



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: State Police TITLE-SERIES: 81-02
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 81-02 Cadet Selection

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code 15-2-25.

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

In W. Va. Code 15-2-25, it states the "superintendent shall promulgate a legislative rule in accordance with the provisions of chapter twenty-nine-a of this code, which rule shall prescribe requirements necessary for the issuance and continuance of the authority herein granted."

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/29/2024

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 8/28/2024

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule establishes and explains the process and qualifications involved in Cadet selection for the State Police including, but not limited to, physical standards, medical standards, testing procedures, background investigations, and oral interview boards.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The update to this rule is required to comport with legislation that was passed during the 2024 Regular Session (Senate Bill 712) which changed the minimum cadet age from 21 to 18.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

0

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

0

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

0

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes
 Brandolyn N Felton-Ernest -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 81
LEGISLATIVE RULE
WEST VIRGINIA STATE POLICE

SERIES 2
CADET SELECTION

§81-2-1. General.

1.1. Scope. -- This rule establishes and explains the process and qualifications involved in Cadet selection for the State Police including, but not limited to, physical standards, medical standards, testing procedures, background investigations, and oral interview boards.

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

1.3. Filing Date. -- ~~March 27, 2008.~~

1.4. Effective Date. -- ~~April 1, 2008.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2030.

§81-2-2. General Rules of Cadet Selection.

2.1. The Superintendent shall establish within the State Police a Cadet Selection Board which shall consist of five members and be representative of commissioned and non-commissioned officers within the State Police.

2.2. Preference in making appointments shall be given whenever possible to honorably discharged members of the armed forces of the United States and to residents of West Virginia pursuant to W. Va. Code §§15-2-7(c). A resident is a person either,

(a) is currently domiciled in West Virginia and has been domiciled in West Virginia for the previous two years, or

(b) was born in the state of West Virginia.

2.3. The State Police will accept and retain applications from those applicants who have reached their ~~twentieth~~ eighteenth birthday; ~~however, and~~ the Superintendent will not appoint an applicant to the position of state police officer until they attain the age of ~~twenty-one~~ eighteen years.

2.4. The State Police may establish cut-off dates for application submission based on position availability, funding, and other factors.

2.5. Each applicant for employment shall be a person of sound constitution and good moral character.

2.6. Each member appointed to the position of state police officer shall be domiciled in the State of West Virginia during the time they serve as a member of the State Police, and may be subject to involuntary transfer of duty stations anywhere in the State at the discretion of the Superintendent.

2.7. Any rank ordered list of applicants may be expired or retained at the discretion of the Superintendent or his or her designee as determined by position availability, funding, and other factors.

2.8. The State Police is an equal opportunity employer.

2.9. Each applicant for employment shall be a person not less than 18 years of age nor more than 39 years of age.

§81-2-3. Application Stage.

3.1. Prospective applicants for Cadet positions may obtain job information and employment applications from any West Virginia State Police detachment or by writing to: West Virginia State Police, Personnel Section, 725 Jefferson Road, South Charleston, West Virginia, 25309-1698. Completed applications must be returned to the Personnel Section for processing.

3.2. The Superintendent and/or the Cadet Selection Board shall reject an applicant for the following:

3.2.1. the applicant is found to lack any of the preliminary requirements established for consideration for the position by statute or otherwise,

3.2.2. the applicant has been convicted of a felony crime,

3.2.3. the applicant has made a false statement of material fact or has misrepresented his or her qualifications in the application or subsequent background investigation,

3.2.4. the applicant has been previously dismissed from any public service for delinquency, misconduct, or other similar cause,

3.2.5. the applicant has used or attempted to use political pressure or bribery to secure an advantage in the selection process or appointment,

3.2.6. the applicant has directly or indirectly obtained information regarding the selection process to which, as an applicant, he or she was not entitled,

3.2.7. the applicant has failed to submit the application correctly or within the prescribed time limits,

3.2.8. the applicant has taken part in the compilation, administration, or correction of any examination used in the selection process,

3.2.9. at least three (3) former employers state that they would not re-employ the applicant, or otherwise indicate that the applicant's services as an employee were unsatisfactory, or that the applicant is lacking in character,

3.2.10. the applicant is not eligible to work in the United States,

3.2.11. the applicant has not possessed a valid driver's license for two years prior to making application,

3.2.12. the applicant has any convictions for a serious traffic offense (e.g. driving while intoxicated, negligent homicide, etc.),

3.2.13. the applicant has any domestic violence convictions,

3.2.14. the State Police detects or discerns, at any stage of the process, any condition or

circumstance involving the applicant that may impair the applicant's ability to perform the duties attendant to the position of state police officer.

3.3. The Superintendent and/or Cadet Selection Board may reject an applicant for the following, or other conditions or circumstances:

3.3.1. the applicant has been rejected during any phase of the selection process and the condition or circumstance causing the rejection still exists,

3.3.2. the applicant has any convictions for misdemeanor crimes involving persons or property,

3.3.3. the applicant has any type or method of body art or piercing that would be normally observable while wearing any State Police uniform, or

3.3.4. the applicant has otherwise violated provisions of this rule.

3.4. The State Police will notify applicants by U. S. Mail or by other means considered expedient by the Personnel Section of the acceptance or rejection of their application.

§81-2-4. Applicant Screening Initial Stage.

4.1. The State Police will notify qualified applicants by U. S. Mail, or by other means considered expedient by the Personnel Section, of the date, time, and location to appear for the initial applicant screening.

4.2. The applicant must successfully complete a series of written examinations and physical ability tests to determine suitability for training.

4.3. The physical ability tests will consist of:

4.3.1. Sit-ups or crunches (Muscular Endurance) - the score is the number of bent-leg sit-ups or crunches performed in one (1) minute.

4.3.2. Push-ups (Upper Body Strength) - the score is the number of conventional push-ups performed in one minute. A conventional push-up is defined as an exercise performed in the prone position by raising and lowering the body with the straightening and bending of the arms, while keeping the back straight and supporting the body on the hands and toes.

4.3.3. One and one-half mile run (Cardiovascular Capacity) - the score is the elapsed time in minutes and seconds required by the applicant to complete the run.

4.3.4. Standards for successful completion of these fitness tests shall be determined by the State Police based on either generally accepted fitness standards or through a study of the fitness level of incumbent State Police members.

4.4. Applicants will be selected based on position availability, funding, and other factors. Selected applicants will be notified by U. S. Mail or other means considered expedient by the Personnel Section, of the date, time, and location to appear for an Oral Interview.

§81-2-5. Interview Stage.

5.1. The applicant shall appear before an Interview Board. The Superintendent or his or her designee may authorize multiple interview boards each of which shall be staffed by three State Police

members.

5.2. Following the Interview Board, the Cadet Selection Board shall compile a list of applicants.

§81-2-6. Background Investigation Stage.

6.1. The Cadet Selection Board shall select applicants from the list compiled following the Interview Board, based on projected or actual position availability and other factors, for a background investigation. Applicants will be notified by U. S. Mail or by other means considered expedient by the Personnel Section whether or not they have been accepted for a background investigation.

6.2. The background investigation shall be assigned for completion to a member of the State Police as a means of determining if the applicant is qualified to be appointed to the position of state police officer. The background investigation may consist of, but not be limited to:

6.2.1. Inquiries into the veracity of responses on the application;

6.2.2. Interviews with references supplied by the applicant, persons familiar with the applicant, and previous employers;

6.2.3. Inquiries into the applicant's criminal, driving, and credit history;

6.2.4. Inquiries into the applicant's military background;

6.2.5. Inquiries regarding civil suits naming the applicant; and

6.2.6. Inquiries into the applicant's educational background and performance.

6.3. Applicants shall submit to a polygraph examination.

6.4. The Cadet Selection Board shall review the background investigations and eliminate those applicants who have conditions and/or circumstances in their backgrounds that meet any of the automatic disqualification criteria, or which indicate that the applicant's ability to perform the duties attendant to the position of state police officer would be impaired.

§81-2-7. Psychological Assessment Stage.

7.1. Selected applicants shall submit to a series of psychological examinations designed to determine each applicant's psychological fitness for duty as a state police officer.

7.2. The examinations shall be evaluated by a licensed clinical psychologist or the equivalent.

7.3. The Cadet Selection Board shall eliminate those applicants whose psychological test profiles reveal that the applicant is not suited for duty as a state police officer.

7.4. Applicants will be notified by U. S. Mail or by other means considered expedient by the Personnel Section of a favorable or unfavorable result on the psychological examinations.

§81-2-8. Medical Selection Stage.

8.1. The remaining applicants shall submit to a medical examination by a licensed physician chosen by, and at the expense of, the State Police.

8.2. The applicant shall complete a comprehensive medical history questionnaire, supplied by the State Police, which will elicit information dealing with the applicant's family health history, current health habits such as smoking, alcohol intake, physical activity, and medications. The questionnaire will also deal with, among other things, primary factors associated with coronary heart disease such as high blood pressure, high blood fat levels, obesity, physical inactivity, etc. The medical examination shall consist of selection criteria aimed at identifying conditions that may potentially exclude an applicant from consideration for appointment to the position of state police officer. The following conditions may be cause to exclude an applicant from consideration for employment, except where specifically noted;

8.2.1. Eyes and Vision

8.2.1.1. Visual Acuity - An applicant's uncorrected distant vision may be equal to but not worse than 20/100 in the weaker eye, and, shall be correctable to better than, or equal to 20/30 (Snellen) in each eye. Means of correction must be worn on the job and must not interfere with proper fitting of a facial mask, e.g. gas mask, riot helmet, or air, or blood borne pathogen masks, etc.

8.2.1.1.a. Far visual acuity shall be at least 20/30 binocular with contact lenses or spectacles. Far visual acuity uncorrected shall be at least 20/100 binocular for wearers of hard contacts or spectacles. Successful long-term soft contact lens wearers (six months without a problem) are not subject to the uncorrected standard.

8.2.1.1.b. Ophthalmological procedures such as radial keratotomy, repair or retinal detachment. Sufficient time (i.e., six months) must have passed to allow stabilization of visual acuity and to ensure that there are no postsurgical complications.

8.2.1.2. Visual Acuity - Color Vision: The applicant must pass a "controlled color discrimination test", e.g. United States Department of Transportation Color Vision Examination.

8.2.1.3. Visual Acuity - Depth Perception: An applicant's depth perception should be sufficient to demonstrate normal stereo depth perception with or without correction to the standard: 80 ARC seconds.

8.2.1.4. The examining physician is to note any other conditions which may interfere with the applicant's ability to perform the duties attendant to the position of state police officer.

8.2.2. Ears and Hearing

8.2.2.1. Hearing Acuity - Using an audiometer, the applicant should have no average loss of 25 or more decibels at the 500, 1000, 2000, and 3000 Hertz (Hz) levels in either ear with no single frequency loss in excess of 40.

8.2.2.2. Acute Otitis Media, Otitis Externa, and Mastoiditis - If the applicant meets Hearing Acuity guidelines and the condition is resolved, then these conditions are non-disqualifying.

8.2.2.3. Any Inner/Middle/Outer Ear Disorder Affecting Equilibrium, e.g. Meniere's Disease - If the applicant has historically had episodes of vertigo, the applicant may require further evaluation.

8.2.3. Nose, Throat, and Mouth

8.2.3.1. Loss of Sense of Smell.

8.2.3.2. Aphonia, Speech Loss or Speech Defects.

8.2.3.3. Abnormalities of the Nose, Throat, or Mouth - If the abnormality does not interfere with the applicant's breathing, or the proper fitting of a gas mask, then the condition is non-excludable.

8.2.4. Peripheral Vascular System

8.2.4.1. Hypertension - An applicant's resting blood pressure should be less than, or equal to, 140 mmHg systolic and 90 mmHg diastolic on three successive readings. (If the applicant has controlled hypertension not exceeding this standard and is on medication with side effect profiles which do not interfere with performance of duty as a state police officer, then the condition may not cause the applicant to be excluded.) The applicant must have a functional and therapeutic cardiac classification no greater than 1A, i.e., Functional Capacity I: Applicants with cardiac disease and no limitation of physical activity. Ordinary physical activity does not cause discomfort. Applicants in this class do not have symptoms of cardiac insufficiency, nor do they experience anginal pain. Therapeutic Classification A: Applicants with cardiac disease whose physical activity need not be restricted.

8.2.4.2. Peripheral Vascular Abnormality - any condition which is severe and/or symptomatic may cause the applicant to be excluded, e.g. arterial insufficiency, deep or superficial vein thrombophlebitis, Reynaud's disease.

8.2.5. Heart and Cardiovascular System

8.2.5.1. Congenital Heart Disease - if the applicant's functional work capacity is unimpaired, then the condition may not cause the applicant to be excluded.

8.2.5.2. Valvular Heart Disease - includes significant valvular insufficiency, significant septal defects (any valve), and prolapsing mitral valve (symptomatic).

8.2.5.3. Coronary Artery Disease.

8.2.5.4. ECG Abnormalities (if associated with organic heart disease) - including but not limited to: WPW Syndrome, ST Depression, Partial or Complete Left Bundle Branch Blocks, 3 Degree A-V Block, Mobitz Type II A-V Blocks, Sinoatrial Block or Sick Sinus Syndrome, Ventricular Extrasystole (frequent - 20/minute with exercise, 10/minute without exercise), Ventricular Tachycardia, Atrial Fibrillation or Flutter, Episodic Supraventricular Tachycardia or Consistent Supraventricular Tachycardia at Rest or Persistent After Exercise Even if Asymptomatic.

8.2.5.5. Angina.

8.2.5.6. Congestive Heart Failure.

8.2.5.7. Cardiomyopathy.

8.2.5.8. Pericarditis, Endocarditis, and Myocarditis.

8.2.6. Respiratory System

8.2.6.1. The applicant's respiratory system must be free of chronically disabling conditions that would interfere with the applicant's ability to perform the duties attendant to the position of state police officer.

8.2.6.2. Infectious or Potentially Infectious Pulmonary Tuberculosis.

8.2.6.3. Chronic Bronchitis.

8.2.6.4. Chronic Obstructive Pulmonary Disease.

8.2.6.5. Emphysema.

8.2.6.6. Restrictive Lung Diseases.

8.2.6.7. Bronchiectasis and Pneumothorax (current or repeated history)

8.2.6.8. Pneumonectomy.

8.2.6.9. Acute Mycotic Diseases - including, but not limited to, Coccidioidomycosis and Histoplasmosis.

8.2.6.10. Acute Pleurisy.

8.2.6.11. Malignant Disease - any condition which may interfere with the applicant's ability to perform the duties attendant to the position of state police officer must be noted.

8.2.7. Gastrointestinal System

8.2.7.1. Colitis - including but not limited to Crohn's Disease, Ulcerative Colitis, Irritable Bowel Syndrome (symptomatic or needing medication), and Bacterial Colitis.

8.2.7.2. Diverticulitis.

8.2.7.3. Esophageal Disorders - including, but not limited to, Esophageal Stricture, Lower Esophageal Ring and Esophageal Spasm. If the applicant's condition is controlled, then the condition is non-disqualifying.

8.2.7.4. Pancreatitis.

8.2.7.5. Gall Bladder Disorders.

8.2.7.6. Active Peptic Ulcers.

8.2.7.7. Symptomatic Inguinal, Umbilical, Ventral, Femoral, or Incisional Hernias.

8.2.7.8. Malignant Disease of the Liver, Gall Bladder, Pancreas, Esophagus, Stomach, Small or Large Bowel, Rectum, or Anus.

8.2.7.9. Gastrointestinal Bleeding.

8.2.7.10. Active or Chronic Hepatitis.

8.2.7.11. Cirrhosis of the Liver.

8.2.7.12. Motility Disorders, e.g. Scleroderma.

If any of the above or gastro-intestinal conditions are controlled, then they may not cause the applicant to be excluded.

8.2.8. Genitourinary System

8.2.8.1. The examining physician is to note any conditions which may interfere with the applicant's ability to perform the duties attendant to the position of state police officer.

8.2.8.2. Pregnancy - the examining physician should record if the applicant is pregnant.

8.2.8.3. Nephrectomy - if an applicant possesses this condition with normal natural renal function, then the condition is non-disqualifying.

8.2.8.4. Acute Nephritis.

8.2.8.5. Nephrotic Syndrome.

8.2.8.6. Acute Renal/Urinary Calculi.

8.2.8.7. Renal Transplant.

8.2.8.8. Renal Failure.

8.2.8.9. Hydrocele and Varicocele (Symptomatic).

8.2.8.10. Malignant Diseases of Bladder, Kidney, Ureter, Cervix, Ovaries, Breasts, Prostate, etc.

8.2.8.11. Active Venereal Diseases.

8.2.8.12 Urinary Tract Infection.

8.2.8.13. Polycystic Kidney Disease.

8.2.8.14. Pelvic Inflammatory Disorders.

8.2.8.15. Endometriosis.

8.2.8.16. Inflammatory Disorders, e.g. prostatitis, orchitis, epididymitis.

8.2.8.17. Scleroderma.

8.2.9. Endocrine and Metabolic Systems

8.2.9.1. Uncontrolled Thyroid Disease.

8.2.9.2. Diabetes Mellitus - potential excludability requires a case by case assessment by a physician designated by the State Police as to the control of diabetes and presence and severity of symptoms and complications.

8.2.9.3. Adrenal Dysfunction - including, but not limited to, Addison's Disease and Cushing's Disease.

8.2.9.4. Insulin Reactions.

8.2.9.5. Untreated Thyroid Malignancy.

8.2.10. Musculoskeletal System

8.2.10.1. The examining physician is to note any condition which may interfere with the applicant's ability to perform the duties attendant to the position of state police officer.

8.2.10.2. Disorders that Limit Motor Function.

8.2.10.3. Cervical Spine or Lumbosacral Fusion.

8.2.10.4. Degenerative Cervical or Lumbar Disc Disease (if symptomatic).

8.2.10.5. Extremity Amputation.

8.2.10.6. Osteomyelitis.

8.2.10.7. Muscular Dystrophy.

8.2.10.8. Loss in the Motor Ability from Tendon or Nerve Injury/Surgery - in an area relevant to the applicant's performing the essential tasks of the job.

8.2.10.9. Arthritis - if the applicant possesses this condition with no functional impairment, then the condition is non-excludable.

8.2.10.10. Coordinated Balance.

8.2.10.11. Symptomatic Herniated Disc.

8.2.10.12. Spinal Deviations.

8.2.11. Hematopoietic and Lymphatic Systems

8.2.11.1. Hematopoietic Disorders (including malignancies), e.g. SCD, thalassemia, G6PD, etc.

8.2.11.2. Hemophilia.

8.2.12. Nervous System

8.2.12.1. The applicant must be free of any disorder which may interfere with performing the duties attendant to the position of state police officer.

8.2.12.2. Seizure Disorder (all types).

8.2.12.3. Cerebral Palsy.

8.2.12.4. Movement Disorders, e.g. Parkinson's.

8.2.12.5. Cerebral Aneurysms.

8.2.12.6. Syncope.

8.2.12.7. Progressive Neurological Diseases - including, but not limited to, Multiple Sclerosis and Huntington's Chorea.

8.2.12.8. Peripheral Nerve Disorder - including, but not limited to, Polyneuritis, Mononeuritis, and Neurofibromatosis.

8.2.12.9. Narcolepsy.

8.2.12.10. Cerebral Vascular Accident.

8.2.12.11. Central Nervous System Infections.

8.2.13. Any condition that requires further evaluation beyond that offered by the State Police's physician shall be conducted at the applicant's expense.

8.3. The Cadet Selection Board may exclude those applicants who, in the opinion of the examining physician, possess any medical condition that would preclude the applicant from performing the duties attendant to the position of state police officer. The Cadet Selection Board shall remove those applicants excluded during the medical screening stage, and present a rank ordered list to the Superintendent.

§81-2-9. Final Selection Stage.

9.1. In conformity to W. Va. Code §§15-2-7(b), the Superintendent shall appoint an applicant to the position of state police officer from among the top three names on the current list of eligible applicants until all available positions are filled.

9.2. Those applicants who successfully complete all phases of the selection process, but who are not appointed by the Superintendent due to the unavailability of positions or for any other reason, may be retained on a standing list for no more than twelve months.