

GENERAL DISTRIBUTION

WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION

NUMBER: 132.00

EFFECTIVE DATE: 17 April 2024

SUBJECT: NON-UNIFORM PROMOTION
GUIDELINES

POLICY DIRECTIVE

PURPOSE:

To provide policy and procedure that ensures uniformity in the promotional selection process based on merit and specified qualifications for non-uniform positions.

REFERENCE:

WV Code §§15A-3-4, 15A-3-5, 15A-5-5, 15A-6-5, and 15A-7-3; 143CSR1 Title 143 Legislative Rule of the West Virginia Division of Personnel; WV Division of Personnel Policy DOP-P11 Posting of Job Openings; ACA Expected Practices 5-ACI-1C-10, 5-ACI-1C-11, 5-ALDF-7B-01, 3-JDF-1C-06, 3-JDF-1C-07, 4-JCF-6C-01, 1-JDTP-1C-09, 1-JDTP1C-10 and 2-CO-1C-13; and Prison Rape Elimination Act (PREA) §§115.17 and 115.317.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject including DCR Policy Directive 132.00, dated 18 April 2022.

APPLICABILITY:

All facilities within the Division of Corrections and Rehabilitation (DCR). In addition to non-uniform positions, these promotional guidelines shall be followed for the selection of Chief Correctional Officer positions (regardless of rank). This Policy is available for general distribution.

DEFINITIONS:

Appointing Authority: The executive or head of a department or agency who is authorized by statute to appoint employees in the classified or classified-exempt service.

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

POLICY:

- I. When a vacancy exists, which will be filled through promotion, the Superintendent or work unit supervisor or director as appropriate, shall cause a written notice to be posted.
 - A. This notice shall be posted throughout the agency for ten (10) calendar days and include a description of the duties to be performed, the minimum qualifications for the position, the method of application, the job class to be used in filling the job opening, the salary level or range that will be considered, the job location, the date posted and the date the posting closes.
 - B. If there are four (4) or less applicants for a posted position, the Superintendent or work unit supervisor or director as appropriate, may request to repost the position.
 - C. All applicants must meet the minimum qualifications established for the position by the WV Division of Personnel and the Conditions of Employment and requirements for promotion as established by the Division of Corrections and Rehabilitation, at the closing date of the posting.
 - D. An employee who has been suspended for disciplinary purposes shall be deemed ineligible for promotion for one (1) year from the date of the disciplinary action. An employee who has been demoted for disciplinary purposes shall be deemed ineligible for promotion for two (2) years from the date of the disciplinary action. Employees must be eligible at the time of the closing date of the posting. Written reprimands shall not cause an employee to be ineligible for promotion; however, written reprimands are to be reviewed when considering the applicant's suitability for the position. Items that have been removed as directed by policy and/or a legal proceeding cannot be considered as a part of this promotional process.
- II. If a current DCR employee or multiple current DCR employees, that are already of the same job class of the vacancy being filled are interested in the position, the employee or employees shall each submit a written request to transfer to the Superintendent, or work unit supervisor or director as appropriate, where the vacancy exists with a courtesy copy to the individual's current Superintendent, or work unit supervisor or director as appropriate.
 - A. The Superintendent, or work unit supervisor or director as appropriate, shall cause a review of all applicable personnel records to occur and shall interview the individual or individuals. These interviews may be conducted by the Superintendent, or work unit supervisor or director as appropriate, and do not require a board or panel. Following the interviews and a review of all applicable personnel records for each individual, the Superintendent may select the most qualified candidate to fill the vacancy, thus ending the promotional process without the need to go further. Work unit supervisors or

directors, as appropriate, may recommend selection of the most qualified candidate to the Appointing Authority.

- B. If after the above process takes place, the Superintendent, or work unit supervisor or director as appropriate, decides not to select any of the incumbents to fill the vacancy, all other applicants will continue through the remainder of the promotion process as delineated herein.
- III. When a vacancy is not filled by transfer of another DCR employee and still exists, an interview panel consisting of three (3) members shall conduct a structured interview, evaluating each applicant subjectively and recording the results. Interpretation of the responses rests solely with each panel member's evaluation of the applicant's responses to the questions.
- A. Interview questions will be reviewed prior to the interviews by the Superintendent, or work unit supervisor or director as appropriate. It shall also be at their discretion as to whether a written exercise would be beneficial as part of the interview process and to ensure it is evaluated in a consistent manner if used.
 - B. The Superintendent, or work unit supervisor or director as appropriate, or their designee, shall serve as the panel chairperson.
 - C. All applicants shall be asked about misconduct utilizing the Sexual Misconduct Questionnaire as contained in the DCR PREA Manual. The applicant's response to those questions ensures that the DCR shall not hire anyone who may have contact with inmates or residents who:
 - 1. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997).
 - 2. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse.
 - 3. Has been civilly or administratively adjudicated to have engaged in the activity described above.
 - D. The DCR shall also consider any incident of sexual harassment in determining whether to hire anyone, who may have contact with inmates or residents.
 - E. The interview panel and interview should consider and assess relevant factors for the posted position. Among potential factors to be considered are:
 - 1. An applicant's experience, education, functional knowledge of the posted position, and abilities to carry out the duties and functions of the position.
 - 2. Intangible factors such as an applicant's attitude and work ethic.

3. Any other factors which the interview panel determine are relevant.
- F. Upon completion of the interview process, the interview panel shall make a recommendation regarding which applicant will be selected.
1. The Superintendent or designee, or Appointing Authority as appropriate, shall notify the selected applicant.
 2. Those applicants not selected shall also be notified.
 3. If the selected applicant should refuse the position, the next applicant in line for that position may be offered the position or the Superintendent, or work unit supervisor or director as appropriate, may request to repost the position at his/her discretion
- IV. The Human Resource department/designee where the vacancy exists shall be responsible for the management of the promotion process. This shall include, but is not limited to:
- A. Reviewing applications for promotion and determining eligibility based on minimum qualifications established by the Division of Personnel and Conditions of Employment and requirements for promotion as established by the DCR.
 - B. Notifying the applicants in writing of the date, time, and location of his or her scheduled interview and providing said schedule to the interview panel along with the applicants' applications, and any supporting documentation.
 - C. Maintaining all documentation pertaining to each promotion selection in a confidential manner. A promotional file, on each internal promotion action shall be maintained for a minimum of one (1) year after the effective date of the personnel action. At a minimum, the promotion file should contain or reference the location of the following:
 1. Copy of the Position Description
 2. Copy of the Job Vacancy Posting
 3. Description of the knowledge, skills, abilities, or other factors used in evaluating candidates
 4. Description of any evaluation criteria, rating factors, tests, assessment procedures, or scoring plans used. Example procedures might include work sample exercises, written tests, online assessments, training and experience evaluations, skills checklists, rating guides, oral exam, interviews, performance tests, appraisal records, etc.
 5. Applications and any other documents used in evaluating candidates.

6. Voluntary Equal Employment Opportunity (EEO data) should be collected or available and maintained separate from the applications and evaluation materials.
 7. Names of candidate evaluators and interview panel members.
 8. Candidate scores or numerical ratings. Formal numerical scoring is not required.
 9. A list of the names of all candidates who applied and were considered.
 10. Name of candidate or candidates selected.
 11. Any other documents or information the agency deems relevant to the appointment decision.
- V. Applicants can seek feedback from the chairperson of the interview panel as it relates to his/her interview.
- VI. For positions within the DCR, scheduled interviews (and appropriate travel time if the interview is not at the applicant's regular place of employment) shall be considered work time.
- VII. Promotion selections must be made without regard to any non-merit factor such as race, color, sex, religion, national origin, ancestry, political affiliation, marital status, cultural identification, disability, age, or personal connection.
- VIII. Nothing in this Policy shall be construed to restrict an appointing authority from requesting and utilizing a register from the Division of Personnel for the position to be filled or allowing for the transfer from another state agency or reinstatement of a former state employee.

ATTACHMENT(S):

None.

APPROVED SIGNATURE:



William K. Marshall III, Commissioner

04/17/2024

Date