



WEST VIRGINIA SECRETARY OF STATE
KRIS 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: Personnel TITLE-SERIES: 143-04
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 143-04 Pre-Employment Reference and Inquires Rule

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code 29-6-10

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:

143CSR4 implements the provisions set forth in W. Va. Code § 29-6-10(9) regarding the rejection of candidates within the classified, classified-exempt, and exempt service based upon pre-employment background checks.

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: 6/30/2026

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/30/2026

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?

Posted notice on West Virginia Division of Personnel website.

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

143CSR4 implements the provisions set forth in W. Va. Code § 29-6-10(9) regarding the rejection of candidates within the classified, classified-exempt, and exempt service based upon pre-employment background checks.

The existing Rule is being amended to clarify certain sections of the Rule, to improve internal consistency of the Rule, and to address statutory revisions with the passing of HB5441 amending 29-6-1 et seq.

The civil service reform is designed to facilitate a more streamlined, efficient, and accountable state government in which state employees are held to high standards, merit can be meaningfully rewarded, and the state is better positioned to compete with the private sector for talent. Effective July 1, 2025, and July 1, 2026, most newly hired employees, as well as current employees who voluntarily transfer or accept new positions, enter employment in positions in the classified-exempt service that are statutorily excluded from the DOP merit system (formerly Civil Service).

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

143CSR4 implements the provisions set forth in W. Va. Code § 29-6-10(9) regarding the rejection of candidates within the classified, classified-exempt, and exempt service based upon pre-employment background checks.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

It is anticipated these amendments and civil service reform will result in efficiencies that will have a positive impact on the cost and revenues of State government.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

It is anticipated these amendments and civil service reform will result in efficiencies that will have a positive impact on the cost and revenues of State government.

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

It is anticipated these amendments and civil service reform will result in efficiencies that will have a positive impact on State operations which, in turn, benefit state residents through cost saving and provision of services.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

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

Though it is anticipated these amendments and civil service reform will result in efficiencies that will have a positive impact on the cost and revenues of State government, the exact fiscal impact is incalculable at this time.

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

Yes

Joe F Thomas -- 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.

143CSR4

TITLE 143

LEGISLATIVE RULE

WEST VIRGINIA DIVISION OF PERSONNEL

SERIES 4

PRE-EMPLOYMENT REFERENCE AND INQUIRIES RULE

§143-4-1. General.

1.1. Scope. -- This rule implements the provisions set forth in ~~West Virginia~~ W. Va. Code § 29-6-10 (8) (9) regarding the rejection of candidates ~~or eligibles~~ within the classified, classified-exempt, and exempt service.

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

1.3. Filing Date. -- ~~June 3, 2005.~~

1.4. Effective Date. -- ~~July 1, 2005~~ July 1, 2026.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2041.

§143-4-2. Definitions.

Terms used in this rule which are not included in this section have the meaning given in the Administrative Rule of the West Virginia Division of Personnel, 143CSR1.

2.1. ~~Applicant: Individual~~ "Applicant" means an individual being considered for employment in the ~~classified~~ service of the State of West Virginia or ~~in the classified~~ service within a ~~County Health Department~~ an affiliated county or municipal agency, including any employee being considered for transfer ~~to any organizational unit with a different appointing authority~~, promotion, demotion, reallocation, lateral class change, or temporary upgrade to a position for which there is a suitability standard that is different and/or more stringent than the standard for the employee's current position.

2.2. ~~Appointing Authority: The~~ "Appointing Authority" means ~~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, or 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.~~

2.3. ~~Authorized Designee: Employee~~ "Authorized Designee" means an employee who is designated by an appointing authority and approved by the Division of Personnel to receive and process criminal history check request forms from applicants, receive criminal history information, and make suitability determinations.

2.4. ~~Contact Person: Employee~~ "Contact Person" means an employee who is designated by an appointing authority and approved by the Division of Personnel to receive and process criminal history check request forms from applicants, but who is not authorized to receive criminal history information nor to make final suitability determinations.

2.5. "Director" means Director of the Division of Personnel or his or her designee.

~~2.5. 2.6. Disqualifying Event: Conviction~~ "Disqualifying Event" means events for which a subject individual may be denied employment pursuant to Subdivision 6.4.1 of the Administrative Rule of the West Virginia Division of Personnel (143CSR1) including the conviction of a crime of an infamous crime or other crime involving moral turpitude which has a reasonable connection to the duties and responsibilities of the position/class position for which the applicant or employee is applying, such that permitting employment poses a direct risk to the safety or security of persons, or assets. For purposes of this, a plea of "guilty" or "no contest" is considered a conviction unless the charge was subsequently invalidated by a court decision or a full pardon by the Governor or the President of the United States.

~~2.6. Director: The Director of the Division of Personnel or his or her designee.~~

2.7. ~~Employee: Any~~ "Employee" means 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.

2.8. ~~Position: An~~ "Position" means an authorized and identified group of duties and responsibilities assigned by proper the hiring authority which requires the full-time or part-time employment of at least one person.

2.9. ~~Qualified Entity: Any~~ "Qualified Entity" means any appointing authority authorized by the Director of Personnel to conduct investigations and/or to secure reports in compliance with this rule.

2.10. ~~Subject Individual: An~~ "Subject Individual" means an applicant or employee who is subject to a criminal history or background check pursuant to this rule.

2.11. ~~Suitability Determination: The~~ "Suitability Determination" means the assessment of an applicant's or an employee's criminal background record, central abuse registry record, professional licensing board record, and/or driving record to determine whether the individual's employment in a particular position will be conducive to a safe workplace and public accountability and is not likely to result in damage or injury to others.

2.12. ~~Transfer: The~~ "Transfer" means the movement of an employee to a classified-service position in a different subdivision of an agency or geographic location of the same or a different agency.

2.13. ~~Year: Twelve:~~ "Year" means a twelve (12) consecutive month period, unless otherwise specified.

§143-4-3. Verification of Eligibility.

3.1. To establish the ~~eligibility~~ suitability of an applicant or employee, the Director may verify information provided by the ~~applicant~~ subject individual, including, but not limited to:

~~a. 3.1.1.~~ current and previous employment, and/or volunteer activities, and/or student activities;

~~b. 3.1.2.~~ military service;

~~c. 3.1.3.~~ formal education; and

~~d. 3.1.4.~~ professional licensure and/or certification.

3.2. To the extent permitted by law and reasonably relevant to established eligibility standards or the nature, duties, and responsibilities of the position sought by the applicant, the Director may obtain and review:

~~a. 3.2.1.~~ the applicant's state and/or federal criminal records history;

~~b. 3.2.2.~~ the central abuse registry established pursuant to W. Va. Code § 15-2C-1 et seq.; ~~and~~

~~c. 3.2.3.~~ the applicant's driving records; and

3.2.4. professional licensing board records.

3.3. To the extent permitted by law, the Director may require an applicant to provide any information necessary to afford the Director access to records ~~reasonable~~ reasonably relevant to established eligibility standards or the nature, duties, and responsibilities of the position sought by the applicant.

3.4. The Director shall conduct investigations and/or secure reports necessary to assess the suitability of an applicant. The Director may delegate some or all of the responsibility to qualified appointing authorities in accordance with the provisions of this rule.

3.5. Nothing in this rule shall be construed as to prevent an appointing authority from obtaining a copy of the credit record of an applicant for employment in a position where the appointing authority has determined that the specific job functions of that position require a demonstration of financial responsibility.

§143-4-4. Review and Reconsideration.

4.1. Subject individuals are solely responsible for dealing with any reporting agency to challenge the accuracy or completeness of information provided by the West Virginia State Police, the Federal Bureau of Investigation, or other agencies reporting information to the Director or qualified entity. Subject individuals are solely responsible for providing the Director or qualified entity with proof of any error and correction thereof by any reporting agency.

4.2. If the subject individual provides proof of any error and correction thereof by any reporting agency to the Director or qualified entity, the Director or authorized designee will conduct a new suitability determination.

4.3. If a subject individual wishes to dispute an adverse suitability determination, the subject individual may request that the Director reconsider his or her suitability. 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 notice of disqualification was postmarked. 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 subject individual.

§143-4-5. Records and Reports.

5.1. The Director or authorized appointing authority shall maintain confidential records and reports pertaining to reference information and background investigations in a separate file.

5.2. The appointing authority shall provide all information and reports requested by the Division of Personnel pursuant to this rule in accordance with procedures established by the Division of Personnel.

§143-4-6. Employee and Applicant Responsibilities.

6.1. It is the responsibility of the employee to report any disqualifying event to his or her appointing authority within five (5) calendar days of the disposition of the matter. Failure of an employee to report a disqualifying event within the time provided is grounds for disciplinary action up to and including dismissal.

6.2. Each applicant or employee shall provide information, including fingerprints, required by the state police and other entities for processing or to facilitate access to: driving records; verification of employment, education, licensure, and residence; and state and federal criminal history information.

§143-4-7. Appointing Authority Responsibilities.

7.1. The appointing authority must comply with this rule and the procedures established by the Division of Personnel for implementation of the rule.

7.2. The authorized appointing authority shall request that the Director make a suitability determination prior to the transfer or promotion of an employee to a classified service position for which there is a suitability standard that is different and/or more stringent than the standard for the employee's current position.

7.3. The appointing authority shall ensure adequate training is provided to all authorized designees and contact persons.