

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 135.04

EFFECTIVE DATE: 11 June 2025

**SUBJECT: REFERENCE INQUIRIES ON
CURRENT OR FORMER
EMPLOYEES**

POLICY DIRECTIVE

PURPOSE:

To establish uniform guidelines for responding to reference information inquiries regarding current or former employees.

REFERENCE:

WV Code §55-7-18a; Division of Personnel Policy DOP-P9 Employment References; and 143CSR1 Title 143 West Virginia Division of Personnel Administrative Rule.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject.

APPLICABILITY:

All facilities and work units within the Division of Corrections and Rehabilitation (DCR). 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.

POLICY:

- I. An appointing authority or his/her designee are permitted to verify employment and provide reference information. All references must be provided in accordance with this Policy. Unauthorized persons providing references are subject to disciplinary action.

- A. When responding to employment verifications and reference inquiries, appointing authorities or designees should not provide inaccurate information as this may be considered defamation for which they could be held liable in a court.
 - B. Qualified immunity may apply if the information is provided in a proper manner, during a suitable occasion, to the proper party, and limits the information to the inquiries that are job-related.
- II. Any employer who discloses job-related information that may be reasonably considered adverse about a former or current employee is presumed to be acting in good faith and is immune from civil liability. For the purposes of this section, "job-related information" means information concerning a person's education, training, experience, qualifications, conduct and job performance which is offered for the purpose of providing criteria to evaluate the person's suitability for employment.
- III. It is the responsibility of an appointing authority to:
- A. Respond truthfully to inquiries from other West Virginia State agencies in compliance with this Policy. All agencies must cooperate in providing employment verifications and references when requested by other agencies.
 - B. Provide relevant documented information to prospective employers in response to written reference requests for job-related information for current or former employees who have demonstrated violent and/or threatening behavior. An appointing authority may be held liable if the potentially violent current or former employee is hired by another employer based upon a "clean reference" and the employee becomes violent in the course of performance of work.
 - C. Respond only to written reference inquiries for which a signed release to obtain employment verifications and/or reference information has been provided. Such release must include applicant's home address, signature, authorization to provide information, and waiver of liability for release of information. Such response must be in writing and marked "confidential" or "personal" when supplying a response to an inquiry from a prospective employer.
 - D. Appointing authorities may provide to an employee an original, employee-specific letter that truthfully reflects and describes the employee's service.
 - E. Persons authorized by the appointing authority to provide employment verifications and references may give a telephone response provided they obtain a copy of an appropriate release signed by the employee on whom the information is sought prior to responding (a faxed copy is acceptable) and adhere to the following:
 - 1. No information beyond that prescribed in the State reference form (as follows) is provided.

- a. Applicant exhibited a good work ethic.
 - b. Applicant demonstrated appropriate interpersonal skills with his/her peers.
 - c. Attendance was satisfactory.
 - d. Applicant was responsible and showed initiative.
 - e. Applicant's skills were satisfactory, and he/she generally completed his/her work without errors.
 - f. The applicant was committed to good performance and meeting his/her goals.
 - g. The applicant was able to understand and follow instructions.
 - h. Any additional appropriate job-related comments about the applicant, particularly regarding a. through g. above.
2. A document memorializing the conversation is placed in the employee's personnel file.
- IV. 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 shall 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.

ATTACHMENT(S):

None.

APPROVED SIGNATURE:
Lance Yardley, Acting Commissioner5/14/2025
Date