or tenure to the state agency. Again, this has a big effect on State Agencies as they try and recruit the most qualified and seasoned candidates to fill open positions.

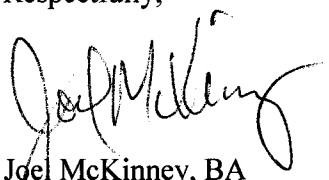
14.4 Sick Leave: 14.4.i. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, this would take away a Local Health Department Employee's earned and accrued sick time if they chose to better themselves by taking a state agency job that they desired. Once again, this would have a negative effect on State Agencies as they try and recruit qualified candidates and many come from Local Health.

The amended preamble to the Administrative Rule of the West Virginia Division of Personnel (143CSR1) reflects the determination to promote and appoint on merit and fitness and no person should be discriminated against with respect to state classified employment. The new proposed language goes against this process and concept as qualified and covered classified Local Health Department Employees would be discriminated against.
I believe that the state would gain financially while local employees would suffer as employees who would want to accept a state position would lose earned and accrued time, while the state could write off an uncalculated amount from state books.

The employees' ability to transfer or accept a position with a state agency benefits both the employee and the state. Both can grow professionally and should be able to grow together. The proposed changes regarding local employee transfers, layoffs, and reinstatements discriminates against local employees and changes the dynamic between employees and employers.

It is my hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully,



Joel McKinney, BA
Sanitarian
Lincoln County Health Department
(304) 824-3330

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Crystal McRae, OA-III
Lincoln County Health Department
Building 6 Room 420
1900 Kanawha Blvd. E
Charleston, WV 25305-0139

Dear Ms. McRae, OA-III:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Public Health
Prevent. Promote. Protect.
Lincoln County Health Department

P.O. Box 527
8008 Court Avenue
Hamlin, WV 25523
(304) 824-3330 office
(304) 824-3334 fax
www.lincolnhealthwv.com

RECEIVED
JUN 29 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

To Whom It May Concern,

I wanted to take some time and fully explain our high level concern and disagreement regarding proposed changes to Title 143 Legislative Rule of WV Division of Personnel. I appreciate you taking the time to review and consider the following concerns before moving forward.

The significant changes proposed in this Legislative Rule of the WV Division of Personnel will change various rules and guidelines for county and municipal agencies who participate in the merit system. We believe that these proposed changes actually discriminate against Local Health Department employees. We also feel as though these proposed changes will have just as much of a negative effect on state agencies who often find talented and qualified job candidates from local health departments. I would like to identify some specific examples which are outlined below.

11.6 Transfers: 11.6 a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This would limit qualified Health Department Employees to accept a better position in the merit system while hurting state agencies and taking away their ability to recruit these qualified employees to better their departments. State agencies have historically recruited and utilized the talents of Local Health Department employees. Either way, this proposal has a negative effect on growth and advancement. Local employees were hired into the classified system with the same opportunities to advance as their state counterparts.

12.4 Layoff: 12.4.j. "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change were to go into effect, employees from a Local Health Department, who were laid off, would not be placed on a preference list for employment with a state agency. Again, this negates any opportunity to utilize Local Employees in this situation for their experience, talent and skills for vacant positions. From another point of view, there is also nothing that states Local Health Departments would not have to give preference to state employees who were laid off.
14.3 Annual Leave: 14.3g. "Classified employees of county or municipal agencies may only transfer service credit and accrued unused annual leave to an agency within their local level of government". Even if an employee of a county Health Department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their accrued and earned annual leave or tenure to the state agency. Again, this has a big effect on State Agencies as they try and recruit the most qualified and seasoned candidates to fill open positions.

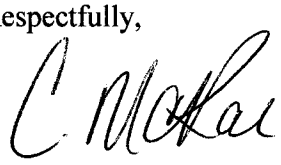
14.4 Sick Leave: 14.4.i. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, this would take away a Local Health Department Employee's earned and accrued sick time if they chose to better themselves by taking a state agency job that they desired. Once again, this would have a negative effect on State Agencies as they try and recruit qualified candidates and many come from Local Health.

The amended preamble to the Administrative Rule of the West Virginia Division of Personnel (143CSR1) reflects the determination to promote and appoint on merit and fitness and no person should be discriminated against with respect to state classified employment. The new proposed language goes against this process and concept as qualified and covered classified Local Health Department Employees would be discriminated against.
I believe that the state would gain financially while local employees would suffer as employees who would want to accept a state position would lose earned and accrued time, while the state could write off an uncalculated amount from state books.

The employees' ability to transfer or accept a position with a state agency benefits both the employee and the state. Both can grow professionally and should be able to grow together. The proposed changes regarding local employee transfers, layoffs, and reinstatements discriminates against local employees and changes the dynamic between employees and employers.

It is my hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully,



Crystal McRae, OA-III
WIC Coordinator
Lincoln County Health Department
(304) 824-3330

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Chad E. Meador, RS
Summers County Health Department
151 Pleasant Street
Hinton, WV 25951

Dear Mr. Meador, RS:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Summers County Health Department
151 Pleasant Street
Hinton, WV 25951
(304) 466-3388

RECEIVED
JUN 29 2015
WEST VIRGINIA
DIVISION OF PERSONNEL

June 25, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

Dear West Virginia Division of Personnel Board,

I would like to voice my opposition to the proposed Division of Personnel changes under section 11.6.a, page 38, stating that classified employees of county or municipal agencies may only transfer to an agency within their local level of government. While many of these changes seem to be logical, this one has devastating affects to all local health department employees.

I have worked at a local health department for 13 years. One of the reasons this position was favorable to me when I started was the option of one day being able to transfer to a state position without the loss of my sick, annual leave, and service credit. If this proposed rule passes, it would discriminatorily penalize employees of county or municipal employees. I was hired under the same system as the state employees and should be offered the same option to carry my current accumulated annual leave, sick leave, and service credit to any position to DOP.

There are many state positions that require a level of expertise that only well-seasoned employees can fill. If this change is approved it will greatly limit the experienced pool of applicants for the state to hire. These positions are advisory positions that require acquired knowledge.

Implementing these proposed rule changes would be a failure of the DOP to provide me with the same opportunities as state employees. This proposed rule penalizes long time employees. I respectfully request that you please reconsider the changes under section 11.6.a, page 38.

Sincerely,

Chad E. Meador

Chad E. Meador, RS

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Deanna Meyers
4238 Cross Creek Rd
Wellsburg, WV 26070

Dear Ms. Meyers:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 11, 2015

Joe Thomas, Assistant Director
WV Division of Personnel
1900 Kanawha Blvd, East
Charleston, WV 25305

Dear Mr. Thomas:

I am submitting my public comment regarding Title 143 – Legislative Rules of the West Virginia Division of Personnel. The proposed changes would have a negative impact on my ability to advance through the merit system as it is established today. I could not transfer to agencies other than local health departments. In order to become employed by a state agency, I would first need to terminate my position with the Marshall County Health Department, apply to be placed on the civil service register, and if hired start my employment under a "different" civil service system. The proposed changes would not allow me to transfer my tenure or my annual and sick leave. Basically, I would be starting over again.

I also understand that if I would be laid off from my current employer, I would no longer be eligible to be placed on the hiring preference list. I do not understand the reason for such discriminatory changes. I was hired under the current system with the expectation that the same rules that apply to other classified members would benefit me as well. Why then am I being treated like a second-class citizen? I have gone through the required testing/application process and was found to be qualified to hold my position. What has changed that should now limit me to employment by health departments only.

I ask that further consideration be given to the proposed changes (11.6, 12.4, 14.3 and 14.4) and I be afforded the opportunity to advance my career in the merit system I was hire into.

Sincerely,

Deanna Meyers

Cc: Senator Jeff Kessler
Senator Ken Leonhardt
Delegate Mike Ferro
Delegate Dave Evans

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Julia Z. Miller, MSN, CFNP
509 Maple Walk
Williamson, WV 25661

Dear Ms. Miller, MSN, CFNP:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

June 7, 2015

RECEIVED

JUN 10 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel

Joe Thomas, Assistant Director

1900 Kanawha Blvd.

East Building, Room 416

Charleston, WV 25301

Dear Mr. Thomas,

I would like to state my opposition to Section 11.6.a. to the proposed Title 143, Legislative Rule, West Virginia Division of Personnel, which is open for public comment. This section proposes in part, "Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This proposed change would be detrimental to the citizens of West Virginia.

First, local agency employees bring a wealth of knowledge and experience when transferring to a state agency, which has been allowed for the past 25 years I have been at the Boone County Health Department. State agencies have benefited when employees from local agencies have transferred, bringing their expertise with them, but requiring someone to start over in seniority and pay scale would discourage that person from making a move that has always been good for both the employee and the state,

In addition, as an employee of a local health department which has paid DOP fees and followed DOP policies during my tenure with Boone County, and as someone with 32 total years in the system, I believe that this would be grossly unfair to everyone involved. Not only would highly qualified individuals be treated as if they have no time invested in the duties they have been preforming, the people served by state agencies would not receive the quality of service that is expected.

I encourage you to reconsider the changes to the aforementioned DOP Administrative Rule, which are proposed in the portion of Section 11.6.a. that I have discussed. Please feel free to contact me at your convenience.

Sincerely,

Julia Z. Miller, MSN, CFNP

509 Maple Walk

Williamson, WV 25661

salukiherd@frontier.com

cc. Governor Earl Ray Tomblin

Senator William P. Cole, III

Senator Mark R. Maynard

Senator Art Kirkendoll

Senator Ron Stollings

Delegate Justin Marcum

Delegate Joshua Nelson

Delegate Harry Keith White

Delegate Ralph Rodighiero

Delegate Rupert Phillips, Jr.

11.4.c. give the employee a minimum of fifteen (15) days' advance notice of the demotion to allow the employee a reasonable time to reply to the demotion in writing, or upon request to appear personally and reply to the appointing authority or his or her designee.

The appointing authority shall file the reasons for the demotion and the reply, if any, with the Director. A predetermination conference and fifteen (15) ~~days~~ days' notice are not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied.

11.5. Lateral Class Change. -- An appointing authority may move a permanent employee from a position in one class to a vacant position in another class in the same ~~pay grade~~ compensation range if the employee is found by the Director to qualify for the vacant position.

11.6. Transfers.

11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government. In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

11.6.b. Appointing authorities shall report all inter- and intra-agency transfers within a class to the Director on appropriate forms at the time of the transfer. The Director shall approve transfers to comparable classes prior to the transfers and shall require that the ~~employee~~ employees meet the minimum qualifications of the new ~~class~~ classes.

§ 143-1-12. Separations, Suspension, and Reinstatement.

12.1. Resignation.

12.1.a. An employee who resigns shall present the reasons for the resignation in writing to the appointing authority. The appointing authority shall forward a copy of the resignation to the Director who shall record the resignation. If a written resignation cannot be obtained, the appointing authority shall notify the Director in writing of the resignation of the employee and the circumstances of the resignation.

12.1.b. ~~Transfer within the classified service, without a break in service, shall not be considered as a resignation.~~

~~12.1.c.~~ The appointing authority shall notify the Director when an employee resigns

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Roy Thomas Mobley
128 Stover Road
Mount Hope, WV 25880

Dear Mr. Mobley:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

June 5, 2015

RECEIVED

JUN 08 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Roy Thomas Mobley
128 Stover Road
Mount Hope, WV 25880

WV Division of Personnel
Mr. Joe Thomas, Assistant Director
1900 Kanawha Blvd., East Bldg. 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas:

I'm writing this letter to express my concern over recently proposed changes to the WVDOP Administrative Rule, Section 11.6a. In my humble opinion, the county/local employees across West Virginia should be afforded the same benefits as WV State employees. Local health departments had to sign an agreement that they would abide by the Division of Personnel's rules and to pay for DOP's services. By participating in the DOP's policies and procedures, I would think we would be considered a member of the system.

Section 11.6a considers us a different agency than the state department. This section allows Local health departments to transfer to another position within another local agency and not to a state position. In order to transfer to a state position, an individual would lose all accrued sick leave and annual leave. In essence, they would be starting anew. Since we are a part of the system, I do not feel this is fair to all the local agencies in the Division of Personnel System. Please revise this section and allow local health staff to transfer to available state positions and be able to transfer their curreccumulated annual and sick leave hours and tenure credit into any position they are qualified and are selected for under the WVDOP.

Thank you for your consideration of this matter.

Sincerely,

Roy T. Mobley

Roy Thomas Mobley
Raleigh County

CC: Governor Earl Ray Tomblin
CC: Senator Jeff Mullins
CC: Honorable John O'Neal
CC: Honorable Rick Moye
CC: Honorable Lynne Arvon
Cc: Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Donna Mongold
Hardy County Health Department
411 Spring Ave, Suite 101
Moorefield, WV 26836

Dear Ms. Mongold:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

HARDY COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

State Personnel Board
West Virginia Division of Personnel
Building 6, Room 416
1900 Kanawha Boulevard, East
Charleston, WV 25305

June 17, 2015

Re: Public Comment on Proposed DOP Administrative Rule Change

Local Health Department Employees have been a part of the DOP system for many years. Those of us who make Public Health a career understand we will not become wealthy in this profession. Very often the benefits package is what draws and keeps us in what, very often, is a thankless job.

We are loyal, dedicated professionals and the proposed rule change is decidedly unfair to those who have dedicated large parts of their life to Public Health. Any benefit that was in place at the time of our employment should be honored until we retire.

We realize businesses must make changes to remain efficient. However, Health Departments have paid a substantial amount of money over the years to be protected by DOP policy. Losing seniority, leave days, our place on the Register and the ability to transfer into other state jobs feels like punishment at best.

We have ***earned*** the privileges you would like to take from us.

Sincerely,

William Ours, Administrat, Sanitar
Heidi Bradley, Sanitarian II
Helen Mathias, OA-II
Tammy Cr... OA II
Shauna Long RN
Susan Mayes RN
Donna C Mongold OA II

Address: 411 Spring Ave, Suite 101, Moorefield, WV 26836
Telephone: 304-530-6355 • Fax: 304-530-7684 • Email: william.a.ours@wv.gov
www.hardycountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Tiffany Morrison, BSN, RN
Berkeley County Health Department
800 Emmett Rousch Drive
Martinsburg, WV 25401

Dear Ms. Morrison, BSN, RN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Tiffany Morrison, BSN, RN

June 17, 2015

RECEIVED

JUL 06 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

WV Division of Personnel
Capitol Complex, Bldg. 6, Room 436
Charleston, West Virginia 25305

Dear Director Walker,

I am a local health department nurse and I am quite concerned about the proposed changes to Title 143. I am dedicated to public health and intend to spend the duration of my career as a public health professional. The proposed changes would certainly limit my ability to do so in the state of West Virginia should I seek a promotion or new position. Living in the eastern panhandle, there are many opportunities as a nurse and public health professional to work in Maryland, Virginia or even Pennsylvania or Washington, D.C. Certainly many of those positions come with significantly higher salaries. Why do I choose to a lower salary in West Virginia? I love this state! I was born and raised here. I am genuinely concerned for the health and welfare of West Virginias. There are many public servants in my family who have served this state as teachers, troopers, fireman, and public officials and it's my desire to continue their legacy. However, the Title 143 changes would surely limit my career opportunities and I would not feel secure in my future with the state of West Virginia. Should the proposed changes take effect, it would be a major financial burden on my family to lose my accrued benefits should I seek a transfer or promotion.

I urge you to consider how this change would affect local health employees and their families. Please also consider the affect that these changes would have on the state's ability to retain well trained, experienced, and devoted staff. The state will undoubtedly lose dedicated civil servants to the private sector or to other states as professionals seek promotions, transfers and career advancements if the DOP intends to take away the tenure, benefits and retirement. I ask you to reconsider these drastic changes. Personally and professionally, as a Classified Employee for the State of West Virginia, I specially would like to mention my concerns and disagreement with the following:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.
12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.
14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."
While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.
DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits. Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The ability to transfer is beneficial to all levels of

government. The proposed change to the transfer, layoff and reinstatement a policy discriminate against local employees such as myself and changes the dynamic between employees and employers.

I am respectfully requesting that the proposed changes to the Administrative Rule be reconsidered for the potential damaging impact to Public Health in the State of West Virginia.

Sincerely,

Tiffany Morrison, BSN, RN
Berkeley County Health Department
800 Emmett Rousch Drive
Martinsburg, WV 25401

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Susan Moyers
Hardy County Health Department
411 Spring Ave, Suite 101
Moorefield, WV 26836

Dear Ms. Moyers:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

HARDY COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

State Personnel Board
West Virginia Division of Personnel
Building 6, Room 416
1900 Kanawha Boulevard, East
Charleston, WV 25305

June 17, 2015

Re: Public Comment on Proposed DOP Administrative Rule Change

Local Health Department Employees have been a part of the DOP system for many years. Those of us who make Public Health a career understand we will not become wealthy in this profession. Very often the benefits package is what draws and keeps us in what, very often, is a thankless job.

We are loyal, dedicated professionals and the proposed rule change is decidedly unfair to those who have dedicated large parts of their life to Public Health. Any benefit that was in place at the time of our employment should be honored until we retire.

We realize businesses must make changes to remain efficient. However, Health Departments have paid a substantial amount of money over the years to be protected by DOP policy. Losing seniority, leave days, our place on the Register and the ability to transfer into other state jobs feels like punishment at best.

We have ***earned*** the privileges you would like to take from us.

Sincerely,

William Ours, Administrat, Sanitar
Heidi Bosley, Sanitarian II
Helen Mathias, OA II
Tammy Cl... OA II
Shawna Long RN
Susan Mayes RN
Donna Mongold OA II

Address: 411 Spring Ave, Suite 101, Moorefield, WV 26836
Telephone: 304-530-6355 • Fax: 304-530-7684 • Email: william.a.ours@wv.gov
www.hardycountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Melissa Murphy
Hampshire County Health Department
HC 71 Box 9
Augusta, WV 26704

Dear Ms. Murphy:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Hampshire County Health Department
HC 71, Box 9
Augusta, WV 26704
Nursing: (304) 496-9640 Environmental: (304) 496-9641
Fax: (304) 496-9650

June 24, 2015

Re: Title 143 – Legislative Rules of the WV Division of Personnel

To Whom It May Concern:

The employees of the Hampshire County Health Department would like to state our disagreement with the following changes:

11.6 Transfers
11.6.a "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." **Due to the classification of local health departments, our employees would not be able to transfer to a state agency under this new rule, even if they are a highly qualified and trained person.**

12.4 Layoff
12.4.j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." **Any employee laid off from a local health department would not be placed on a preference list for a state position; however, any state employee that has been laid off would be given preference for a local health department position. We feel this is a highly discriminatory practice.**

14.3 Annual Leave
14.3.g. Transfer of Annual Leave
14.3.g.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." **If a local health department employee would take a state position, they would lose service credit and annual leave. This deters employees from wanting to advance their career to higher levels of government.**

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4.i.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of

government." **If a local health department employee would take a state position, they would lose service credit and sick leave. This deters employees from wanting to advance their career to higher levels of government.**

Please consider the impact these changes would have on our employees' ability to advance in their careers. As Human Resource professionals, you should understand the importance of fair and equal treatment to all employees who fall under your rule and the impact on morale and retention when career advancement is diminished.

Sincerely,

Stephanie Shoemaker
Administrator

Tamitha Wilkins
Nurse

Bonnie Welty
Office Assistant

Derrick Haggerty
Sanitarian

Melissa Murphy
Office Assistant

Juanita Yowell
Office Assistant

Tina Steelman
Health and Human Resources Specialist

Carolyn Kimble
Nurse

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Lisa Myles
PO Box 485
Shady Spring, WV 25918

Dear Ms. Myles:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

West Virginia Division of Personnel

Joe Thomas , Assistant Director

1900 Kanawha Blvd. East Bldg.6 room 416

Charleston, WV 25305

RECEIVED

JUN 01 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Dear Mr. Thomas:

I have read Title 143, Legislative Rule, WV Division of Personnel and as an employee of a local health department, I have a problem with one section of the rule. Local Health Departments had to sign an agreement that they would abide by the Division of personnel's rules and to pay for DOP's services. By participating in the DOP's policies and procedures I think that we would be considered a member of the system.

Section 11.6a considers us a different agency than the state department. This section only allows Local health employees to transfer to another position within another local agency and not to a state position. In order to transfer to a state position, an individual would lose all accrued sick leave an annual leave. Basically starting as a new employee. Since we are a part of the system, I do not feel that this fair to all the local agencies that participate in the Division of Personnel System. Please revise this section and allow local health staff to transfer to available state positions.

This is even more critical now that some people at the state level are suggesting that all local health department employees should become state employees. If this happens, employees with many years of service would be starting over with no seniority. Thank you for your consideration concerning this matter.

Sincerely,

Lisa Myles

Lisa Myles

P.O. Box 485

Shady Spring, WV 25918

Cc: Governor Tomblin

Cc: Senator Mullins

Cc: Delegate Bates

Cc: Delegate Moye

Cc: Delegate O'Neal

Cc: Delegate Arvon

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. William Ours
Hardy County Health Department
411 Spring Ave, Suite 101
Moorefield, WV 26836

Dear Mr. Ours:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

HARDY COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

State Personnel Board
West Virginia Division of Personnel
Building 6, Room 416
1900 Kanawha Boulevard, East
Charleston, WV 25305

June 17, 2015

Re: Public Comment on Proposed DOP Administrative Rule Change

Local Health Department Employees have been a part of the DOP system for many years. Those of us who make Public Health a career understand we will not become wealthy in this profession. Very often the benefits package is what draws and keeps us in what, very often, is a thankless job.

We are loyal, dedicated professionals and the proposed rule change is decidedly unfair to those who have dedicated large parts of their life to Public Health. Any benefit that was in place at the time of our employment should be honored until we retire.

We realize businesses must make changes to remain efficient. However, Health Departments have paid a substantial amount of money over the years to be protected by DOP policy. Losing seniority, leave days, our place on the Register and the ability to transfer into other state jobs feels like punishment at best.

We have ***earned*** the privileges you would like to take from us.

Sincerely,

William Ours, Administrat, Sanitar
Heidi Bosley, Sanitarian II
Hea Mathias, OA II
Tammy C OA II
Shawna Long RN
Susan Mayes RN
Donna Mongold OA II

Address: 411 Spring Ave, Suite 101, Moorefield, WV 26836
Telephone: 304-530-6355 • Fax: 304-530-7684 • Email: william.a.ours@wv.gov
www.hardycountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

MS. Patricia A. Owens, RN,BSN
142 Samuel Drive
Moundsville, WV 26041

Dear MS. Owens, RN,BSN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

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JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 11, 2015

Joe Thomas, Assistant Director
WV Division of Personnel
1900 Kanawha Blvd, East
Charleston, WV 25305

Dear Mr. Thomas:

I am submitting my public comment regarding Title 143 – Legislative Rules of the West Virginia Division of Personnel. The proposed changes would have a negative impact on my ability to advance through the merit system as it is established today. I could not transfer to agencies other than local health departments. In order to become employed by a state agency, I would first need to terminate my position with the Marshall County Health Department, apply to be placed on the civil service register, and if hired start my employment under a "different" civil service system. The proposed changes would not allow me to transfer my tenure or my annual and sick leave. Basically, I would be starting over again.

I also understand that if I would be laid off from my current employer, I would no longer be eligible to be placed on the hiring preference list. I do not understand the reason for such discriminatory changes. I was hired under the current system with the expectation that the same rules that apply to other classified members would benefit me as well. Why then am I being treated like a second-class citizen? I have gone through the required testing/application process and was found to be qualified to hold my position. What has changed that should now limit me to employment by health departments only.

I ask that further consideration be given to the proposed changes (11.6, 12.4, 14.3 and 14.4) and I be afforded the opportunity to advance my career in the merit system I was hire into.

Sincerely,

Patricia A Queen RN BSN

Cc: Senator Jeff Kessler
Senator Ken Leonhardt
Delegate Mike Ferro
Delegate Dave Evans

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Charles Petnel, Jr.
Marion County Health Department
300 Second Street
Fairmont, WV 26554

Dear Mr. Petnel, Jr.:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

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JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd E
Building 6 Room 416
Charleston WV 25305-0139

Dear Mr. Thomas,

I am writing with regard to the proposed DOP rule that is currently open for public comment. As I read the proposed rule, I believe it unfairly removes many of the benefits that local health department employees are currently entitled to. The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. The proposed changed may discriminate against local health department employees and changes the dynamic between employer and employee.

I am in disagreement with the following changes:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested,

placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave

14.4.1. Transfer of Sick Leave

14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. This will greatly effect the recruitment, retention and advancement of employees based on their knowledge, abilities, and skill, which improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

Therefore, I respectfully ask that the proposed changes to the rule that involves employees of local health departments and the restriction that it places on them be removed.

Sincerely,

Charles Pethel Jr.

Charles Pethel JR.

Marion County Health Department
300 Second Street
Fairmont, West Virginia 26554
Phone: 304-366-3360
FAX: 304-363-8217

TELECOPIER INFORMATION SHEET
*CONFIDENTIAL

INDIVIDUAL: WV DOP, Joe Thomas

FIRM: _____

CITY AND STATE: _____

FAX NUMBER: _____ **PHONE NUMBER:** _____

FROM: Charles Pethel

TOTAL NUMBER OF PAGES: 3 **(Including information sheet)**

DATE TRANSMITTED: 6/29/15

OPERATOR: _____

COMMENTS: _____

_____

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If you do not receive all the pages, please call back as soon as possible. Thank you.

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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Charles Petnel, Sr.
Marion County Health Department
300 Second Street
Fairmont, WV 26554

Dear Mr. Petnel, Sr.:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd E
Building 6 Room 416
Charleston WV 25305-0139

Dear Mr. Thomas,

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Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. This will greatly effect the recruitment, retention and advancement of employees based on their knowledge, abilities, and skill, which improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

Therefore, I respectfully ask that the proposed changes to the rule that involves employees of local health departments and the restriction that it places on them be removed.

Sincerely,

Charles Pethel Jr.

Charles Pethel Jr.

Marion County Health Department
300 Second Street
Fairmont, West Virginia 26554
Phone: 304-366-3360
FAX: 304-363-8217

TELECOPIER INFORMATION SHEET
*CONFIDENTIAL

INDIVIDUAL: WV DoP, Joe Thomas

FIRM: _____

CITY AND STATE: _____

FAX NUMBER: _____ **PHONE NUMBER:** _____

FROM: Charles Pethel

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West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Ashley Petrolino, MPH
Berkeley County Health Department
Environmental Health Section
400 W. Stephen St, Suite 204
Martinsburg, WV 25401

Dear Ms. Petrolino, MPH:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
JUN 22 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 16, 2015

WV Division of Personnel
Capitol Complex, Bldg. 6, Room 436
Charleston, West Virginia 25305

Dear Director Walker,

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. As the Administrator for a Local Health Department, I feel that some of these changes, in fact, discriminate against local health department employees and could very much eliminate their abilities for possible future promotions. Employees, who work in public service, hold themselves of a higher regard than in most fields at times struggle to live on the income based on the DOP guidelines. The proposed changes place added strain to public employees and give little room for professional growth, thus leaving them little choice but to find employment outside of the public arena if they would like to further develop their career. These changes could potentially push dedicated, loyal, knowledgeable, and skilled employees out of the state of West Virginia and the State has little room to lose people willing to work at all, let alone in public service.

Personally and professionally, as a Classified Employee for the State of West Virginia, I specially would like to mention my concerns and disagreement with the following:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.
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14.3 – Annual Leave
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14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.
14.4 Sick Leave

14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

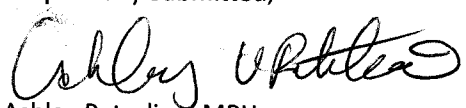
Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."
While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.
DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits. Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed change to the transfer, layoff and reinstatement a policy discriminate against local employees and changes the dynamic between employees and employers.

I am respectfully requesting that the proposed changes to the Administrative Rule be reconsidered for the potential damaging impact to Public Health in the State of West Virginia.

Respectfully Submitted,



Ashley Petrolino, MPH
Threat Preparedness/Health Promotions/MRC Coordinator
Berkeley County Health Department

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Laura F. Phares
PO Box 834
Petersburg, WV 26847

Dear Ms. Phares:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Laura F. Phares
P. O. Box 834
Petersburg, West Virginia 26847
304-257-1032

RECEIVED
JUN 26 2015
WEST VIRGINIA
DIVISION OF PERSONNEL

June 19, 2015

WV Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd. E
Charleston, West Virginia 25305-0139

Dear Sirs:

I am writing concerning proposed DOP changes to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1. As an employee of Grant County Health Department we should be allowed to transfer to a state job without losing the benefits we have earned. Local health department employees were hired under DOP classified systems with the knowledge we could advance as our state counterparts with all our earned benefits. The employees' ability to transfer is beneficial to all levels of government.

The proposed DOP changes to transfer, layoff and reinstatement policies would be discrimination against local health department employees in West Virginia. We are already trained, providing excellent public services to our county residences. This would be a great loss for the counties and state.

These proposed amendments do not take into account the devastating financial effect the proposed amendment would have on individuals working at local health departments unable to transfer accrued leave, insurance and retirement benefits.

As an employee of the state classified system, I ask that local health department employees can continue to have the opportunity to advance with our earned benefits, when state jobs become available.

Sincerely;

Laura F. Phares

Laura F. Phares

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Sissy K. Price, RN BSN
115 Lee Street
Gassaway, WV 26624

Dear Ms. Price, RN BSN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 08 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd.
East Building, Room 416
Charleston, WV 25301

Dear Mr. Thomas,

I would like to voice my opposition to the proposed Division of Personnel changes under section 11.6.a, page 38, stating that classified employees of county or municipal agencies may only transfer to an agency within their local level government.

I have worked at a local health department for the last 9 years with the option of being able to apply and transfer to a state position without the loss of my sick, annual leave and service credit. If this proposed change is allowed to pass it would unjustly penalize employees of county or municipal agencies. I was hired under the same system as state employees in 2006, paid the same DOP fees and followed the same policies. I should be afforded the same option to transfer and carry my current accumulated annual, sick leave and service credit to any position under the DOP. If this change is approved it will limit the experience pool of applicants for the state to hire.

The proposed changes penalize long term local employees. The potential change to make local health department employees state employees it appears to be a blatant discrimination against Local County or municipal employees. I once again ask that you reconsider the changes under section 11.6.a, page 38.

Respectfully,

Sissy K. Price, RN BSN
115 Lee Street
Gassaway, WV 26624

Cc: Governor Earl Ray Tomlin
Senator Douglas E. Facemire
Senator Mike Romano
Delegate Brent Boggs

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Elizabeth Ratliff
PO Box 202
Leivasy, WV 26676

Dear Ms. Ratliff:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

for Sara Walkers

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas,

I am sure that the DOP has received many angry letters. But will continue to do whatever they want to do with public employees earned sick time.

I want to express that is a very sad and unfair to employees that would like to move up or advance into state positions. I know that many of the state sanitarian have once been county employed sanitarians and moved to the state level with no issues losing sick days. To advance as a state level sanitarian it is already required to take the NEHA exam and have several years' experience as a sanitarian. Which most people acquire at the county level to get the years needed to advance. So the county is training people who will hopefully advance to state positions.

Sick time is earned and should be reimbursed somehow or be allowed to roll over into retirement no matter years served.

I do think one bonus is actually being rewarded 80 hours of family sick time, because I for one am a person who has to take care of several aging family members. Also would like to start a family, and have a husband to take care of too.

These decisions seem drastic and I believe would not help anyone or motivate anyone to work with the counties or much less get the training needed to move into state positions. It will probably encourage people to take sick days so they do not lose them. (I would not blame them) This seems like punishment to employees who work hard and will lose those days if something happens out of their control.

It just seems more and more that management wants to punish employees for trying to work and get their jobs done. I do not get paid for any over time that I work; any over time is turned into comp time, so sick time and vacation time piles up. It is a shame to be punished if I would choose to better myself.

I do not know the correct way to fix these problems, but remember the employees have done nothing wrong except work for the counties that work for the state.

Thank you for your time.
Elizabeth Ratliff
Elizabeth D Ratliff

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Donna L. Riffle
Marion County Health Department
300 Second Street
Fairmont, WV 26554

Dear Ms. Riffle:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd E
Building 6 Room 416
Charleston WV 25305-0139

Dear Mr. Thomas,

I am writing with regard to the proposed DOP rule that is currently open for public comment. As I read the proposed rule, I believe it unfairly removes many of the benefits that local health department employees are currently entitled to. The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. The proposed changed may discriminate against local health department employees and changes the dynamic between employer and employee.

I am in disagreement with the following changes:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested,

placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave

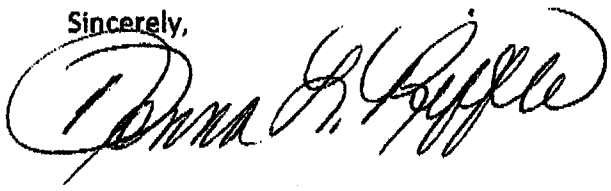
14.4.1. Transfer of Sick Leave

14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. This will greatly effect the recruitment, retention and advancement of employees based on their knowledge, abilities, and skill, which improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

Therefore, I respectfully ask that the proposed changes to the rule that involves employees of local health departments and the restriction that it places on them be removed.

Sincerely,



West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Charlene Rine, R.D.H. B.S.
132 W. 51st Street
Shadyside, OH 43947

Dear Ms. Rine, R.D.H. B.S.:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
JUN 15 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 11, 2015

Joe Thomas, Assistant Director
WV Division of Personnel
1900 Kanawha Blvd, East
Charleston, WV 25305

Dear Mr. Thomas:

I am submitting my public comment regarding Title 143 – Legislative Rules of the West Virginia Division of Personnel. The proposed changes would have a negative impact on my ability to advance through the merit system as it is established today. I could not transfer to agencies other than local health departments. In order to become employed by a state agency, I would first need to terminate my position with the Marshall County Health Department, apply to be placed on the civil service register, and if hired start my employment under a "different" civil service system. The proposed changes would not allow me to transfer my tenure or my annual and sick leave. Basically, I would be starting over again.

I also understand that if I would be laid off from my current employer, I would no longer be eligible to be placed on the hiring preference list. I do not understand the reason for such discriminatory changes. I was hired under the current system with the expectation that the same rules that apply to other classified members would benefit me as well. Why then am I being treated like a second-class citizen? I have gone through the required testing/application process and was found to be qualified to hold my position. What has changed that should now limit me to employment by health departments only.

I ask that further consideration be given to the proposed changes (11.6, 12.4, 14.3 and 14.4) and I be afforded the opportunity to advance my career in the merit system I was hire into.

Sincerely,

Charlene Rine R.D.H. B.S.

Cc: Senator Jeff Kessler
Senator Ken Leonhardt
Delegate Mike Ferro
Delegate Dave Evans

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Andrew Root
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. Root:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: minerallhd@wv.gov
www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov
www.mineralcountyhealthdepartment.com

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Jesse J. Rose, III
Barboursville Comfort Inn
249 Mall Road
Barboursville, WV 25504

Dear Mr. Rose, III:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUL 01 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 28, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd, East Bldg. 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas:

Title 143, Legislative Rule, WV Division of Personnel is open for public comment for proposed changes. I would like to call your attention specifically to sections 11.6.a. Transfers (pg 38), 12.4.j. Layoff (pg 43), 12.6.a. Reinstatement (pg 43-44), 14.3.g.1. Annual Leave (pg 48), and 14.4.i.1. and 2. Sick Leave (pg 53). In all of these sections the Rule is proposing to add statements that would severely limit the options, benefits, and mobility of local health employees. If the proposed changes in these sections take place, it appears that employees of local health that would like to transfer to a state agency would have to relinquish their accumulated sick and annual leave, tenure and benefits as if they are a brand new employee.

My local county health department has been part of the Division of Personnel for many years. I myself have been with the McDowell County Health Department for almost 13 years and was hired through the WV Division of Personnel system. I think employees of local health should be afforded the same options, benefits, and mobility as others hired through the same system, instead of being treated differently.

Please consider removing the proposed statements in the sections listed in my first paragraph from the proposed changes to the Title 143, Legislative Rule, WV Division of Personnel and give local health employees the opportunities they have worked so hard to obtain. Thank you for your consideration.

Respectfully,

Jesse J. Rose III

cc: Governor Earl Ray Tomblin
Senator William Cole
Senator Mark Maynard
Senator Daniel Hall
Senator Jeff Mullins
Delegate Clif Moore
Delegate Linda Phillips
Delegate Harry White

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Arthur B. Rubin, DO FACOP, MHA
Kanawha-Charleston Health Department
108 Lee Street, East
PO Box 927
Charleston, WV 25323-0927

Dear Mr. Rubin, DO FACOP, MHA:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

KANAWHA-CHARLESTON HEALTH DEPARTMENT
108 Lee Street, East /PO Box 927
Charleston, WV 25323-0927
(304) 344-KCHD (5243)

www.kchd.wv.org

RECEIVED
JUN 30 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

Jason Pizatella, Chairman
State Personnel Board
Building 6, Room 420
1900 Kanawha Boulevard, East
Charleston, WV 25305-0139

Attention: Joe F. Thomas
West Virginia Division of Personnel
Employee Relations Section
Building 6, Room 416
Charleston, WV 25305

Hand-Delivered

Sent via email:
Joe.f.thomas@wv.gov

Dear Chairman Pizatella:

Re: Comments regarding 143CSR01
Administrative Rule of the West Virginia Division of Personnel

Thank you for the opportunity to comment. While we have addressed our particular areas of concern with some specificity, it is fair to state universally that we find the proposed amendment to the current rule discriminatory to county and municipal employees. The Division of Personnel is exceeding the scope of its authority by creating a new class of county and municipal employees. County and municipal employees have for years enjoyed equal protection and opportunity in the classified service. If that protection is to be altered, it should be done by action of the legislature approving a distinct bill with a single object, not by administrative fiat in a legislative rule. Finally, the fiscal note does not reflect the possible shifting of Other Post-Employment Benefits (OPEB) debt from state government to county and municipal governments.

Amendment Language

143-1-2. Preamble
...All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliations or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or State law.

Discussion

We endorse specifically adding language to include classified employment in the preamble.

Suggested changes to amendment language

We have no suggested changes to this language.

Amendment Language

11.6. Transfers
11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government. In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual leave and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

Discussion

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified service who are limited to transfer and advancement only on the local level. Only the legislature by passage of a specific, distinct bill with a single object should make the decision about creating a new class of employees. While county and municipal employees are not state employees, they have for decades been equal and participating members of the classified service. Any action to remove that equality should be made by the legislature.

Suggested changes to amendment language

After the word "time.," strike the underlined language, as noted by double strikethroughs.

11.6.a. Except as otherwise provided in subsection 10.4. Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time~~. Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government.~~ In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

Amendment Language

12.4.j. Preference Hiring.—When filling vacancies at agencies, appointing authorities shall, for a period of twelve (12) months after ~~the layoff of~~ a permanent classified employee in another agency has been placed on a preference register due to layoff, give preference ~~to those laid off qualified permanent classified employees~~ such employee based on ~~seniority~~ tenure and fitness over all but existing classified employees of the agency ~~or its facilities~~. This preference shall not supersede the recall rights of employees who have been laid off in the agency. Preference hiring shall be accomplished by original appointment. Provided, that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government.

Discussion

Local employees were hired into the classified service with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. Before any such action preventing transfers is taken, we would request a trend analysis of transfers. Is the trend more from transfers from local government to the state, or from the state to local government? A trend analysis would identify if DOP has a basis for the Draconian measures provided in the proposed amendment to this rule. If the trend analysis shows more employees transferring from county or municipal positions to state positions, it would indicate, according to the language of the proposed amendment, that moving from a county or municipal job to a state job would be an original appointment and that the individual accepting the appointment would lose sick leave and annual leave accrued while employed on the county or municipal level. It is also unclear how the employees inability to transfer accrued sick leave would affect his or her retirement benefits.

Suggested changes to the amendment language

After the word "appointment.," strike the proposed new language, as noted by the double strikethroughs. (In this instance, underlining denotes new language in the proposed amendment.)

12.4.j. Preference Hiring.—When filling vacancies at agencies, appointing authorities shall, for a period of twelve (12) months after the layoff of a permanent classified employee in another agency has been placed on a preference register due to layoff, give preference to those laid off qualified permanent classified employees such employee based on seniority tenure and fitness over all but existing classified employees of the agency or its facilities. This preference shall not supersede the recall rights of employees who have been laid off in the agency. Preference hiring shall be accomplished by original appointment. ~~Provided, that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government.~~

Amendment Language

14.3.g. Transfer of Annual Leave
14.3.g.1. When a classified employee transfers or otherwise changes employment from one agency to another, all service credit and ~~hours of~~ accrued and unused annual leave shall be transferred. Provided, that classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government...

Discussion

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition. An as yet uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits. DOP must provide legislators and the public some idea of the true fiscal impact of the rule.

Suggested changes to the amendment language

After the word "transferred," delete the proposed new language as shown with double strikethroughs.

14.3.g.1. When a classified employee transfers or otherwise changes employment from one agency to another, all service credit and hours of accrued and unused leave shall be transferred~~. Provided, that classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government~~...

Amendment Language

14.4.e.2. All Other Separations. – All accumulated sick leave shall be cancelled as of the date and time of separation. ~~If an employee returns to eligible employment, as provided in subdivision b of this subsection, within one year of the date and time of separation, including the first working day the reinstatement could be accomplished, all cancelled sick leave shall be restored. However, if the employee returns to eligible employment after more than one year from the date and time of separation from employment, no more than thirty (30) days of cancelled sick leave shall be restored.~~ If an employee who has been laid off is re-employed in eligible employment, all cancelled sick leave shall be restored.

Discussion

The wording of the proposed language is ambiguous. While county and municipal employees are not specifically included, neither are they excluded. While it is unclear if this is a drafting problem or a policy issue, the ambiguous language should be made clearer.

Suggested changes to the amendment language

After the word "separation," delete the proposed new language as shown with double strikethroughs.

14.4.e.2. All Other Separations. – All accumulated sick leave shall be cancelled as of the date and time of separation. ~~If an employee returns to eligible employment, as provided in subdivision b of this subsection, within one year of the date and time of separation, including the first working day the reinstatement could be accomplished, all cancelled sick leave shall be restored. However, if the employee returns to eligible employment after more than one year from the date and time of separation from employment, no more than thirty (30) days of cancelled sick leave shall be restored.~~

Insert in lieu thereof (shown by underlining): If an employee returns to eligible employment, all cancelled sick leave shall be restored. If the employee returns to eligible employment after more than one year from the date of separation, no more than 30 days of cancelled sick leave shall be restored....

Amendment Language

14.4.i. Transfer of Sick Leave
14.4.i.1. When a classified employee transfers or otherwise changes employment from one agency to another, all accrued and unused sick leave shall be transferred. Provided, that classified employees of county or municipal agencies may only transfer accrued and unused sick leave to an agency within their local level of government. The previous employer shall provide written documentation of the sick leave balance computed in days and fractions of days to the other agency within thirty (30) ~~calendar~~ days after the employee commences work. The previous employer shall also provide the days of State and federal Military, ~~Family and Medical Leave Act~~ FMLA, Parental Leave Act, and Red Cross Disaster Service leave eligibility exhausted within the year, if applicable.

Discussion

DOP officials have stated to local health officials that poor record keeping on the part of some local health departments prevents DOP officials from certifying applicants seeking to transfer to state jobs from county or municipal jobs meet the minimum requirements for the state jobs. DOP currently has the authority to request all documentation related to employment through the service level agreements signed with individual local boards of health Any local board of health not able to meet DOP requirements should be individually remediated. We have included suggested new language to address the need for the Division of Personnel to be able to document leave.

Suggested changes to the amendment language

After the word "transferred," delete new language as shown by double strikethroughs.

14.4.i.1. When a classified employee transfers or otherwise changes employment from one agency to another, all accrued and unused sick leave shall be transferred~~. Provided, that classified employees of county or municipal agencies may only transfer accrued and unused sick leave to an agency within their local level of government.~~

After the word "written," insert the following language: (In this case, underlining denotes proposed new language suggested by KCHD.) The previous employer shall provide written documentation of the sick leave balance computed in days and fractions of days to the other agency within thirty (30) calendar days after the employee commences work. The documentation shall be in a form and manner prescribed by the Division of Personnel. Only leave that is accounted for in this manner shall be considered eligible for transfer.

Amendment language

14.4.i.2. At the discretion of the appointing authority, sick leave accrued while in other state or classified employment may be transferrable to covered agency employment.

Discussion

Does this give a state agency the ability to transfer sick leave accrued on a county or municipal level at the agency's discretion? If the decision is left to the discretion of the appointing authority, it does not afford equal protection to all employees transferring with accrued sick leave.

Suggested changes to the amendment language

We have no suggested changes.

Amendment Language

143-1-18. Payroll certification.
~~18.1.~~ No state, county or municipal disbursing or auditing officer shall make, ~~or~~ approve or take any part in making or approving any payment for personal service to any person holding a position in the classified service unless the ~~payroll voucher or account of the pay bears the certification of the Director, or of his or her authorized agent, that the persons named in the voucher or account have~~ person has been appointed and employed in accordance with the provisions of this rule. An appointing authority may not modify the wages of a person in the classified service unless the Director has approved the modification in accordance with the provisions of this rule....

Discussion

We agree with the proposed amendment language in that it will require uniformity in payment for employees in the classified service.

Please contact me or John D. Law if you have any questions. John's email address is John.D.Law2@wv.gov. His cellphone number is 304-546-5162.

Sincerely,

Arthur B. Rubin

Brenda C Isaac

Arthur B. Rubin, DO, FACOP, MHA
Kanawha County Health Officer

Brenda Isaac, RN, BSN, MA, NCSN
Executive Director

Copies:

Kanawha Legislative Delegation
Chairman Mark Maynard
Chairman Kelly Sobonya
Chairman Ryan Ferns
Chairman Joe Ellington

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Donna T. Rumbaugh
Cabell-Huntington Health Department
703 Seventh Avenue
Huntington, WV 25701

Dear Ms. Rumbaugh:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Cabell-Huntington Health Department

703 Seventh Avenue / Huntington, West Virginia 25701
(304) 523-6483

June 24, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

RECEIVED

JUN 26 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Dear West Virginia Division of Personnel Board,

This letter is in opposition to the changes to 143CSR1, the Administrative Rule of the West Virginia Division of Personnel. The Cabell County Board of Health does not support the changes to the Administrative Rule due to the reasons listed below.

In the preamble, the first statement is "The general purpose of the Division of Personnel is to attract, develop and retain to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state or classified employment." The changes offered in the 143CSR1 are in conflict to this very statement. The changes offered develop two classified systems in that one is for state employees and one is for local employees. When seeking to develop, retain and transfer employees of the highest ability and integrity, you are limiting the ability of local employees to transfer a high level skill set to the state of West Virginia. The local health employees are providing service to the citizens of the state of West Virginia and should not encounter a barrier when seeking a career in state government.

In the preamble, it states "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliation or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or state law." By classifying a local agency differently than a state government agency, the emphasis does not place priority of those employees employed at a local government agency.

In the document, transfers to state government are outlined with specifics on how this is accomplished. However, there is no mention of the transfer from a state employee to local government. This is a cost that will be absorbed by the local agency and should be similar in nature. It also places a high cost on the

individual employee should they choose a career path in state government that begins with a local agency. The local employee will lose all access to those benefits he/she earned while in public service for the citizens in the state of West Virginia.

It is our position as a Local Board of Health to support an equitable Service Level Agreement allowing the Cabell-Huntington Health Department to enter the West Virginia Division of Personnel Civil Service System Virginia. If 143CSR1 is adopted, there will be a different set of rules of the West Virginia Division of Personnel Civil Service System for local agencies compared to state agencies.

We, as a Board of Health, oppose 143CSR1.

Respectfully submitted,

Thomas H. Gilpin,

Chairperson
Cabell-Huntington Board of Health

Harriet Cyrus

Vice Chairperson
Cabell-Huntington Board of Health

J. Larry Crawford

Cabell-Huntington Board of Health

Omayma T. Touma, MD

Cabell-Huntington Board of Health

Kevin Yingling, MD

Cabell-Huntington Board of Health

Donna F. Rumbaugh

Cabell-Huntington Board of Health

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Jane A. Rush
Brooke County Health Department
204 Courthouse Square
Wellsburg, WV 26070-1748

Dear Ms. Rush:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel,* W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Brooke County Health Department

204 Courthouse Sq. Wellsburg, WV 26070

Phone: 304-737-3665 Fax: 304-737-3689 Hours: 8:30 – 4:30
www.brookecountyhealthdepartment.com

Administrator, Karen McClain, M.S.N

June 22, 2015

RECEIVED
DIRECTORS OFFICE

JUN 24 2015

WEST VIRGINIA
DIVISION OF PERSONNEL

Sara Walker, Director
WV Division of Personnel
Building 6, Room 420
1900 Kanawha Blvd E
Charleston WV 25305-0139

Dear Ms. Walker:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Brooke County Board of Health wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state

agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Additional Talking Points
Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."
While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Respectfully,

Cc: Joe Thomas, DOP Employee Relations

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Linda K Sanders
Randolph-Elkins Health Department
32 Randolph Avenue, Suite 101
Elkins, WV 26241

Dear Ms. Sanders:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Mary S. Boyd, MD
Medical Director

Linda S. Sanders
Administrator

Randolph-Elkins HEALTH DEPARTMENT
investing in healthy communities

Board Members
Judy Guye
Judy Bucher
Jeff Wood
Catherine "Katie" Whittaker
Charles Kinnison

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 17, 2015

Joe Thomas, Assistant Director
West Virginia Division of Personnel
1900 Kanawha Blvd
Building 6, Room 420
Charleston, WV 25305-0139

Dear Mr. Thomas:

The significant changes proposed in "Title 143 – Legislative Rules of the WV Division of Personnel", will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. While DOP specifically states that no one shall be discriminated against in the rule's preamble, it then proposes new language to the rule which categorically discriminates against already covered classified employees of local governmental units, specifically local health departments.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and it set limits their ability to accept a better position in the merit system and the opportunity for advancement within the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. There is nothing to state that local health departments would not have to give preference to state employees who were laid off. This would limit opportunities for local and state employees' for reinstatement in the merit system.

12.6 Reinstatement
12.6.a. "...former classified employees of county or municipal agencies may only be reinstated to an agency within their local level of government". Again, this section is limiting the ability of employees of a certain class from accepting a position with the state and limits the state from reinstating qualified, trained employees who have resigned in good standing, retired, or been laid off from a local health department.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

It seems the changes in the rule are creating a new class of individuals within the classified system who are limited to transfer and advancements only on the local level. Local employees where hired into the classified system with the same opportunities to advance as their state counterparts; the changes limit the ability of local health department employees to access to the same benefits as other employees in the system.

The recruitment, retention and advancement of employees based on their knowledge, abilities, and skill improves the quality of public service. The proposed changes listed above only stymies that improvement.

Sincerely,

Linda S. Sanders

Linda S. Sanders
Administrator

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Cinda L. Sayre
Marion County Health Department
300 Second Street
Fairmont, WV 26554

Dear Ms. Sayre:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd E
Building 6 Room 416
Charleston WV 25305-0139

Dear Mr. Thomas,

I am writing with regard to the proposed DOP rule that is currently open for public comment. As I read the proposed rule, I believe it unfairly removes many of the benefits that local health department employees are currently entitled to. The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. The proposed changed may discriminate against local health department employees and changes the dynamic between employer and employee.

I am in disagreement with the following changes:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

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14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested,

placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. This will greatly effect the recruitment, retention and advancement of employees based on their knowledge, abilities, and skill, which improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

Therefore, I respectfully ask that the proposed changes to the rule that involves employees of local health departments and the restriction that it places on them be removed.

Sincerely,
Cinda L. Sayre
Marion Co. Health Dept.

This is truely unfair to know that we can not try to better ourselves in the ~~stay~~ system.

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Kristy Scraggs
5398 McClellan Hwy.
Branchland, WV 25506

Dear Ms. Scraggs:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

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JUL 02 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 16, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

To Whom It May Concern,

As a member of the Lincoln County Board of Health, I wanted to take some time and fully explain our high-level concern and disagreement regarding proposed changes to Title 143 Legislative Rule of WV Division of Personnel. I appreciate you taking the time to review and consider the following concerns before moving forward.

The significant changes proposed in this Legislative Rule of the WV Division of Personnel will change various rules and guidelines for county and municipal agencies who participate in the merit system. We believe that these proposed amendments discriminate against Local Health Department employees. We also feel as though these proposed changes will have just as much of an adverse effect on state agencies who often find talented and qualified job candidates from local health departments. I would like to identify some concrete examples that are outlined below.

11.6 Transfers: 11.6 a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This would limit qualified Health Department Employees to accept a better position in the merit system while hurting state agencies and taking away their ability to recruit these qualified employees to better their departments. State agencies have historically recruited and utilized the talents of Local Health Department employees. Either way, this proposal has a negative effect on growth and advancement. Local employees were hired into the classified system with the same opportunities to advance as their state counterparts.

12.4 Layoff: 12.4.j. "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change were to go into effect, employees from a Local Health Department, who were laid off, would not be placed on a preference list for employment with a state agency. Again, this negates any opportunity to utilize Local Employees in this situation for their experience, talent and skills for vacant positions. From another point of view, there is also nothing that states Local Health Departments would not have to give preference to state employees who were laid off.

14.3 Annual Leave: 14.3g. "Classified employees of county or municipal agencies may only transfer service credit and accrued unused annual leave to an agency within their local level of government." Even if an employee of a county Health Department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their accrued and earned annual leave or tenure to the state agency. Again, this has a significant effect on State Agencies as they try and recruit the most qualified and seasoned candidates to fill open positions.

14.4 Sick Leave: 14.4.i. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, this would take away a Local Health Department Employee's earned and accrued sick time if they chose to better themselves by taking a state agency job that they desired. Once again, this would hurt State Agencies as they try and recruit qualified candidates, and many come from Local Health.

The amended preamble to the Administrative Rule of the West Virginia Division of Personnel (143CSR1) reflects the determination to promote and appoint on merit and fitness and no person should be discriminated against with respect to state classified employment. The new proposed language went against this process and concept as qualified and covered classified Local Health Department Employees would become victims of discrimination.

I believe that the state would gain financially while local employees would suffer as employees who would want to accept a state position would lose earned and accrued time, while the state could write off an uncalculated amount from state books.

The employees' ability to transfer or accept a position with a state agency benefits both the employee and the state. Both can grow professionally and should be able to grow together. The proposed changes regarding local employee transfers, layoffs, and reinstatements discriminates against local employees and changes the dynamic between employees and employers.

My hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully,

Kristy Scraggs

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Stephanie Shoemaker
Hampshire County Health Department
HC 71 Box 9
Augusta, WV 26704

Dear Ms. Shoemaker:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

for Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Hampshire County Health Department
HC 71, Box 9
Augusta, WV 26704
Nursing: (304) 496-9640 Environmental: (304) 496-9641
Fax: (304) 496-9650

June 24, 2015

Re: Title 143 – Legislative Rules of the WV Division of Personnel

To Whom It May Concern:

The employees of the Hampshire County Health Department would like to state our disagreement with the following changes:

11.6 Transfers
11.6.a "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." **Due to the classification of local health departments, our employees would not be able to transfer to a state agency under this new rule, even if they are a highly qualified and trained person.**

12.4 Layoff
12.4.j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." **Any employee laid off from a local health department would not be placed on a preference list for a state position; however, any state employee that has been laid off would be given preference for a local health department position. We feel this is a highly discriminatory practice.**

14.3 Annual Leave
14.3.g. Transfer of Annual Leave
14.3.g.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." **If a local health department employee would take a state position, they would lose service credit and annual leave. This deters employees from wanting to advance their career to higher levels of government.**

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4.i.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of

government." **If a local health department employee would take a state position, they would lose service credit and sick leave. This deters employees from wanting to advance their career to higher levels of government.**

Please consider the impact these changes would have on our employees' ability to advance in their careers. As Human Resource professionals, you should understand the importance of fair and equal treatment to all employees who fall under your rule and the impact on morale and retention when career advancement is diminished.

Sincerely,

Stephanie Shoemaker
Administrator

Melissa Murphy
Office Assistant

Tamitha Wilkins
Nurse

Juanita Yowell
Office Assistant

Bonnie Welty
Office Assistant

Tina Steelman
Health and Human Resources Specialist

Derrick Haggerty
Sanitarian

Carolyn Kimble
Nurse

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

M Lee B. Smith, MD, JD, FACEP
Monongalia County Health Department
453 Van Voorhis Road
Morgantown, WV 26505-3408

Dear M Smith, MD, JD, FACEP:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Monongalia County Health Department

453 Van Voorhis Road Morgantown, WV 26505-3408
Phone 304-598-5100 Fax 304-598-5199
www.monchd.org

June 15, 2015

RECEIVED

JUL 01 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Joe Thomas, Assistant Director
West Virginia Division of Personnel
1900 Kanawha Boulevard East
Building 6, Room 416
Charleston, WV
25305

Dear Mr. Thomas:

After review of the changes proposed to the Division of Personnel administrative rule, it is our opinion that areas of **proposed language mentioned below do not positively impact employment in this state and creates negative conditions within local health departments and other employers of local government**. It is our hope that these passages are rescinded as they are not beneficial.

It is my understanding that comments regarding proposed changes to the Division of Personnel Administrative Rule are to be addressed to you and I appreciate the opportunity to respond. Our concerns are as follows:

In the preamble it states that "The general purpose of the Division of Personnel is to attract, develop, and retain to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration. . . . "

It is difficult to see how this purpose is to be attained when the proposed language creates significant impediments for personnel to transfer to and from State government employment. West Virginia has always been the beneficiary of home grown and local people who transfer into State jobs. This two-way street is an important mechanism that allows transfer without punitive regulations which may result in further brain-drain of qualified personnel leaving for out of state employment. It is also not clear as to how this proposed language results in the attraction, development or retention to the service of this State.

Unintended outcomes of personnel loss would create additional deficiencies in provided services that these talented employees provide. This in turn, would have an adverse impact on a health department's ability to provide and maintain essential and indispensable services to our communities, including all hazards emergency responses, epidemic outbreaks, vaccinations, inspections and disease control. Impact of such inadvertent collateral damage would result in a further deterioration of health care and environmental services provided to local businesses, citizens, and vulnerable populations in our state that is at complete odds with directives from the State Code to local health departments.

Furthermore, the preamble states that the "system of personnel administration [is]based on merit principles." These proposed changes conflict with this ideal as the merit system previously acceptable to State government and approved for transfer of these earned benefits is now removed without discussion, bargaining or reassignment.

Lastly, the preamble closes with a statement regarding that "no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliations. . . ." This statement now puts at odds those individuals who previously were not within State employment but classified as other employment. This designation then becomes a target of discrimination.

Under § 143-1-11. Promotions, Demotions and Transfers, 11.6 Transfers has proposed language " . . . classified employees of county or municipal agencies may only transfer to an agency within their local level of government." The result of this change is that any transfer outside their local government agency is a termination of employment with resulting loss of all the employee's hours of accumulated annual and sick leave and service credit. Loss of such benefits is not only seen as punitive but has the added negative effect of limiting the ability of skilled employees in a local health department to transfer to a position in a state agency where they were qualified and imposes significant limitations for West Virginia citizens in the current workforce to accept a another position in the merit system. Such limitations, impositions and vindictive rules would substantially negatively impact state agencies in their ability to recruit and hire qualified, trained local employees as the pool of qualified personnel is limited.

Within § 143-1-12. Separations, Suspension, and Reinstatement, 12.4 Layoffs, 12.4.j. Preference Hiring has proposed language stating: "Preferential hiring shall be accomplished by original appointment. Provided, that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." Again, the result of this suggested language is repressive toward local health department employees who may be laid off, as they would not be eligible for placement on any preference list as other state employees. Creation of a second class employee because of employment with a particular agency is questionable a business activity and limits free movement into state jobs that keeps unemployment down and qualified workers as contributing members of society.

§ 143-1-14. Attendance and Leave, 14.3, Annual Leave, 14.3.g, Transfer of Annual Leave, 14.3.g.1. Has proposed language that states: "When a classified employee transfers or otherwise changes employment from one agency to another, all service credit and accrued and unused annual leave shall be transferred. Provided, that classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Disallowing the transfer of earned benefits across state and local employment boundaries is arbitrary and capricious. There is no sound scientific or business principle to show that such discriminatory, punishing and restrictive practices improve a free market society and gives the appearance as retaliatory against those citizens that may choose a career in local or county employment.

In the same section within 14.4. Sick Leave, 14.4.i. Transfer of Sick Leave. 14.4.i.1. Has proposed language "When a classified employee transfers or otherwise changes employment from one agency to another, all accrued and unused sick leave shall be transferred. Provided, that classified employees of

county or municipal agencies may only transfer accrued and unused sick leave to an agency within their local level of government." Allowing the transfer of all accrued and unused sick leave to be transferred if employed by the State and not to occur if transferring between local and State employment in no way passes the whiff test and brings about the creation of a second class citizen who is trapped with a singular form of employment. This cannot be beneficial for the State, or Local agencies or their ability to attract, develop, and retain personnel of the highest ability and integrity.

Again, we thank you for the ability to make comment publically and hope that these observations will send the message that the above mentioned areas of proposed language do not positively impact employment in this state and creates second class employees within local health departments and local government. It is our hope that these passages are rescinded as they are not beneficial, intrinsically fair and are discriminatory.

Respectfully submitted

Lee B. Smith, MD, JD, FACEP
Executive Director / County Health Officer
Monongalia County Health Department

Cc: Monongalia County Board of Health
Monongalia County Commission
WV Rep. Barbara Evans Fleischauer
WV Rep. Cindy Frich
WV Rep. Brian Kurcaba
WV Rep. Amanda Pasdon
WV Rep. Dave Pethtel
WV Rep. Joe Statler
WV Rep. Amy Summers
WV Sen. Robert Beach
WV Sen. Jeffrey Kessler
WV Sen. Kent Leonhardt
WV Sen. Roman Prezioso
WV Sen. Ron Stollings
WV Sen. Dave Sypolt
WV Sen. Bob Williams

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. J. Loren Smith, DO
Lincoln County Health Department
Building 6 Room 420
1900 Kanawha Blvd. E
Charleston, WV 25305-0139

Dear Mr. Smith, DO:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Public Health
Prevent. Promote. Protect.
Lincoln County Health Department

P.O. Box 527
8008 Court Avenue
Hamlin, WV 25523
(304) 824-3330 office
(304) 824-3334 fax
www.lincolnhealthwv.com

RECEIVED

JUN 29 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

To Whom It May Concern,

I wanted to take some time and fully explain our high level concern and disagreement regarding proposed changes to Title 143 Legislative Rule of WV Division of Personnel. I appreciate you taking the time to review and consider the following concerns before moving forward.
The significant changes proposed in this Legislative Rule of the WV Division of Personnel will change various rules and guidelines for county and municipal agencies who participate in the merit system. We believe that these proposed changes actually discriminate against Local Health Department employees. We also feel as though these proposed changes will have just as much of a negative effect on state agencies who often find talented and qualified job candidates from local health departments. I would like to identify some specific examples which are outlined below.

11.6 Transfers: 11.6 a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This would limit qualified Health Department Employees to accept a better position in the merit system while hurting state agencies and taking away their ability to recruit these qualified employees to better their departments. State agencies have historically recruited and utilized the talents of Local Health Department employees. Either way, this proposal has a negative effect on growth and advancement. Local employees were hired into the classified system with the same opportunities to advance as their state counterparts.

12.4 Layoff: 12.4.j. "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change were to go into effect, employees from a Local Health Department, who were laid off, would not be placed on a preference list for employment with a state agency. Again, this negates any opportunity to utilize Local Employees in this situation for their experience, talent and skills for vacant positions. From another point of view, there is also nothing that states Local Health Departments would not have to give preference to state employees who were laid off.

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14.4 Sick Leave: 14.4.i. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, this would take away a Local Health Department Employee's earned and accrued sick time if they chose to better themselves by taking a state agency job that they desired. Once again, this would have a negative effect on State Agencies as they try and recruit qualified candidates and many come from Local Health.

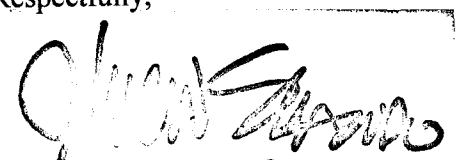
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I believe that the state would gain financially while local employees would suffer as employees who would want to accept a state position would lose earned and accrued time, while the state could write off an uncalculated amount from state books.

The employees' ability to transfer or accept a position with a state agency benefits both the employee and the state. Both can grow professionally and should be able to grow together. The proposed changes regarding local employee transfers, layoffs, and reinstatements discriminates against local employees and changes the dynamic between employees and employers.

My hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully,



Dr. J. Loren Smith, DO
Lincoln County Health Department
(304) 824-3330

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Tina Steelman
Hampshire County Health Department
HC 71 Box 9
Augusta, WV 26704

Dear Ms. Steelman:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Hampshire County Health Department
HC 71, Box 9
Augusta, WV 26704
Nursing: (304) 496-9640 Environmental: (304) 496-9641
Fax: (304) 496-9650

June 24, 2015

Re: Title 143 – Legislative Rules of the WV Division of Personnel

To Whom It May Concern:

The employees of the Hampshire County Health Department would like to state our disagreement with the following changes:

11.6 Transfers
11.6.a "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." **Due to the classification of local health departments, our employees would not be able to transfer to a state agency under this new rule, even if they are a highly qualified and trained person.**

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Please consider the impact these changes would have on our employees' ability to advance in their careers. As Human Resource professionals, you should understand the importance of fair and equal treatment to all employees who fall under your rule and the impact on morale and retention when career advancement is diminished.

Sincerely,

Stephanie Shoemaker
Administrator

Tamitha Wilkins
Nurse

Bonnie Welty
Office Assistant

Derrick Haggerty
Sanitarian

Melissa Murphy
Office Assistant

Juanita Yowell
Office Assistant

Tina Steelman
Health and Human Resources Specialist

Carolyn Kimble
Nurse

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Sam Suiter
Lincoln County Health Department
Building 6 Room 420
1900 Kanawha Blvd. E
Charleston, WV 25305-0139

Dear Mr. Suiter:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

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Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Public Health
Prevent. Promote. Protect.
Lincoln County Health Department

P.O. Box 527
8008 Court Avenue
Hamlin, WV 25523
(304) 824-3330 office
(304) 824-3334 fax
www.lincolnhealthwv.com

RECEIVED
JUN 29 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

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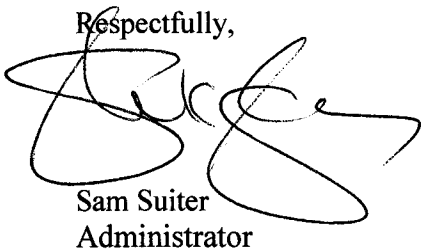
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It is my hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully,



Sam Suiter
Administrator
Lincoln County Health Department
(304) 824-3330

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Denny Taketa, RS
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. Taketa, RS:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov
www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. S. J. Taylor
Brooke Conty Health Department
Buildiing 6, Room 420
1900 Kanasha Blvd E
Charleston, WV 25305-0139

Dear Ms. Taylor:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Brooke County Health Department

204 Courthouse Sq. Wellsburg, WV 26070

Phone: 304-737-3665 Fax: 304-737-3689 Hours: 8:30 – 4:30
www.brookecountyhealthdepartment.com

Administrator, Karen McClain, M.S.N

June 22, 2015

RECEIVED
DIRECTORS OFFICE
JUN 24 2015
WEST VIRGINIA
DIVISION OF PERSONNEL

Sara Walker, Director
WV Division of Personnel
Building 6, Room 420
1900 Kanawha Blvd E
Charleston WV 25305-0139

Dear Ms. Walker:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Brooke County Board of Health wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state

agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Additional Talking Points
Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."
While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Respectfully,

Sylvia A. Taylor

Cc: Joe Thomas, DOP Employee Relations

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

M Omayma T. Touma, MD
Cabell-Huntington Health Department
703 Seventh Avenue
Huntington, WV 25701

Dear M Touma, MD:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Cabell-Huntington Health Department

703 Seventh Avenue / Huntington, West Virginia 25701
(304) 523-6483

June 24, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Dear West Virginia Division of Personnel Board,

This letter is in opposition to the changes to 143CSR1, the Administrative Rule of the West Virginia Division of Personnel. The Cabell County Board of Health does not support the changes to the Administrative Rule due to the reasons listed below.

In the preamble, the first statement is "The general purpose of the Division of Personnel is to attract, develop and retain to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state or classified employment." The changes offered in the 143CSR1 are in conflict to this very statement. The changes offered develop two classified systems in that one is for state employees and one is for local employees. When seeking to develop, retain and transfer employees of the highest ability and integrity, you are limiting the ability of local employees to transfer a high level skill set to the state of West Virginia. The local health employees are providing service to the citizens of the state of West Virginia and should not encounter a barrier when seeking a career in state government.

In the preamble, it states "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliation or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or state law." By classifying a local agency differently than a state government agency, the emphasis does not place priority of those employees employed at a local government agency.

In the document, transfers to state government are outlined with specifics on how this is accomplished. However, there is no mention of the transfer from a state employee to local government. This is a cost that will be absorbed by the local agency and should be similar in nature. It also places a high cost on the

individual employee should they choose a career path in state government that begins with a local agency. The local employee will lose all access to those benefits he/she earned while in public service for the citizens in the state of West Virginia.

It is our position as a Local Board of Health to support an equitable Service Level Agreement allowing the Cabell-Huntington Health Department to enter the West Virginia Division of Personnel Civil Service System Virginia. If 143CSR1 is adopted, there will be a different set of rules of the West Virginia Division of Personnel Civil Service System for local agencies compared to state agencies.

We, as a Board of Health, oppose 143CSR1.

Respectfully submitted,

Thomas H. Gilpin,

Chairperson
Cabell-Huntington Board of Health

Harriet Cyrus

Vice Chairperson
Cabell-Huntington Board of Health

J. Larry Crawford

Cabell-Huntington Board of Health

Omayma T. Touma, MD

Cabell-Huntington Board of Health

Kevin Yingling, MD

Cabell-Huntington Board of Health

Donna F. Rumbaugh

Cabell-Huntington Board of Health

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Michelle Trickett, MS
39 O'Conner Avenue
Meadow Bridge, WV 25976

Dear Ms. Trickett, MS:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

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JUN 08 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd.
East Building, Room 416
Charleston, WV 25301

Dear Mr. Thomas

I am writing to express my concern of the proposed changes to Title143, Legislative Rule, WVDOP Administrative Rule. Currently proposed changes would negatively impact local/county employees, especially those at local health departments, which are following WVDOP policies and procedures. As an employee of a local health department that has not only followed WVDOP policies, but also paid the required fees, it seems that we should be allowed to continue to have the same opportunities for transfer and advancement without losing seniority and accrued annual leave and sick leave. Under the proposed changes, local level employees would, in the end, be penalized for advancing to a state level position by losing their accrued leave.

Local/county employees have put in many years of dedicated service to now fear returning to the bottom of the list with ZERO annual and sick leave that they have worked for under the current rule. The proposed changes for the WVDOP Administrative Rule, along with the current proposal to make local health department staff state employees, seems targeted and unfair.

Please reconsider the current proposed changes to the rule so that local/county employees are given the same opportunities and consideration as those at the state level.

Respectfully,

Michelle Trickett

Michelle Trickett, MS
39 O'Conner Avenue
Meadow Bridge, WV 25976

cc: Governor Earl Ray Tomblin
Senator Jeff Mullins
Senator William Laird
Delegate John O'Neal, IV
Delegate Rick Moye
Delegate Lynne Arvon
Delegate Mick Bates
Delegate Kayla Kessinger
Delegate Tom Fast
Delegate David Perry

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Vincent Trivelli
The Law Offices of Vincent Trivelli, PLLC
178 Chauncery Row
Morgantown, WV 26505

Dear Mr. Trivelli:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

The Law Office of Vincent Trivelli, PLLC
178 Chancery Row
Morgantown, West Virginia 26505
Phone (304) 291-5223 • Toll Free 1-866-266-5948
Fax (304) 291-2240 • E-mail: vmtriv@westco.net

RECEIVED
JUL 02 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 30, 2015

via email to joe.f.thomas@wv.gov

West Virginia Division of Personnel
Employee Relations Section
1900 Kanawha Boulevard East
Building 6
Charleston, WV 25305

Re: Comments on Proposed Amendments to Administrative Rule of the West Virginia Division of Personnel

Dear Sir or Madame:

On behalf of the Communications Workers of America, AFL-CIO, AFSCME WV Council #77, the West Virginia, AFL-CIO and the United Mine Workers ("Unions") I hereby submit these comments regarding the above-detailed Proposed Amendments filed on or about May 19, 2015.

As you know the amendments include some proposals that remove unneeded verbiage, reword to simplify or improve grammar. The Unions have no concerns about this type of amendment. Other changes are substantive changes to the rights and benefits of public employees in West Virginia. Many of these amendments are proposed with little or no explanation, nor justification. The Unions have deep concerns about this type of amendment.

Attached to this correspondence is a listing of the second type of amendment that the Unions were able to locate. While the Unions are appreciative of the opportunity to file these comments, the Unions urge the Division to suspend its consideration of the Proposed Amendments and to engage in a full discussion of its proposals. The rights and benefits of public employees in West Virginia are too important to be diminished in this manner.

Thank-you for your consideration of these comments. If you have any questions or concerns please feel free to contact me.

Sincerely,

Vincent Trivelli

p. 4, (old 3.26, new 3.27) The proposed amendment changes the definition of date and time of separation. The proposed amendment takes out language that currently states that one of the ways to set the date and time of separation as the date of the determination of the CPRB and/or the Soc. Sec. Administration. The explanation states that the language "had unintended consequences" (Summary of Amendments, p. 1). The unintended consequences should be detailed and the comment period should be extended to allow for responses.

p. 11 (3.94) The proposed amendment adds a definition of work day – it means days except Saturday Sunday, holidays and when the workplace is legally closed. There are situations when people work St, Sundays and holidays etc. This proposal is incorrect and will damage public employees.

p. 14. (4.7 b) The new language in the position reallocation section says that if the position is reallocated into a different class, the incumbent cannot continue in the position unless he or she meets the minimum requirements. It states that the incumbent can be transferred, promoted or demoted or separated from employment. This proposal will open a way to force people out of employment for unclear reasons.

p. 19 (new 5.5b) New language states that exceptions to be paid above the maximum in the compensation range seem limited to statutory changes or exceptions approved by the Board. That may limit agencies from handling particular situations on their own.

p. 19 (5.6) The new language requires an agency to reduce wages by at least one increment if the employee is demoted with prejudice. Again this limits agencies from handling particular situations on their own.

p. 27 (7.3e) With regard to an appeal from a person whose name has been removed from the register the Board' time to extend is increased from 30 to 60 days. This will slow the appeal without justification.

p. 33 (9.4) The new language increases the time that temporary employees can work from 720 to 1000 hours. This change will reduce permanent employment opportunities.

p. 41 (new 12.3.b) The new language adds a non-disciplinary suspension – which is a suspension without pay during an investigation of employee's conduct. The proposal states employee can get back pay if the employee is not dismissed. This change puts the burden on the employee, reduces employee pay based without a clear standard and raises concerns.

p. 48 – The proposal removes current section 14.3.f.1. The action removes the current language allowing an employee, upon separation, to elect that accrued and unused annual leave be paid semi-monthly until accrued leave is exhausted. The proposal then leaves in place the one time lump sum payment. The DOP describe it as a way to stop employees from remaining on the payroll while exhausting terminal annual leave and that the change will "reduce other post-employment benefits (OPEB) liability." (Summary of Amendments, p. 11) This proposal is a clear reduction of benefits for separating employees.

p. 48 – Transfer of annual leave. The proposal limits the ability of county or municipal agencies to transfer service credit, accrued hours and annual leave – within their local government only (14.3.g). Local employees are currently able to transfer service credit, hours accrued and annual leave to other public employers this change would be a limitation of their rights. The Summary of Amendments states that this change is designed to "reduce other post-employment benefits (OPEB liability." (p. 11). Such a reduction in employee benefits is unjustified and should be removed from these proposed amendments.

p. 52 - 14.4.g.2 – The proposal requires employees returning to work from be sick must provide the note from the physician/practitioner immediately – removing the within 2 day time period in the current regulation. There is no justification for such a reduction.

p. 53 – Transfer of Sick Leave 14.4.i.1 - It limits sick leave transfer in the same way as limiting annual leave transfers by local government employees. Such a reduction in employee benefits is unjustified and should be removed from these proposed amendments.

p. 55 - 14.8.b – The proposal limits (to military service and workers' compensation TTD) for the consideration of paid leave when calculating hours of work for medical leave. It currently counts all paid leave. There is no explanation or justification for such a change.

p. 56 – 14.c.3 –The proposal limits the ability of employees to use medial leave on an intermittent basis, to situation when FMLA can run concurrently. This may speed up reaching the FMLA limits and may prevent employees from using intermittent medical leave if they have exhausted their FMLA leave. There is no explanation or justification for such a change.

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Monica J. Valentine
Marion County Health Department
300 Second Street
Fairmont, WV 26554

Dear Ms. Valentine:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

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JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd E
Building 6 Room 416
Charleston WV 25305-0139

Dear Mr. Thomas,

I am writing with regard to the proposed DOP rule that is currently open for public comment. As I read the proposed rule, I believe it unfairly removes many of the benefits that local health department employees are currently entitled to. The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. The proposed changed may discriminate against local health department employees and changes the dynamic between employer and employee.

I am in disagreement with the following changes:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested,

placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. This will greatly effect the recruitment, retention and advancement of employees based on their knowledge, abilities, and skill, which improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

Therefore, I respectfully ask that the proposed changes to the rule that involves employees of local health departments and the restriction that it places on them be removed.

Sincerely,

Monica Joyce Valentine

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Boyd K. Vanhorn
Grafton-Taylor County Health Department
718 West Main Street
Grafton, WV 26354

Dear Mr. Vanhorn:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Grafton – Taylor County Health Department

PUBLIC HEALTH
PREVENT. PROMOTE. PROTECT.

June 18, 2015

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JUN 22 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

Re: OBJECTIONS - Proposed DOP Rule Change

Dear Mr. Thomas:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that

state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Additionally:

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment, as outlined in the first part of this letter. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that, insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only

the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Sincerely,

Boyd K. Vanhorn
Administrator

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Connie Vass
128 Bluemont Lane
Beckley, WV 25801

Dear Ms. Vass:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

June 2, 2015

RECEIVED

JUN 05 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd. East Bldg. 6, Room 416
Charleston, WV 25305

Dear Mr. Thomas:

I am writing this letter concerning Title 143, Legislative Rule, section 11.6a on page 38 of the Administrative Rule. I am extremely concerned by the proposed change to the WVDOP Administrative rule. This change will adversely affect, in particular, local health department employees. Our health department has been compliant with all WVDOP polices and procedures as well as paying required fees in order to receive the same benefits as state employees who also participate in this system.

I feel that local health department employees, currently in the WVDOP, should continue to be allowed the same opportunities as other state employees.

There are currently meetings being held in which the state has proposed making local health department employees, state employees. Should this pass, this proposed rule change would force me to resign my position, forfeiting my years of tenure and sick leave that I have work hard to accrue and start the employment process from the very beginning. If, I should be hired, I would be right back at ground zero.

After 15 years of dedicated service, this would be devastating. It is my understanding, that participation in the WVDOP system would be protection from such unfair and discriminatory actions.

I hope that these proposed changes will be re-considered, and allow local health employees to continue to transfer to state positions without the loss of benefits that were worked so hard for.

Respectfully,

Connie Vass

Connie Vass
128 Bluemont Lane
Beckley, WV 25801
(304)253-5501

CC:
Governor Earl Ray Tomblin
Senator Jeff Mullins
Delegate John O'Neal, IV
Delegate Rick Moye
Delegate Lynne Arvon
Delegate Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Connie Veronis
812 Rodriguez Lane
Moundsville, WV 26041

Dear Ms. Veronis:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 15 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 11, 2015

Joe Thomas, Assistant Director
WV Division of Personnel
1900 Kanawha Blvd, East
Charleston, WV 25305

Dear Mr. Thomas:

I am submitting my public comment regarding Title 143 – Legislative Rules of the West Virginia Division of Personnel. The proposed changes would have a negative impact on my ability to advance through the merit system as it is established today. I could not transfer to agencies other than local health departments. In order to become employed by a state agency, I would first need to terminate my position with the Marshall County Health Department, apply to be placed on the civil service register, and if hired start my employment under a "different" civil service system. The proposed changes would not allow me to transfer my tenure or my annual and sick leave. Basically, I would be starting over again.

I also understand that if I would be laid off from my current employer, I would no longer be eligible to be placed on the hiring preference list. I do not understand the reason for such discriminatory changes. I was hired under the current system with the expectation that the same rules that apply to other classified members would benefit me as well. Why then am I being treated like a second-class citizen? I have gone through the required testing/application process and was found to be qualified to hold my position. What has changed that should now limit me to employment by health departments only.

I ask that further consideration be given to the proposed changes (11.6, 12.4, 14.3 and 14.4) and I be afforded the opportunity to advance my career in the merit system I was hire into.

Sincerely,

Connie Veronis ADH, BS

Cc: Senator Jeff Kessler
Senator Ken Leonhardt
Delegate Mike Ferro
Delegate Dave Evans

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. A. Michael Vickers
108 Josephine Avenue
Madison, WV 25130-1324

Dear Mr. Vickers:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 10 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 8, 2015

Joe Thomas, Assistant Director
West Virginia Division of Personnel
1900 Kanawha Blvd, East
Building 6, room 416
Charleston WV 25301

Dear Mr. Thomas;

I am writing this letter stating my opposition to **Section II.6.a.** to the proposed Title 143 Legislative Rule, West Virginia Division of Personnel, which at this time is open for public comment. The part in question, Provided, the classified employees of county or municipal agencies, may only transfer to an agency within their local level of government.

This provision if enacted, will have an adverse effect on employees of all County Health Departments within the state. It will also prevent state agencies of attaining the expertise of Health Department employees that cannot transfer to a state agency, bringing with them a wealth of knowledge, as has been a past practice.

This provision will impress on all employees that years of dedicated service has been of no consideration to and by the State of West Virginia and there is no long term benefit(s) for their years of service.

I strongly request you reconsider the proposed changes.

Respectfully,

A. Michael Vickers
108 Josephine Avenue
Madison WV 25130-1324
wv2dallb@yahoo.com

cc: Governor Earl Ray Tomblin
Senate President, William P. Cole, III
House Speaker, Tim Armstead
Senator Art Kirkendoll
Senator Ron Stollings
Delegate Joshua Nelson
Delegate Ralph Rodighiero
Delegate Rupert Phillips, Jr.

11.4.c. give the employee a minimum of fifteen (15) days' advance notice of the demotion to allow the employee a reasonable time to reply to the demotion in writing, or upon request to appear personally and reply to the appointing authority or his or her designee.

The appointing authority shall file the reasons for the demotion and the reply, if any, with the Director. A predetermination conference and fifteen (15) ~~days~~ days' notice are not required when the demotion is requested by the employee, voluntarily and without duress, such as to accept a posted position for which the employee has applied.

11.5. Lateral Class Change. -- An appointing authority may move a permanent employee from a position in one class to a vacant position in another class in the same ~~pay grade~~ compensation range if the employee is found by the Director to qualify for the vacant position.

11.6. Transfers.

11.6.a. ~~Except as otherwise provided in subsection 10.4.~~ Subject to the posting requirements provided in subsection 9.5 of this rule, appointing authorities may transfer a permanent employee from a position in one organizational subdivision of an agency to a position in another organizational subdivision of the same or another agency at any time. Provided, that classified employees of county or municipal agencies may only transfer to an agency within their local level of government. In the case of inter-agency transfers, an appointing authority shall transfer all hours of accumulated annual and sick leave and all service credit with the employee. Transfer within the classified service, without a break in service, shall not be considered a resignation.

11.6.b. Appointing authorities shall report all inter- and intra-agency transfers within a class to the Director on appropriate forms at the time of the transfer. The Director shall approve transfers to comparable classes prior to the transfers and shall require that the ~~employee~~ employees meet the minimum qualifications of the new ~~class~~ classes.

§ 143-1-12. Separations, Suspension, and Reinstatement.

12.1. Resignation.

12.1.a. An employee who resigns shall present the reasons for the resignation in writing to the appointing authority. The appointing authority shall forward a copy of the resignation to the Director who shall record the resignation. If a written resignation cannot be obtained, the appointing authority shall notify the Director in writing of the resignation of the employee and the circumstances of the resignation.

12.1.b. ~~Transfer within the classified service, without a break in service, shall not be considered as a resignation.~~

~~12.1.c.~~ The appointing authority shall notify the Director when an employee resigns

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Libby Walker
120 Sandstone Dr. Apt. 9
Beckley, WV 258801

Dear Ms. Walker:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Libby Walker

120 Sandstone Drive Apt 9

Beckley, WV 25801

TO WHOM IT MAY CONCERN:

I am writing this to express my concern over the proposed changes to the WVDOP Administrative Rule, in particular, section 11.6a, on page 38. I'm under the impression that we have been paying fees and following the WVDOP policies as all WV state employees. So I find it most unfortunate if we were suddenly to be penalized under this proposed bill.

I feel that I should be granted the same opportunity to transfer to other positions within the state and I should not lose my sick time or annual leave hours if I were to transfer to another position within this state. Also my tenure credit should continue as it has the previous seven years that I have been employed by this local health department.

Sincerely,

Libby Walker

Libby Walker

cc:
Governor Earl Ray Tomblin
Senator Jeff Mullins
Honorable John O'Neal, IV
Honorable Rick Moye
Honorable Lynne Arvon
Honorable Mick Bates

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Stanley Walls
PO Box 1261
Danville, WV 25053

Dear Mr. Walls:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 17 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd. East Bldg.. 6, room 416
Charleston, WV 25305

Dear Mr. Thomas:

I have read Title 143, Legislative Rule, WV Division of Personnel and as an employee of a local health department I have no problem with most of the rule. But I do have problem with one section of the rule. Local Health Departments had to sign an agreement that they would abide by the Division of Personnel's rules and to pay for DOP's services. By participating in the DOP's policies and procedures I would think that we would be considered a member of the system.

Section 11.6a considers us as a different agency than the state department. This section only allows Local health employees to transfer to another position within another local agency and not to a state position. In order to transfer to a state position an individual would lose all accrued sick leave and annual leave. In essence they would be starting anew. Since we are a part of the system I do not feel that this is fair to all the local agencies that participate in the Division of Personnel System. Please revise this section and allow local health staff to transfer to available state positions.

This is even more critical now that some people at the state level are suggesting that all local health department employees should become state employees. If this happens employees with many years of service would be starting over with no seniority. Thanks for your consideration concerning this matter.

Sincerely,

Stanley Walls

Stanley Walls
PO Box 1261
Danville, WV 25053

CC: Governor Tomblin
CC: Senator Stollings
CC: Senator Mullins
CC: Delegate Arvon
CC: Delegate Bates
CC: Delegate Cooper
CC: Delegate Eldridge
CC: Delegate Moye
CC: Delegate O"Neal
CC: Delegate Phillips

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Bonnie Welty
Hampshire County Health Department
HC 71 Box 9
Augusta, WV 26704

Dear Ms. Welty:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Hampshire County Health Department
HC 71, Box 9
Augusta, WV 26704
Nursing: (304) 496-9640 Environmental: (304) 496-9641
Fax: (304) 496-9650

June 24, 2015

Re: Title 143 – Legislative Rules of the WV Division of Personnel

To Whom It May Concern:

The employees of the Hampshire County Health Department would like to state our disagreement with the following changes:

11.6 Transfers
11.6.a "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." **Due to the classification of local health departments, our employees would not be able to transfer to a state agency under this new rule, even if they are a highly qualified and trained person.**

12.4 Layoff
12.4.j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." **Any employee laid off from a local health department would not be placed on a preference list for a state position; however, any state employee that has been laid off would be given preference for a local health department position. We feel this is a highly discriminatory practice.**

14.3 Annual Leave
14.3.g. Transfer of Annual Leave
14.3.g.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." **If a local health department employee would take a state position, they would lose service credit and annual leave. This deters employees from wanting to advance their career to higher levels of government.**

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4.i.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of

government." **If a local health department employee would take a state position, they would lose service credit and sick leave. This deters employees from wanting to advance their career to higher levels of government.**

Please consider the impact these changes would have on our employees' ability to advance in their careers. As Human Resource professionals, you should understand the importance of fair and equal treatment to all employees who fall under your rule and the impact on morale and retention when career advancement is diminished.

Sincerely,

Stephanie Shoemaker
Administrator

Tamitha Wilkins
Nurse

Bonnie Welty
Office Assistant

Derrick Haggerty
Sanitarian

Melissa Murphy
Office Assistant

Juanita Yowell
Office Assistant

Tina Steelman
Health and Human Resources Specialist

Carolyn Kimble
Nurse

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Gina White, RN
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Ms. White, RN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov
www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment ..."

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: minerallhd@wv.gov
www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: minerallhd@wv.gov

www.mineralcountyhealthdepartment.com

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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Mineral County Board of Health		
Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department		
Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

Address: Route 3, Box 3045, Keyser, WV 26726-9401

Telephone: 304-788-1321 • 301-786-4459 • Fax: 304-788-6023 • Email: mineralhd@wv.gov

www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Jerry Whisner
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Mr. Whisner:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
Prevent. Promote. Protect.

June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

RECEIVED
JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

Address: Route 3, Box 3045, Keyser, WV 26726-9401
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www.mineralcountyhealthdepartment.com

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)
In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment …"

While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may…establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

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MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies…within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered by the rules of the division of personnel…" Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

Charles Bess, MD, Health Officer	(Signature)	6-23-15 (Date)
Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
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Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

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www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Lloyd R. White
Fax Number 304-287-7472

Dear Mr. White:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

for Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED
JUN 30 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd E
Building 6 Room 416
Charleston WV 25305-0139

Dear Mr. Thomas,

I am writing with regard to the proposed DOP rule that is currently open for public comment. As I read the proposed rule, I believe it unfairly removes many of the benefits that local health department employees are currently entitled to. The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. The proposed changed may discriminate against local health department employees and changes the dynamic between employer and employee.

I am in disagreement with the following changes:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested,

placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. This will greatly effect the recruitment, retention and advancement of employees based on their knowledge, abilities, and skill, which improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

Therefore, I respectfully ask that the proposed changes to the rule that involves employees of local health departments and the restriction that it places on them be removed.

Sincerely,

Lloyd R White

June 29, 2015

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd E
Building 6 Room 416
Charleston WV 25305-0139

Dear Mr. Thomas,

I am writing with regard to proposed changes to Division of Personnel Administrative Rule 143CSR1 that is currently open for public comment. Although many of the proposed changes are needed I have grave concerns for the following:

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

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I have been a Local Public Health Employee for a little over a dozen years. In that time frame I have seen numerous colleagues work their way from the county level to a leadership role in State Government. As a local employee I rely on the people occupying these roles to have a not only to knowledge of State Government but also a knowledge base tempered with field experience. It is within this interaction these proposed changes give me pause and I ask theses Question:

1. How will the State attract and recruit qualified experience into the State System when the path from the place where the experience is gotten is a personal economic catastrophe?
2. How will the Local Health Departments retain personnel long enough to build enough experience to foster a competent work force when their only viable alternative for advancement is to move as quickly as possible to State Employment?

Although these proposed changes may make for an easier personnel process, I believe that the State and Local Health Departments both lose if they are adopted and I urge you to reconsider and find a way to create a win for all.

Sincerely,

Jamie Moore

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Cynthia Whitt, RN
Mineral County Health Department
Route 3, Box 3045
Keyser, WV 26726-9401

Dear Ms. Whitt, RN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

MINERAL COUNTY HEALTH DEPARTMENT

Public Health
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June 23, 2015

West Virginia Division of Personnel
Mr. Joe Thomas, Assistant Director
Building 6, Room 416
1900 Kanawha Blvd., East
Charleston, WV 25305

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JUN 26 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Re: Public Comment on Proposed DOP Administrative Rule Change

The Mineral County Commission, Board of Health and Health Department Employees wish to submit the following comments concerning the proposed changes to Division of Personnel Administrative Rules 143CSR1:

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

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MINERAL COUNTY HEALTH DEPARTMENT

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The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written off state books as employees lose accrued leave and with that insurance and retirement benefits.

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Again, we ask that you reconsider these changes as it will drastically affect local public health employees across the state. These individuals are the backbone of the public health system in West Virginia and have earned the right to the privileges originally given to them. Thank you for your reconsideration of this critical issue.

Sincerely,

Mineral County Commission

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Jerry Whisner	(Signature)	6/23/15 (Date)
Roger Leatherman	(Signature)	6/23/15 (Date)
Michael Bland, County Coord	(Signature)	6/23/15 (Date)

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MINERAL COUNTY HEALTH DEPARTMENT

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Mineral County Board of Health

Richard Lechliter, DVM, Chair	(Signature)	6/23/15 (Date)
Gerri Mason, Vice Chair	(Signature)	6/24/15 (Date)
Roger Ammons	(Signature)	6/23/15 (Date)
Patricia Droppleman, RN	(Signature)	6/24/15 (Date)
William B Ludwick, DDS	(Signature)	6/23/15 (Date)

Mineral County Health Department

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Andrew Root, RS, Administrator	(Signature)	6/23/15 (Date)
John DelSignore, RS, Sanitarian	(Signature)	6/23/15 (Date)
Denny Taketa, RS, Sanitarian	(Signature)	6/23/15 (Date)
Cynthia Whitt, RN, Nurse	(Signature)	6/23/15 (Date)
Gina White, RN, Nurse	(Signature)	6/23/15 (Date)
Vivian Malcolm, OAIII	(Signature)	6/23/15 (Date)
Karen Barrick, OAII	(Signature)	6/23/15 (Date)
Kerry Cummings, OAII	(Signature)	6/23/15 (Date)

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www.mineralcountyhealthdepartment.com

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Rosa M. Wiley
Lincoln County Health Department
Building 6 Room 420
1900 Kanawha Blvd. E
Charleston, WV 25305-0139

Dear Ms. Wiley:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Public Health
Prevent. Promote. Protect.
Lincoln County Health Department

P.O. Box 527
8008 Court Avenue
Hamlin, WV 25523
(304) 824-3330 office
(304) 824-3334 fax
www.lincolnhealthwv.com

RECEIVED
JUN 29 2015
WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 25, 2015

West Virginia Division of Personnel
Building 6 Room 420
1900 Kanawha Blvd E
Charleston, WV 25305-0139

To Whom It May Concern,

I wanted to take some time and fully explain our high level concern and disagreement regarding proposed changes to Title 143 Legislative Rule of WV Division of Personnel. I appreciate you taking the time to review and consider the following concerns before moving forward.

The significant changes proposed in this Legislative Rule of the WV Division of Personnel will change various rules and guidelines for county and municipal agencies who participate in the merit system. We believe that these proposed changes actually discriminate against Local Health Department employees. We also feel as though these proposed changes will have just as much of a negative effect on state agencies who often find talented and qualified job candidates from local health departments. I would like to identify some specific examples which are outlined below.

11.6 Transfers: 11.6 a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." This would limit qualified Health Department Employees to accept a better position in the merit system while hurting state agencies and taking away their ability to recruit these qualified employees to better their departments. State agencies have historically recruited and utilized the talents of Local Health Department employees. Either way, this proposal has a negative effect on growth and advancement. Local employees were hired into the classified system with the same opportunities to advance as their state counterparts.

12.4 Layoff: 12.4.j. "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change were to go into effect, employees from a Local Health Department, who were laid off, would not be placed on a preference list for employment with a state agency. Again, this negates any opportunity to utilize Local Employees in this situation for their experience, talent and skills for vacant positions. From another point of view, there is also nothing that states Local Health Departments would not have to give preference to state employees who were laid off.
14.3 Annual Leave: 14.3g. "Classified employees of county or municipal agencies may only transfer service credit and accrued unused annual leave to an agency within their local level of government". Even if an employee of a county Health Department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their accrued and earned annual leave or tenure to the state agency. Again, this has a big effect on State Agencies as they try and recruit the most qualified and seasoned candidates to fill open positions.

14.4 Sick Leave: 14.4.i. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, this would take away a Local Health Department Employee's earned and accrued sick time if they chose to better themselves by taking a state agency job that they desired. Once again, this would have a negative effect on State Agencies as they try and recruit qualified candidates and many come from Local Health.

The amended preamble to the Administrative Rule of the West Virginia Division of Personnel (143CSR1) reflects the determination to promote and appoint on merit and fitness and no person should be discriminated against with respect to state classified employment. The new proposed language goes against this process and concept as qualified and covered classified Local Health Department Employees would be discriminated against.
I believe that the state would gain financially while local employees would suffer as employees who would want to accept a state position would lose earned and accrued time, while the state could write off an uncalculated amount from state books.

The employees' ability to transfer or accept a position with a state agency benefits both the employee and the state. Both can grow professionally and should be able to grow together. The proposed changes regarding local employee transfers, layoffs, and reinstatements discriminates against local employees and changes the dynamic between employees and employers.

It is my hope is that this letter receives complete and thoughtful consideration as the partnership between Local and State agencies has and will help move West Virginia forward.

Respectfully,

Rosa M. Wiley

Rosa M. Wiley
Chairperson
Lincoln County Board of Health
(304) 824-3330

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Cindy Wilfang
456 Beaver Creek Rd
Marlinton, WV 24954

Dear Ms. Wilfang:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

June 16, 2015

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JUN 22 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Cindy Wilfong
456 Beaver Creek Road
Marlinton, WV. 24954

Dear West Virginia Division of Personnel Board,

I would like to voice my opposition to the proposed Division of Personnel changes under section 11.6.a, page 38, stating that classified employees of county or municipal agencies may only transfer to an agency within their local level of government.

I have worked at a local health department for the past 8 years with the option of being able to apply and transfer to a state position without the loss of my sick, annual leave, and service credit. If this proposed change is allowed to pass it would unjustly penalize employees of county or municipal agencies. I was hired under the same system as the state employees, paid the same DOP fees and followed the same policies. I should be afforded the same option to transfer and carry my current accumulated annual, sick leave and service credit to any position under the DOP. If this change is approved it will limit the experienced pool of applicants for the state to hire.

The proposed changes penalize long term employees. The potential change to make local health department employees state employees it appears to be blatant discrimination against Local County or municipal employees. I once again ask that you reconsider the changes under section 11.6a, page 38.

Sincerely,

Cindy Wilfong

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Tamitha Wilkins
Hampshire County Health Department
HC 71 Box 9
Augusta, WV 26704

Dear Ms. Wilkins:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Hampshire County Health Department
HC 71, Box 9
Augusta, WV 26704
Nursing: (304) 496-9640 Environmental: (304) 496-9641
Fax: (304) 496-9650

June 24, 2015

Re: Title 143 – Legislative Rules of the WV Division of Personnel

To Whom It May Concern:

The employees of the Hampshire County Health Department would like to state our disagreement with the following changes:

11.6 Transfers
11.6.a "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." **Due to the classification of local health departments, our employees would not be able to transfer to a state agency under this new rule, even if they are a highly qualified and trained person.**

12.4 Layoff
12.4.j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." **Any employee laid off from a local health department would not be placed on a preference list for a state position; however, any state employee that has been laid off would be given preference for a local health department position. We feel this is a highly discriminatory practice.**

14.3 Annual Leave
14.3.g. Transfer of Annual Leave
14.3.g.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." **If a local health department employee would take a state position, they would lose service credit and annual leave. This deters employees from wanting to advance their career to higher levels of government.**

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4.i.1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of

government." **If a local health department employee would take a state position, they would lose service credit and sick leave. This deters employees from wanting to advance their career to higher levels of government.**

Please consider the impact these changes would have on our employees' ability to advance in their careers. As Human Resource professionals, you should understand the importance of fair and equal treatment to all employees who fall under your rule and the impact on morale and retention when career advancement is diminished.

Sincerely,

Stephanie Shoemaker
Administrator

Melissa Murphy
Office Assistant

Tamitha Wilkins
Nurse

Juanita Yowell
Office Assistant

Bonnie Welty
Office Assistant

Tina Steelman
Health and Human Resources Specialist

Derrick Haggerty
Sanitarian

Carolyn Kimble
Nurse

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Jessica D. Williams, LPN
Summers County Health Department
151 Pleasant Street
Hinton, WV 25951

Dear Ms. Williams, LPN:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Summers County Board of Health

151 Pleasant Street
PO Box 898, Hinton, WV 25951
(304) 466-3388
Fax: (304) 466-1230

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

Dear West Virginia Division of Personnel Board:

On Friday, May 22, 2015 proposed changes were posted for public comment pertaining to DOP Administrative Rule. While many of these changes are logical there are some that pertain specifically to local employees and will affect them significantly. I as an employee with 8 years of service with the SCHD would like to submit my comments relating to these purposed changes.

When hired as a Licensed Practical Nurse in 2007 by the SCHD BOH it too had to be approved by the WV DOP because they were a participating local agency in the classified system. Prior to my employment I was given the information on the process and what it meant to be a covered employee in the system. I also knew what my opportunities and rights would be as well and one of those would be to have the opportunity to transfer to a state agency without losing tenure and leave benefits. I felt that this was one of my benefits to taking the job.

If these purposed changes do take place then I feel that this would be a failure of the WV DOP to provide me with the opportunities and assurances that were stated in the DOP Administrative Rule. I respectfully request that you please reconsider these changes particularly for all current local employees who rely upon the DOP to assist in protecting and supporting local employees.

Sincerely,

Jessica D. Williams

Jessica D. Williams, LPN

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Annette Wood
Mercer County Health Department
136 Stockton St.
Bluefield, WV 24605

Dear Ms. Wood:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq.*

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Annette Wood

136 Stockton Street

Bluefield, VA 24605

RECEIVED

JUN 29 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

June 26, 2015

Dear West Virginia Division of Personnel Board,

I would like to voice my opposition to the proposed Division of Personnel changes under section 1.6a, page 38, stating that classified employees of county or municipal agencies may only transfer to an agency within their local level of government.

I have worked at the Mercer County Health Department for the last 16 years with the option of being able to apply and transfer to a state position without the loss of my sick leave, annual leave and service credit. If this proposed change is allowed to pass it would unjustly penalize employees of county or municipal agencies. I was hired under the same system as the state employees in 1999, paid the same DPO fees and followed the same policies. I should be afforded the same option to transfer and carry my current accumulated annual, sick leave and service credit to any position under the DOP. If this change is approved, it will limit the experienced pool of applicants for the state to hire.

The proposed changes penalize long term employees. The potential change is a blatant discrimination to local health department employees.

I once again ask you to reconsider the changes under 11.6a, page 38.

Sincerely,

Annette Wood

Annette Wood, Billing

Mercer County Health Department

Enc. DOP Proposed changes

CC: Governor Earl Ray Tomblin

CC: Representative Joe Ellington

CC: Representative Marty Gearheart

CC: Representative John Shott

CC: Senator William Cole

CC: Mark Maynard

West Virginia Association of Local Health Departments
Talking Points for Public Comment to Proposed DOP Rule Changes

The significant changes proposed in "Title 143 - Legislative Rules of the WV Division of Personnel" will change some of the rules and guidelines for employees of county or municipal agencies who participate in the merit system. We believe that some of these changes, in fact, discriminate against local health department employees.

Our agency wishes to specifically state our disagreement with the following changes.

11.6 - Transfers
11.6. a. "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." An employee of a local health department would not be able to transfer to a position in a state agency they were qualified for and set limits on their ability to accept a better position in the merit system. This also limits the ability of state agencies to recruit and hire qualified, trained local employees as they have done in the past.

12.4 Layoff
12.4. j. Preference Hiring – "Provided that laid-off qualified permanent classified employees of county or municipal agencies shall have preference only for vacancies at their local level of government." If this change is made, employees of local health departments, who were laid off, would not be placed on a preference list for employment with a state agency. Also, there is nothing to state that local health departments would not have to give preference to state employees who were laid off.

14.3 – Annual Leave
14.3. g. Transfer of Annual Leave
14. 3. g. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused annual leave to an agency within their local level of government." Even if an employee of a county health department would be tested, placed on a register, and accept employment with a state agency, they would not be allowed to transfer any of their annual leave or tenure to that state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their annual leave.

14.4 Sick Leave
14.4.1. Transfer of Sick Leave
14.4. i. 1. "Classified employees of county or municipal agencies may only transfer service credit and accrued and unused sick leave to an agency within their local level of government." Again, employees of a local health department would lose all of their sick leave if they would accept employment with a state agency. This would also limit the ability of state agencies to recruit and hire qualified, trained local employees if they would not be able to transfer their sick leave.

West Virginia Association
of Local Health Departments

June 2015

West Virginia Association of Local Health Departments
Talking Points for Public Comment to Proposed DOP Rule Changes

Additional Talking Points
Administrative (Legislative) Rule of the West Virginia Division of Personnel (143CSR1)

In the amended preamble to the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, the rule states, "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against [emphasis ours] with respect to any incident of state or classified employment ..."
While DOP specifically adds the classified service to its vow against discrimination in the rule's preamble, it then, by proposing substantial new language to the rule, categorically discriminates against already-covered classified employees of local governmental units, specifically local health departments in our instance, in at least seven instances throughout the proposed amendment. (Each will be specifically addressed in local health departments' comments to the proposed rule.) The recruitment, retention and advancement of employees based on their knowledge, abilities and skill improves the quality of public service. The proposed amendment to the rule only stymies that improvement.

DOP lacks the statutory authority to create separate coverage envisioned for local employees in the proposed rule. The statute specifically notes, "Any local board of health may...establish and adopt a merit system for its eligible employees." Creating that alternative merit system is not a power vested in the state generally and in an executive agency particularly.

The fiscal note for the proposed rule states, "It is not anticipated these amendments will have a measurable impact on the costs and revenues to state government." This statement is patently incorrect in that it does not take into account the devastating financial effect the proposed amendment would have on individuals unable to transfer accrued leave or how that arbitrary decision may improve the state's financial condition as an uncalculated amount will be written of state books as employees lose accrued leave and with that insurance and retirement benefits.

Throughout the proposed amendment, DOP restricts transfer of "classified employees of county or municipal agencies...within their local level of government," thus creating a new class of individuals within the classified system who are limited to transfer and advancement only on the local level. Only the legislature should be able to make this decision, since the Code clearly states, "Eligible staff employed by the [local] board [of health] shall be covered [emphasis ours] by the rules of the division of personnel..." Local employees were hired into the classified system with the same opportunities to advance as their state counterparts. The employees' ability to transfer is beneficial to all levels of government. The proposed changes to the transfer, layoff and reinstatement policies discriminate against local employees and changes the dynamic between employees and employers.

West Virginia Association
of Local Health Departments

June 2015

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Mr. Kevin Yingling, MD
Cabell-Huntington Health Department
703 Seventh Avenue
Huntington, WV 25701

Dear Mr. Yingling, MD:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

Cabell-Huntington Health Department

703 Seventh Avenue / Huntington, West Virginia 25701
(304) 523-6483

June 24, 2015

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JUN 26 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

West Virginia Division of Personnel
Joe Thomas, Assistant Director
1900 Kanawha Blvd., East
Bldg. 6, Room 416
Charleston, WV 25305

Dear West Virginia Division of Personnel Board,

This letter is in opposition to the changes to 143CSR1, the Administrative Rule of the West Virginia Division of Personnel. The Cabell County Board of Health does not support the changes to the Administrative Rule due to the reasons listed below.

In the preamble, the first statement is "The general purpose of the Division of Personnel is to attract, develop and retain to the service of this State personnel of the highest ability and integrity by the establishment of a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state or classified employment." The changes offered in the 143CSR1 are in conflict to this very statement. The changes offered develop two classified systems in that one is for state employees and one is for local employees. When seeking to develop, retain and transfer employees of the highest ability and integrity, you are limiting the ability of local employees to transfer a high level skill set to the state of West Virginia. The local health employees are providing service to the citizens of the state of West Virginia and should not encounter a barrier when seeking a career in state government.

In the preamble, it states "All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness and no person shall be in any unlawful way favored or discriminated against with respect to any incident of state or classified employment because of his or her political or religious opinions or affiliation or race, gender, age, disability, ancestry or national origin, or for other reason(s) explicitly provided in federal and/or state law." By classifying a local agency differently than a state government agency, the emphasis does not place priority of those employees employed at a local government agency.

In the document, transfers to state government are outlined with specifics on how this is accomplished. However, there is no mention of the transfer from a state employee to local government. This is a cost that will be absorbed by the local agency and should be similar in nature. It also places a high cost on the

individual employee should they choose a career path in state government that begins with a local agency. The local employee will lose all access to those benefits he/she earned while in public service for the citizens in the state of West Virginia.

It is our position as a Local Board of Health to support an equitable Service Level Agreement allowing the Cabell-Huntington Health Department to enter the West Virginia Division of Personnel Civil Service System Virginia. If 143CSR1 is adopted, there will be a different set of rules of the West Virginia Division of Personnel Civil Service System for local agencies compared to state agencies.

We, as a Board of Health, oppose 143CSR1.

Respectfully submitted,

Thomas H. Gilpin,

Chairperson
Cabell-Huntington Board of Health

Harriet Cyrus

Vice Chairperson
Cabell-Huntington Board of Health

J. Larry Crawford

Cabell-Huntington Board of Health

Omayma T. Touma, MD

Cabell-Huntington Board of Health

Kevin Yingling, MD

Cabell-Huntington Board of Health

Donna F. Rumbaugh

Cabell-Huntington Board of Health

West Virginia Division of Personnel
An agency under the Department of Administration

Sara P. Walker, Director

Earl Ray Tomblin, Governor Jason Pizatella, Acting Cabinet Secretary

July 10, 2015

Ms. Juanita Yowell
Hampshire County Health Department
HC 71 Box 9
Augusta, WV 26704

Dear Ms. Yowell:

As Director of the West Virginia Division of Personnel, I wish to thank you for taking the time to review and comment on the proposed amendments to the *Administrative Rule of the West Virginia Division of Personnel*, W. VA. CODE R. § 143-1-1 *et seq*.

The Division of Personnel will take your comments into account as we work to edit and submit the final version of our rule to the Legislative Rulemaking Review Committee.

Again, thank you for your participation in the process to revise the Rule.

Sincerely,

Sara P. Walker
West Virginia Division of Personnel

SW/ja

RECEIVED

JUN 30 2015

WV DIVISION OF PERSONNEL
EMPLOYEE RELATIONS

Hampshire County Health Department
HC 71, Box 9
Augusta, WV 26704
Nursing: (304) 496-9640 Environmental: (304) 496-9641
Fax: (304) 496-9650

June 24, 2015

Re: Title 143 – Legislative Rules of the WV Division of Personnel

To Whom It May Concern:

The employees of the Hampshire County Health Department would like to state our disagreement with the following changes:

11.6 Transfers
11.6.a "Classified employees of county or municipal agencies may only transfer to an agency within their local level of government." **Due to the classification of local health departments, our employees would not be able to transfer to a state agency under this new rule, even if they are a highly qualified and trained person.**

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Please consider the impact these changes would have on our employees' ability to advance in their careers. As Human Resource professionals, you should understand the importance of fair and equal treatment to all employees who fall under your rule and the impact on morale and retention when career advancement is diminished.

Sincerely,

Stephanie Shoemaker
Administrator

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Nurse

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Sanitarian

Melissa Murphy
Office Assistant

Juanita Yowell
Office Assistant

Tina Steelman
Health and Human Resources Specialist

Carolyn Kimble
Nurse