

VIRGINIA DEPARTMENT OF SOCIAL SERVICES

PERSONNEL POLICIES FOR LOCAL DEPARTMENTS OF SOCIAL SERVICES

PART 1. GENERAL PROVISIONS

22 VAC 40-675-10. Definitions.

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

“Administrative Manual” means the Administrative Manual for Local Departments of Social Services Human Resource Management.

“Classification” means the systematic grouping of positions based on shared characteristics.

“Class specifications” means a detailed statement which defines the characteristic elements of each classification title and identifies the factors that relate to that particular classification.

“Commission” means the Workers’ Compensation Commission.

“Commissioner means the Commissioner of the Virginia Department of Social Services.

“Compensation” means rate of pay, based upon level of work performed and supervision given or received.

“Compensation schedule and plan” means a plan that consists of the Basic State Compensation Schedule, which has salary grades and pay steps of intervening increments from the minimum to maximum established for each grade. Classification titles are linked to a salary grade on the schedule by use of factors for ranking and comparing positions.

“Department” means the Virginia Department of Social Services.

“DHRM” means the Department’s Division of Human Resources Management.

“Exempt” means not subject to the overtime provisions of the Fair Labor Standards Act.

“Jurisdiction” means the city, county, or town under which the local department is a governmental unit.

“KSA” means a knowledge, skill, or ability needed to perform a position.

“Local department” or “local agency” means any one of the local departments of social services or public welfare throughout the state, as provided in Article I (Section 63.1-38 et. seq. of Chapter 3 of this title.

“Local board means the local board of public welfare or social services in each county and city, as provided in Article 1 (Section 63.1-38 et. seq.) of Chapter 3 of this title.

“Local director” means the director or superintendent of any of the local departments of social services or public welfare.

“Local hiring authority” means the local director, local board, or a designee with authorization to employ staff.

“Local jurisdiction” means any of the local cities or counties with which the local department and local board are affiliated.

“Merit system plan” means those rules and regulations promulgated by the State Board in the development and operation of a system of personnel administration meeting requirements of the federal Department of Health and Human Services;

“On call” means constantly accessible to receive and respond to child protective service complaints on an emergency basis outside of the local department.

“Recruitment announcement” means the job vacancy posting which contains the position title and number along with other pertinent information, including type of position; salary; position expiration date, if applicable; special requirements or preferences, if any; a brief duties

and responsibilities paragraph; entry-level knowledge, skill, and ability statements (KSAs); announcement period closing date; and mailing address.

“Recruitment announcement period” means the period of time, usually ten workdays, during which applicants may apply for a position.

“Referral list” means the list prepared by DHRM that contains the names of applicants which the local department may further consider in order to determine which applicants will be offered an interview.

“State Board” means the Virginia Board of Social Services.

“Statewide classification plan” means a plan that consists of an approved number of positions. The plan lists class specifications according to class code, occupational group, effective date, salary grade, and EEO code. Local departments select applicable classes based upon need and in conjunction with prescribed standards for allocating positions.

“WCA” means the Virginia Workers’ Compensation Act.

22 VAC 40-675-20 Local Agency Designation

Local agencies are designated as Levels I through VI. The level assigned is determined by the number of authorized positions, which, in turn, is based upon the caseload of the local agency and the number and types of programs offered. The designations are:

LEVEL	NUMBER OF POSITIONS
I	Up to 10
II	11-20
III	21-80
IV	81-160
V	161-360
VI	361 or more

22 VAC 40-675-30 Adherence to personnel policies, rules and procedures.

The local boards shall adhere uniformly to the policies, rules, and procedures for personnel administration established by the State Board. Instead of utilizing these policies, local agencies may utilize the local jurisdiction-wide policies, as stated in 22 VAC 40-675-40. Where there is no formal jurisdiction-wide personnel system, the local agencies must adhere to the Department's personnel policies, rules, and procedures.

22 VAC 40-675-40. Inclusion in local jurisdiction-wide personnel plans.

It is the policy of the State Board to allow local agency employees to be included in approved local jurisdiction-wide personnel plans instead of utilizing a local agency personnel plan.

A. Comprehensive jurisdiction-wide plans shall include classification; compensation; applicant recruitment, screening and selection; employee procedures; benefits; affirmative action; grievance procedures; standards of conduct; and employee performance evaluation.

B. Such plans must be thoroughly documented to the satisfaction of DHRD.

C. A jurisdiction-wide personnel plan must be approved by the State Board prior to the inclusion of local agency employees in the plan.

22 VAC 40-675-50. Process for approval of local jurisdiction-wide personnel plans.

A. The following criteria are used by the State Board to approve local jurisdiction-wide personnel plans:

1. The plan must be applicable to all employees of the jurisdiction with the exception of those specifically exempted.
2. The plan must provide standards, policies and rules to effectuate a merit system in accordance with federal Merit System Standards and state policies and procedures set forth in the Local Plan for Personnel Administration.
3. Personnel practices must be administered in accordance with these standards, policies and rules.
4. A copy of the personnel plan, including the merit system plan, the compensation and classification plans, employee relations materials, leave and attendance policies, and all other local personnel policies must be submitted to the Commissioner for review prior to State Board consideration.
5. The local jurisdiction's personnel plan must be in substantial conformity with the personnel standards established by the State Board as applicable to local departments, and recommended for approval by the Commissioner.
6. The Commissioner and appropriate jurisdictional official must establish and agree to a periodic review of the operation of the personnel plan to assure that the plan continues to be consistent with federal and state standards.
7. The cost of administering the recruitment and selection process under the jurisdictional merit system plan must not exceed the Department's cost of providing that service.

8. Proposed changes in the original documentation of the plans must be submitted for approval to DHRM prior to implementation.

9. DHRM will periodically review the approved plans. Continued authorization of a local jurisdiction-wide personnel plan will be contingent upon compliance with the self-analysis audit document.

10. The state-developed KSAs shall be used until local KSAs are fully developed.

B. A copy of the certification document, signed by the chief executive of the local jurisdiction, must be submitted along with the other documentation. The certification document signifies agreement to maintain a system of personnel administration in conformance with federal merit system standards. Such certification is required in Section 900.604 of the Federal Regulations 5 CFR Part 900 of the Intergovernmental Personnel Act Programs, Standards for a Merit System of Personnel Administration.

22 VAC 40-675-60. Adoption of specific policies of the local jurisdiction.

A. Local boards may adopt specific local jurisdictional policies instead of using the state policies. The following local policy options may be requested on the Local Policy Request form:

1. performance evaluation

2. standards of conduct

3. leave policies

4. holiday schedule

5. inclement weather
6. probationary period, or
7. layoff.

B. Local policy options also exist for classification and compensation, affirmative action, and the grievance procedure. Requests for deviation from state policies shall be submitted consistent with the requirements of this section.

C. When the local board wants to exercise one of the allowable options, it must submit the Local Policy Request Form to the DHRM's Employee Relations Manager 90 calendar days before the anticipated effective date. If DHRM disapproves a request to adopt a local policy, an attachment with the basis for the disapproval shall accompany the form.

22 VAC 40-675-70. Preparation and explanation of the review process.

A. The local director shall submit an updated copy of the Human Resource Policy Record no later than October 31 of each odd-numbered year. The local director shall:

1. Indicate the city or county.
2. Check each item to indicate whether the local department follows the policy contained in the Administrative Manual or the local policy of the jurisdiction.
3. date and sign the form.
4. Prepare the form in triplicate and reproduce locally using the format in the Administrative Manual.

B. The local department shall retain one copy and send the other two copies to the Employee Relations Manager in DHRM.

1. DHRM will review the policy record to ensure that each local policy has been properly approved at a previous time on the Local Policy Request Form.

2. The policy record will be signed and returned to the local department as official notification of the human resource policies currently in effect.

C. When policy changes occur between normal reporting periods, they must be reported to DHRM. If the change is to request adoption of a local policy instead of a state policy, then the Local Policy Request Form will suffice as notice. However, if a state policy is adopted instead of a previously-approved local policy, a new Human Resource Policy Record must be submitted.

PART II. POSITION CLASSIFICATION AND COMPENSATION

22VAC 40-675-80. Overview of the statewide classification plan.

A. The purpose of the statewide classification plan is to identify the specific job tasks that need to be performed in order to provide social services to the citizens of the Commonwealth of Virginia. The statewide classification plan is organized for use throughout all local departments.

B. The statewide classification plan shall include class specifications that assign the classification title; determine the parameters of each classification, including the level and scope

of responsibility; and record characteristic duties of the classification. All class specifications listed in the plan represent the duties and responsibilities inherent to effective local department performance.

C. The statewide classification plan shall provide for fair and equitable treatment of employees with regard to original appointment, transfer, reemployment, promotion, and demotion.

22 VAC 40-675-90. Commissioner's responsibilities.

The Commissioner shall establish a statewide classification plan applicable to all local department positions, and approve any revisions to the plan.

A. The Commissioner shall maintain the statewide classification plan to ensure that it has the appropriate numbers and types of classifications to meet the divergent personnel needs of local departments.

B. The Commissioner shall establish new positions and reallocate existing positions based on demonstrated needs. The Commissioner may utilize a system of caseload measurement as a guide for approving and reallocating positions.

C. The Commissioner shall approve all requests of local department for exceptions to the statewide classification plan.

22 VAC 40-675-100. Development of the statewide classification plan.

A. DHRM shall develop the statewide classification plan, which includes approved

class specifications with the class code, occupational group, effective date, salary grade, and EEO code assigned to each specification.

B. DHRM shall use the position classification method to establish the statewide classification plan. DHRM shall group position descriptions that have similar kinds and levels of duties, responsibilities, and other characteristics into a class. These groupings then shall become the basis for allocating positions. Through a comparison of the position description to the class specifications, DHRM will determine the level of job function and the resulting salary.

C. DHRM shall provide written class specifications of the job classes available for local departments' classification plans. The definitions shall describe the essential nature of the work characteristics of positions of the class, and also shall contain qualification guidelines.

22 VAC 40-675-110. Maintenance of the statewide classification plan.

A. DHRM shall conduct periodic reviews or statewide classification studies as part of the maintenance of the statewide classification plan. Whenever a class revision is needed, DHRM shall submit a proposal to the State Board for approval.

B. DHRM shall revise an existing local department classification plan based upon the local department's needs, and shall ensure that all position allocations are made in conformance with prescribed standards for determining the number and level of positions required in each local department.

22 VAC 40-675-120. Deviations to the statewide classification plan.

Upon review and approval by the State Board or the Commissioner, exceptions to the statewide classification plan shall be permitted. A local department may be a part of an overall local jurisdictional classification system, provided minimum standards for comparable classifications are met.

22VAC 40-675-130. Sanctions.

If a local agency does not comply with the principles and practices of the statewide classification plan, the Department may withhold reimbursement to the local agency. After DHRM has notified the local agency of a misclassified position, DHRM shall report to the Department's Division of Finance any findings of local positions continuing to be improperly classified.

22 VAC 40-675-140. Establishment, abolishment or allocation of positions.

A. DHRM shall allocate all positions to their appropriate classes based on assigned duties and responsibilities.

1. Whenever there is a need to establish a new position, abolish an existing position, or reallocate a position because its duties have changed substantially, the local director shall submit a Local Position Classification Request to DHRM for determination of appropriate action.

2. If DHRM staff disapprove the request, an appeal may be submitted to DHRM's Human Resource Director, who will review the request and either support or reverse the disapproval

B. Types of local position classification actions.

1. Position establishment:

When a local department finds it necessary to create a new position due to an increase in the workload or the implementation of a new program, a request for the establishment of one or more additional positions may be submitted for approval to DHRM. Each approval must be in accordance with program standards, workload measurement methods, and within funding and other administrative guidelines.

2. Position abolishment:

When the local department no longer needs an established position, it may submit a request for the abolishment of the position to DHRM.

3. Position abolishment and establishment:

When the local department's organizational requirements dictate the need for immediate changes in the duties and responsibilities of a position and there is no vacant position, the local department may submit a request to abolish a position and establish a new one in its place. After the new position is established and filled, the position vacated by the employee selected for the new position shall be abolished.

4. Position reallocation.

a. The local agency may request upward reallocation when significant changes in a position occur gradually over time that result in higher level duties and responsibilities being performed.

b. The local agency may request a downward reallocation when changes in a positions occur that result in diminished duties and responsibilities.

c. The local agency may request a lateral reallocation when changes in a position occur that result in the need for the position to be placed in another classification at the same grade level.

22 VAC 40-675-150. Organizational charts.

A. Organizational charts provide a “picture” of the local department’s structure. The Local agency should group occupational areas and designate each manager, supervisor, and worker within a particular area. Each class title and position number must be noted, and reporting relationships accurately indicated.

B. It is important for local departments to maintain up-to-date organizational charts. Every local position classification request submitted to DHRM must be accompanied by an organizational chart.

22 VAC 40-675-160. Compensation.

A. With prior approval by the Commissioner, local boards shall have flexibility in selecting rates of pay which are suitable to local situations. The range for each class shall provide a local minimum and maximum rate and intervening steps.

B. No employee may receive less than the minimum nor more than the maximum of the range applicable to the class of position held. In local agencies that deviate from the approved compensation plan, no employee may receive less than the minimum; however, an employee may receive more than the maximum.

22 VAC 40-675-170. Changes to the state compensation plan.

The State Board shall review the state compensation plan annually.

A. Amendments to the state compensation plan shall be presented to the State

Board for approval. DHRM shall advise local agencies of all changes to the compensation plan and any mandates that require revision of local salaries.

B All requested position classifications must be approved prior to implementation by local agencies.

22 VAC 4-675-180. Development of the local department's schedule and compensation plan.

A. Each local department shall develop its own schedule and compensation plan annually.

1. Development generally shall occur during the budget planning cycle to become effective July 1 of each year. However, when a revision is needed during other times of the year, the local department may submit a request for the change to DHRM for approval.

2. The request for a revision must be submitted at least 60 days before the desired effective date of change.

3. DHRM annually develops and provides to each local department instructions for completing the local compensation plan form. Changes to the basic state compensation schedule are included. DHRM will notify local departments of specific time frames for the submission of the annual local compensation plan.

B. Classification titles are linked to a salary grade on the basic state compensation schedule by use of an established ranking and comparative process called the factor method.

C. The selection of salary ranges for each local classification also shall be based on consideration of a survey of salaries paid for similar or related work; the availability of qualified applicants; sources of competition from other employers in the locality; and turnover rate. The salary ranges selected must maintain the hierarchical integrity of classes within the series and the local department.

D. The local department's schedule and compensation plan shall include a listing of all classification titles and complete salary ranges and grades. Development of the local compensation schedule shall ensure internal equity in terms of starting steps. The salary ranges shall contain sufficient length to ensure that the steps are relevant, and consider initial, intermediate, and maximum steps that maintain competitiveness.

E. Each local department's annual compensation plan shall include a procedure for awarding salary increments, conversions, merit increases, special compensation for child protective service work, and any other type of approved increases. Salary determinations shall be rendered in a fair and consistent manner to ensure equal pay for equal work.

F. Types of salary actions.

1. Appointment.

All employees must be paid at least the minimum basic state compensation rate for their classification. With DHRM approval, rate flexibility is permitted. The following two options apply uniformly to probationary, transfer, reemployment, and temporary employees:

a. Related field.

A candidate who possesses KSAs in a field related to the position to which he is being appointed may be offered a salary that is at or below the midpoint of the salary range. In no case shall the salary offer exceed 10 % of the candidate's previous salary.

b. Same field

A candidate who possesses exceptional KSAs in the same field as the position to which he is being appointed may be offered a salary that is at any step of the local salary range. Generally, the salary offer should not exceed 10% of the candidate's previous salary.

2. Completion of the probationary period.

A salary increase may be awarded upon successful completion of the probationary period. The local department establishes the length of the probationary period, which may be either six or 12 months. Probationary increases must be documented in the local compensation plan.

3. Promotion

A promotional increase may be awarded as a result of competitive attainment of a position or an upward reallocation. The local agency must pay a promoted employee at a step that provides a pay increase to at least the minimum step of the local range for the classification. The local department may use a range of 3-10% for the promotional increase. The exact percentage must be included in the local compensation plan. Each promotional increase must be

applied consistently throughout the fiscal year to ensure equitable treatment of all employees.

4. Merit increase.

A plan for awarding a merit increase must define the criteria for approving the salary increase and the interval of time between each award period. All merit increases shall be based upon a predetermined schedule as part of the local compensation plan. A merit increase shall not be automatically awarded, but shall be granted in recognition of meritorious performance. No other increase given on the same day may take the place of a merit increase.

a. Local departments may award a merit increase under one of the two following options: one merit increase date applies to all employees; or the merit increase is awarded in recognition of the anniversary date of either the date of initial employment, the date of the most recent promotion, the date of attainment of permanent status, or the date six months from the date of promotion.

b. The effective date of a merit increase may be either the first day of the month following the anniversary date, the first day of the month when the anniversary date falls on the first through the 14th day of the month, and the 15th day of the month when the anniversary date falls on the 15th through the 31st day of the month; or the 15th day of the month when the anniversary date falls on the first through the 15th day of the month, and

the first day of the next month when the anniversary date falls on the 16th through the 31st day of the month.

c. The local compensation plan must describe in full detail any other variations and agency-unique methods for setting anniversary and merit increase dates uniformly in the local department. DHRM will consider exceptions, provided reasons are submitted in a written request by the local department.

5. Cost-of-living increase.

When conditions warrant a salary increase in order to correlate the salary with cost-of-living changes, the local department must grant the increase to all its employees. If the cost-of-living option is selected, it must be clearly stated in the compensation schedule. A cost-of-living increase is separate and apart from any other salary increase.

G. Range revisions.

When warranted, a local department may adjust salary ranges upward or downward. Methods include:

1. Step-for-step increase

This method places the salary at the same step of the new range as the employee's step on the former range. For every step increase in the range minimum, there is a corresponding step increase in the employee's salary.

2. No increase

This method changes the salary range; however, the salary of the employee remains the same, except that an employee's salary may not fall below the minimum step of the new salary range. A salary below the minimum of the new salary grade must be adjusted to the new minimum step.

3. Downward revision.

This method results in a new range where the revised first step is below the first step of the former range. In no case may a salary range maximum drop below an employee's current salary.

H. Demotion salary rates.

The three types of demotion salary rates are:

1. Demotion in lieu of layoff due to a reduction in force.

When an employee is moved to a lower classification and grade within the agency due to a reduction in force because of economic reasons, his salary rate shall remain the same, if feasible. If not, the salary shall be adjusted to the closest comparable rate of pay.

2. Demotion due to redefinition.

When an employee is in a position that is redefined to a lower classification and grade, the employee's salary rate shall remain the same. If the employee's salary is above the maximum for the new classification, the salary shall be frozen until the range is revised and the salary steps allow for increases in accordance with local department policy.

3. Other types of demotion.

If an employee elects a voluntary demotion within the same agency, or if the employee's performance is not acceptable, the new salary shall not be higher than the rate of pay prior to the demotion.

I. Title change salary rate.

When an employee's title changes, his salary shall remain the same unless the employee's rate of pay is above or below the local department's approved range for the new classification. An employee must receive at least the minimum rate of the new salary range. If the employee's salary prior to the title change is above the new salary range, it must be reduced to the highest step of the local department's approved range for the new classification.

22 VAC 40-675-190. Compensation for child protective service workers.

A. The state compensation plan shall provide compensation for employees performing duties associated with child protective services after normal work hours. Such compensation shall provide for on-call duty, direct door-to-door services, and back-up duty.

B. Employees who perform child protective services must be knowledgeable about child protective services policy, and they shall have completed appropriate training.

C. Covered employees shall include those with the following classifications:

1. Administrative support classes, including directors, assistant directors, and chief social work supervisors.

2. Service program supervision classes, including social work supervisors

and senior social work supervisors.

3. Service program staff classes, including principal social workers, senior social workers, child protective services workers I and II, and generic intake workers.

D. Child protective services compensation plan.

1. Each local department must file, edit, and revise its plan for compensating child protective services workers after normal work hours. This plan shall be a part of the annual compensation plan submitted to DHRM for review and approval. The Department's reimbursements shall be limited to the applicable maximums allowed; however, the local department payment may be made from 100% local-only funds above the state maximum.

1. When an employee is compensated in the form of compensatory time or overtime compensatory time, a maximum of 240 hours may be accrued. Any compensatory leave earned under this plan must be used within a 12-month period.

3. Compensation for on-call duty.

a. At all times, twenty-four hours a day, seven days a week, each local department must assign staff to provide coverage outside of normal work hours. One staff member must be on-call. The local department's board shall determine the type of compensation to be given to an employee for on-call duty served in addition to the employee's regular work week. To ensure that the on-call employee is compensated

appropriately, each local department must include an on-call policy in the local compensation policies submitted to DHRM. The local department must select one of three options:

(1) Option 1.

An on-call employee shall receive compensation of up to a maximum of one hour of compensatory time per each eight-hour shift of on-call duty.

(2) Option 2.

An on-call employee shall receive compensation of up to a maximum of \$7.00 per each eight-hour shift of on-call duty.

(c) Option 3.

At the discretion of the local director, an on-call employee shall receive compensation of either up to a maximum of one hour of compensatory time per each eight-hour shift of on-call duty or up to a maximum of \$7.00 per each eight-hour shift of on-call duty. The amount of time and money must be designated in local compensation policies.

4. Compensation for door-to-door direct service.

a. The local board shall determine how to compensate employees who provide door-to-door direct service for the protection of children.

b. To ensure that employees are compensated appropriately, each

local department must include a door-to-door direct service policy in the local compensation plan submitted to DHRM.

(1) For employees who are exempt from the Fair Labor Standards Act, or non-exempt employees who work less than 40 hours per week, the local department must select either Option 1, 2 or 3.

(a) Option 1.

An employee providing door-to-door direct service shall receive compensation of the regular salary rate for each hour worked in the field.

(b) Option 2.

An employee providing door-to-door direct service shall receive compensation of one hour of compensatory time for each hour worked in the field.

(c) Option 3.

At the discretion of the local director, an employee who provides door-to-door direct service shall receive compensation of either the employee's regular hourly rate of pay or one hour of compensatory time for each hour worked in the field. When determining which form of compensation is appropriate, factors such as funding

constraints, staff coverage needs, and leave balances may be taken into consideration by the local director.

(2) For non-exempt employees who work over 40 hours per week, either Option 4, 5, or 6 must be selected.

(a) Option 4.

The employee shall be paid the overtime salary rate (one and one half times the employee's regular hourly rate) for each hour worked over 40 hours.

(b) Option 5.

The employee shall receive overtime compensatory time (one and one-half hours of leave time) for each hour worked over 40 hours.

(c) Option 6.

At the discretion of the local director, an employee shall receive compensation of either the overtime salary rate (one and one half times the employee's regular hourly rate) or overtime compensatory time (one and one-half hours of leave time) for each hour worked over 40 hours.

(3) In order to offer overtime compensatory time instead of overtime pay, the local department and the employee must agree on the option selected before the actual assignment is performed. If the local department decides to pay off

compensatory leave or overtime compensatory leave balances, the payment must be calculated using the employee's current regular hourly rate of pay on the date that the payoff occurs. When an employee leaves the local department, these balances must be paid off.

c. Compensation for back-up duty.

(1) Back-up duty is defined as those times when an employee receives calls only because the on-call employee is unavailable.

(2) Employees serving back-up duty are not eligible for payment while assigned such duty. However, if a back-up worker is required to perform door-to-door service as a back-up to an on-call worker, then the back-up worker shall be entitled to compensation. Payment shall be made or compensatory time granted in accordance with the same procedure for compensating an employee who provides door-to-door direct service.

d. Compensation for provision of 24-hour child protective services by the local director and supervisory staff.

(1) The local board shall determine if the local director will be one of the employees designated to provide 24-hour direct child protective services. If designated, the local director shall be entitled to the same compensation provided to other employees who provide the service.

(2) Compensation for the provision of on-call and door-to-door direct services provided by the local director and supervisory staff in the capacity of assisting social workers in the delivery of door-to-door direct services shall be in accordance with the local compensation plan.

22 VAC 40-675-200. Other local compensation issues.

A. Local-only reimbursement when the local director serves as the local board.

In localities where the governing body has elected to have a director of social services instead of a local board and has vested the duties and responsibilities of a local board in the director position, the amount which would otherwise be paid to board members for their services shall be a non-reimbursable portion of the director's annual salary.

B. Reimbursement for overtime.

Provisions shall be made by the Commissioner for overtime and compensatory time. Reimbursement shall be made for overtime worked in accordance with the Fair Labor Standards Act and the local department designation of non-exempt employees. The reimbursement shall be up to the reimbursable maximum of the applicable position classification. Local departments with approved deviating compensation plans also will be reimbursed up to the maximum of the applicable position classification. When the local deviating maximum exceeds the state reimbursable maximum, local-only funds shall be used to compensate for overtime.

C. The Commissioner shall make provisions for paying employees acting in the capacity of a higher level position (see 22 VAC 40-675-310.)

D. As specified in 22 VAC 40-675-300, reimbursements shall be made for absences that result from the closing of local departments' operations because of inclement weather conditions.

22 VAC 40-675-210. Maintenance of the local compensation schedule and plan.

Maintenance of the local compensation plan is the shared responsibility of the local board, the local director, the Department, and DHRM.

A. The local board shall be responsible for approval and adoption of the local compensation schedule and plan.

B. The local director shall be responsible for granting salary increases in accordance with the local plan.

C. The Department shall be responsible for the overall approval of the statewide compensation plan.

D. DHRM shall be responsible for approval of local compensation plans.

22 VAC 40-675-220. Sanctions.

Actions taken by the local department are subject to review and audit through payroll records to determine conformity to compensation plans and schedules. When the Department finds that non-compliance or inappropriate actions have occurred, sanctions may be imposed or reimbursement of funds withheld until such time as deemed necessary for the proper administration of the local compensation plan.

22 VAC 40-675-230. Deviation from the basic state classification or compensation plan.

A. As specified in 22 VAC 40-675-60, the Board may approve local department classification and compensation plans that apply to all governmental employees within a particular jurisdiction.

B. Such Board-approved plans, known as “deviations,” may include classification and compensation, or compensation only.

C. The Commissioner may allow an exception to the classification policy, which provides that all local social services positions fall under the statewide classification plan.

1. An exception will be approved only when the local department’s plan is part of a comprehensive classification plan applicable to all employees in the local jurisdiction.

2. The local jurisdiction-wide plan must be approved by the Commissioner as being in substantial conformity with the policies and procedures of the statewide classification plan.

3. The local departments will be required to use the validation procedures set forth under the policy section for certification of applicants to establish the KSAs for each classification that differs from the state class equivalent.

B. Process for requesting approval to deviate from the basic plan.

1. While the State Board encourages localities to use the basic state classification and compensation plans, exceptions may be approved. When it is beneficial to a jurisdiction for a local department to deviate from those plans, a

written request for deviation may be submitted. As part of this process, the following conditions must exist:

a. The basic state classification or basic compensation plan does not meet the needs of the local department. The unmet needs must be identified.

b. Other circumstances make use of the basic state classification or compensation plan impractical. Reasons for the impracticality must be provided.

2. When submitting a deviation request, the local jurisdiction must provide the following documentation, depending upon the type of request:

a. Initial classification and compensation deviation request or classification-only deviation request.

(1) A written request must be submitted to DHRM 60 days before the proposed effective date of deviation. A plan for implementing the change must be provided.

(2) The plan must explain how employees' class specifications and salaries will be used to convert positions and employees from the current plan to the proposed new one.

(3) All applicable class specifications must be provided. If any class specifications contain requirements beyond the specifications comparable to the basic state classification plan, then the title, class

concept, distinguishing features, and duties or responsibilities must be included.

(4) A list of all locality classifications and their salary grades and ranges must be submitted to DHRM.

(5) All present and proposed salary ranges, a plan for implementing the new salary ranges, and an estimate of the cost of making the changes must be submitted to DHRM. The new schedule must be submitted at least 45 days before the implementation date. All salary minimums must be as high as those in the basic state compensation plan. Any other rules pertaining to how salaries are to be set and revised should be included.

(6) Applicable portions of Parts A and B of the Self-Analysis Audit Questionnaire must be completed and submitted.

(7) Any study documents or reports indicating how conclusions were reached must be submitted. Also, a statement as to how the locality designates equivalent job classes must be provided.

(8) Other items to be submitted included promotion and demotion policies and the plan for compensating employees whose class specification falls in the child protective services series.

b. Initial compensation-only deviation request.

(1) Local departments must submit a written request to DHRM 60 days before the proposed effective date of deviation. A plan for implementing the change must be provided. The plan must explain how employees' class specifications and salaries will be used to convert positions and employees from the current plan to the proposed new one.

(2) All present and proposed salary ranges, a plan for implementing the new salary ranges, and an estimate of the cost of making the changes must be submitted to DHRM. The new schedule must be submitted at least 45 days before the implementation date. All salary minimums must be as high as those in the basic state compensation plan.

(3) Applicable portions of Part B of the Self-Analysis Audit Questionnaire must be completed and submitted.

(4) Other items to be submitted included promotion and demotion policies and the plan for compensating employees whose class specification falls in the child protective services series.

c. Subsequent classification and compensation deviation request and jurisdiction-wide deviation request.

(1) A written request must be submitted to DHRM 60 before the proposed effective date of deviation. A plan for implementing the change must be provided. The plan must explain how

employees' class specifications and salaries will be used to convert positions and employees from the current plan to the proposed new one.

(2) All applicable class specifications must be provided. If any class specifications contain requirements beyond the specifications comparable to the basic state classification plan, then the title, class concept, distinguishing features, and duties and responsibilities must be included.

(3) A list of all locality classifications and their salary grades and ranges must be included.

(4) All present and proposed salary ranges, a plan for implementing the revised salary ranges, and an estimate of the cost of making the changes also must be submitted to DHRM. The revised schedule must be submitted at least 45 days before the implementation date. All salary minimums must be as high as those in the basic state compensation plan.

(5) Any study documents or reports indicating how conclusions were reached must be submitted. Also, a statement as to how the locality designates equivalent job classes must be provided.

d. Subsequent classification-only deviation request.

(1) A written request must be submitted to DHRM 60 days

before the proposed effective date of a deviation change. A plan for implementing the change must be provided. The plan must explain how employees' class specifications and salaries will be used to convert positions and employees from the current plan to the proposed new one.

2) All applicable class specifications must be provided. If any class specifications contain requirements beyond the specifications comparable to the basic state classification plan, then the title, class concept, distinguishing features, and duties and responsibilities must be included.

(2) A list of all locality classifications and their salary grades and ranges must be included.

(3) Any study documents or reports indicating how conclusions were reached also must be submitted. In addition, a statement as to how the locality designates equivalent job classes must be provided.

e. Subsequent compensation-only deviation request.

(1) A written request must be submitted 60 days before the proposed effective date of a deviation change. A plan for implementing the change must be provided. The plan must explain how employees' class specifications and salaries will be used to

convert positions and employees from the current plan to the proposed new one.

(2) All present and proposed salary ranges, a plan for implementing the revised salary ranges, and an estimate of the cost of making the changes must be submitted to DHRM. The revised schedule must be submitted at least 45 days prior to the implementation date. All salary minimums must be as high as those in the basic state compensation plan.

(3) Other items to be submitted included promotion and demotion policies and the plan for compensating employees whose class specification falls in the child protective services series.

3. Validation of KSAs.

The locality is responsible for validating the entry-level and full-performance KSAs for all deviating class specifications. Entry-level KSAs are the desired or required qualifications for entry into a position. An applicant for employment may acquire entry-level KSAs through education, experience, or training. Entry-level KSAs are used in recruitment advertisements. Full performance KSAs provide a clear indication of what is needed in order to function fully in a position.

C. Evaluation and approval of deviation requests.

1. Upon receipt of all required documentation, DHRM staff will review and evaluate the deviation request. The local department shall not implement a new

deviation or make changes to an existing deviation plan with prior DHRM approval.

a. As part of the evaluation process, DHRM will compare the proposed class specifications to existing state classifications.

b. DHRM also will determine equivalent salary ranges on which reimbursements will be based. Any decision about salary range placement shall rest with DHRM.

c. When necessary, DHRM staff will meet with the jurisdictional employee responsible for coordinating information with DHRM. Meetings also may be held with consultants, human resource officers, local directors, and independent contractors.

2. One of the primary factors considered by DHRM when deciding whether or not to approve the local department's deviation request is the local jurisdiction's ability to provide support services. There should be a designated human resource office with the capability of reviewing, revising, and maintaining adequate systems that will enable operations to function smoothly and equitably and to be responsive to the needs of the local jurisdiction.

3. If DHRM's evaluation is favorable, then DHRM shall submit a recommendation for approval to the Commissioner, who shall render a decision. For an initial request to deviate in compensation only, the Board also must approve the plan.

1. The Department reserves the right to disapprove any proposed actions that

are incongruent with the policies and procedures that protect all local employees for whom the Department has responsibility.

2. If a deviation request is approved, all salary ranges for reimbursement purposes shall be limited to the maximum of the state applicable range for the comparable classification. In no case shall a local department be allowed to compensate any employee below the minimum salary rate for any class of position. However, the locality may use local-only funds to compensate employees above the maximum range.

D. Financial responsibility.

The locality must absorb all costs associated with a compensation-related deviation. Additional state funds will not be available for these purposes. Requests for the allocation of additional funding during the budget cycle will not be approved.

PART III. RECRUITMENT, SCREENING AND SELECTION OF LOCAL AGENCY

EMPLOYEES

22VAC 40-675-240. General hiring provisions.

A. The Commissioner shall determine the application process and employment forms to be used by all applicants for original appointment, promotion, demotion, transfer, and reemployment.

B. The Board places the responsibility of the final selection process with the local director and local board. Selection decisions made by the local agency shall be objective, consistent with agency Equal Employment and Affirmative Action Plans, and directly based on the applicants' possession of job-related KSAs. Selection decisions shall be thoroughly documented. Such documentation shall be retained by the local agency for a period of 36 months. All original applications will be returned to DHRD.

C. Appointments to fill positions in local departments shall be made on the basis of merit and fitness in accordance with merit principles. Original, temporary, seasonal, and reemployment appointments shall be made from a list of eligible candidates developed according to the federal Merit System Standards.

22 VAC 40-675-250. Applicant recruitment.

A. Local agencies may conduct open, intra-agency, inter-agency, jurisdictional, and limited recruitment.

1. Open recruitment means recruitment is open to all applicants. The local department or DHRM may prepare open recruitment announcements. When underutilization of minorities and females exists in the EEO-4 category of the position to be filled, DHRM must prepare the open recruitment announcement.

2. Intra-agency recruitment means recruitment is limited to current permanent, probationary, restricted, and temporary employees of the local department where the vacancy exists. Intra-agency recruitment may be used only if underutilization of minorities and females does not exist in the EEO-4 category

of the position to be filled. The local department must prepare intra-agency recruitment announcements.

3. Inter-agency recruitment means recruitment is limited to current permanent, probationary, restricted, and temporary employees of the Department and local departments in Virginia. Inter-agency recruitment may be used only if underutilization of minorities and females does not exist in the EEO-4 category of the position to be filled. Inter-agency recruitment announcements must be prepared by DHRM.

4. Jurisdictional recruitment means recruitment is limited to current permanent or probationary employees of the city, town, or county government of which the local department is a governmental unit. Jurisdictional recruitment may be used only if underutilization of minorities and females does not exist in the EEO-4 category of the position to be filled. The local department must prepare jurisdictional recruitment announcements.

5. Limited recruitment means recruitment is limited to permanent or probationary employees of either a specific unit or a classification of the local department to prevent lay-off of an employee due to the abolishment and establishment of a position. Limited recruitment announcements must be prepared by the local department.

22 VAC 40-675-260. Preliminary screening and selection.

DHRM provides preferential processing when the local hiring authority selects the

preliminary screening option over the complete screening option. If preliminary screening is selected:

A. DHRM shall screen all applications received in response to the recruitment announcement.

B. DHRM shall send a list of the names of all applicants who meet or exceed the minimum required or desired qualifications for the position and their applications to the local hiring authority for further evaluation.

C. Using the same criteria that the DHRM evaluator used, the local hiring authority shall determine which applicants will be offered an interview.

D. As a safeguard, DHRM reserves the right to monitor the local hiring authority's evaluation of applications. If it is determined that a local hiring authority's actions are not in compliance with acceptable evaluation practices, DHRM may withdraw the preliminary screening option.

D. An interview panel or the local hiring authority or both shall conduct the interviews.

E. After concluding the interviews and selecting an individual for the position, the local hiring authority shall send written notification of application status to all applicants whose names were on the referral list.

F. The local hiring authority shall indicate the disposition by each applicant's name on the referral list, and shall return the list and all applications to DHRM.

The following guidelines are to be applied by local hiring authorities who elect to use the preliminary screening option:

A. DHRM staff will first review all applications for employment received by the closing date of the recruitment announcement period. Criteria for the review are the duties and responsibilities paragraph of the recruitment announcement, entry-level KSAs, and special or preferred qualifications information. Upon completion of the review, a referral list containing the name of all applicants whose qualifications meet or exceed the minimum requirements for the position and their applications are sent to the local hiring authority.

B. Next, the local hiring authority evaluates the applications of all applicants listed on the referral list to determine which applicants to interview for the position. To conduct this review with consistency, the evaluator should follow these steps:

1. Prepare an evaluation work sheet containing the names of all applicants and a place for the evaluation rating and notes.

2. Carefully review the duties and responsibilities paragraph, the KSAs, and special requirements or preferences, if any, listed on the recruitment announcement. Review the current position description, if additional information is desired.

3. Keeping in mind the information on the recruitment announcement, read each application and all attachments. Although it is natural for some subjectivity to occur, strive to evaluate each applicant's qualifications in an objective manner. Using the information posted on the recruitment announcement, determine which

applicants' overall qualifications most closely match the duties, responsibilities, KSAs, and special requirements or preferences. Consider the type, level, recency, duration, and relatedness to the position of all experience, education, and training. On the work sheet, circle "1" if qualifications are average, "2" if qualifications are above average, and "3" if qualifications are excellent.

4. Upon completion of the initial evaluation, determine if there is a sufficient number of applicants who received a "3" rating to form an interview group.

Whenever possible, no fewer than five or more than 20 applicants should be interviewed for a position. When two or more positions are announced together, 20 applicants should be a sufficient number from which to make hiring selections.

5. If the number of applicants assigned a "3" rating is small, then conduct a second review of the applicants who received a "2" rating. The strongest of those applicants may be merged with the applicants rated "3" to form the interview groups. Place a plus sign (+) by those applicants' "2" rating to indicate this action. If the number of applicants to be interviewed is still small, then all applicants who received a "2" or "3" rating may be interviewed. If there are few applicants who received a "2" or "3" rating, then a second review of the applicants rated "1" may be conducted to determine if any of the strongest of that group should be added to the interview group. Place a plus sign (+) by those applicants' "1" rating to indicate this action.

6. The hiring authority will be held accountable for ensuring that a fair evaluation is afforded each referred applicant.

PART IV. EMPLOYMENT STATUS AND BENEFITS

22 VAC 40-675-280. Employee status in the merit system plan.

Merit status defines the employee's permanency in the system as it relates to benefits and the use of grievance policies. The types of employee status included in the merit system plan are probationary, permanent, restricted, temporary, emergency, and exempt.

A. All new employees serve a probationary period. In addition, employees who transfer to a new local agency to fill a permanent or restricted position serve a probationary period in the new agency. Those re-employed to fill a permanent or restricted position following more than a 30 day break in service also must serve a probationary period in the employing agency.

1. Probationary employees are eligible for agency benefits such as leave, holidays and insurance. They usually may not use the grievance procedure. Likewise, standards of conduct normally are not used to deal with disciplinary problems.

2. The failure of a probationary employee to meet conduct and performance standards is grounds for immediate removal.

B. A permanent position has an indefinite duration with no expiration date. Depending upon circumstances, the permanent position may be filled by an employee whose status is probationary, permanent, temporary, or emergency.

C. A restricted position is set up for a specific time period. Due to funding or other requirements, the position shall expire on a specified date. As with a permanent position, a restricted position may be filled by an employee whose status is probationary, permanent, temporary, or emergency.

D. A temporary position is established to meet a special need of the local department. The duration of a temporary position may not exceed twelve months. Only an employee whose status is temporary or emergency may fill this type of position.

E. An emergency position is set up without regard to standard policy for the purpose of meeting special, immediate needs of the local department. An emergency position shall be filled only by an employee whose status is emergency.

F. A seasonal position, while continuous, is a kind of temporary or emergency position. A seasonal position may be filled for time periods when there is a need for extra help.

G. An exempt position is one that is not subject to the provisions of the Fair Labor Standards Act. Exempt positions may be filled by employees of all the statuses described in this section.

22VAC 40-675-290. Categories of employment.

The Board has established categories of employment and the terms and conditions of each. Employment categories include permanent employees, temporary employees, and emergency employees.

1. Permanent employees are those who fill positions listed in the local compensation plan. They have successfully passed the probationary period.

a. Tenure of employment.

Any employee covered by the Administrative Manual has no guarantee of employment for a particular term and may be terminated in accordance with policy.

b. Compensation.

Compensation must be at one of the pay steps of the salary grade to which an employee's position is assigned. Compensation is determined by the approved local compensation plan.

c. Benefits.

A permanent employee is entitled to:

(1) accumulate and use paid leave and to take unpaid leave as specified in the Administrative Manual;

(2) if full-time, participate in the local department's benefits plans; and

(3) receive benefits accorded by the Virginia Workers' Compensation Act.

d. Grievance procedure.

Permanent employees are entitled to use the employee grievance procedure as outlined in the Administrative Manual.

e. Human resource management policies

The human resource management policies promulgated by the Board apply.

1. Temporary employees are those who fit the description in 22 VAC 40-675-280.

a. Tenure of employment

A temporary employee has no guarantee of employment or a particular term, and may be terminated in accordance with policy.

b. Compensation

Compensation must be at one of the pay steps of the salary grade to which an employee's position is assigned, and is determined by the approved local compensation plan.

c. Benefits are determined by the approved local compensation plan.

d. The grievance procedure is typically not available to a temporary employee.

e. The human resource management policies promulgated by the State Board apply.

3. Emergency employees are those who meet the description in 22 VAC 40-675-280.

a. Tenure of employment.

(1) An emergency employee has no guarantee of employment for a particular term, serves at the pleasure of the appointing authority, and may be terminated at any time.

(2) A wage employee is limited to working 180 days per 365-day time frame from the first day of employment. Once an employee has reached the 180-day maximum, he or she may not be permitted to work again in the local department until the 365-day period has expired.

(b) Any exceptions to the 180-day limit must be approved by the Human Resource Director Senior.

(c) Rehiring an emergency employee during the same 365-day period in which he already worked the maximum 180 days is expressly prohibited unless an exception has been granted.

(d) Once an emergency employee has completed 180 days within the 365-day period, the next 365-day period shall be calculated beginning with the employee's subsequent date of rehire.

(e) Local departments shall maintain accurate documentation of the hours worked by emergency employees.

b. Compensation.

(1) An emergency shall be paid only for the actual hours worked; therefore, a record of the hours worked must be maintained on each emergency employee.

(2) Compensation must be at one of the pay steps of the salary grade to which an employee's position is assigned.

(3) Compensation is determined by the approved local compensation plan.

(4) An emergency employee shall be considered non-exempt for the purpose of application of the Fair Labor Standards Act.

c. Benefits.

An emergency employee is not entitled to the same benefits listed for a classified or temporary worker, except that an emergency employee:

(1) is covered by the WCA;

(2) shall be allowed family and medical leave without pay for family and medical reasons;

(3) shall be allowed military leave without pay for service in reserve components. When an emergency employee enters active military service, reemployment will be granted under the terms provided for in the Veterans' Reemployment Rights Act.

d. The grievance procedure typically is not available to an emergency employee.

e. Human resource management policies.

The human resource management policies promulgated by the State Board apply.

f. Application for full- or part-time employment.

An emergency employee may apply for full- or part-time positions. If hired into a classified or temporary position, the employee shall not receive service credit for any period of emergency employment.

22 VAC 40-675-300. Reimbursement to local departments for benefits paid to employees.

A. The State Board provides reimbursement for the following benefits: retirement; group life, accidental death and dismemberment insurance; health insurance; unemployment compensation; worker's compensation and OASDI contributions as defined in the applicable rules for this policy.

B. The State Board also reimburses local agencies for time not worked due to authorized sick, vacation, and holiday leave, as well as the closing of local departments' operations because of inclement weather conditions.

C. Reimbursement for the local jurisdiction's attendance and leave policies, as well as any other policies that affect the employee's salary, shall be limited to the amounts covered by applicable federal and state policies.

22 VAC 40-675-310. Status changes.

Employees can be moved to different positions through promotion, demotion, lateral

transfer or title change or the position they occupy can be redefined to another classification.

The objective of the State Board is to have all employee changes of status documented through system transactions. This section applies to full-time and part-time classified (permanent), restricted, and temporary employees.

A. Promotion.

1. Status change.

An employee may move from a position in one salary grade into a higher salary grade only after being selected for the higher position through the competitive process.

2. Compensation.

Upon promotion, the employee will receive salary increases to the minimum of the new salary grade or according to the approved local compensation plan for the locality.

B. Demotion.

1. Status change.

Demotion is the reassignment of an employee to a new position in a lower salary grade than the grade of the current or former position.

2. Compensation.

An employee may not receive an increase upon demotion and the salary will be determined according to the approved local compensation plan for the locality.

B. Lateral transfer.

1. Status change.

This status change occurs when an employee is placed in a position in the same salary grade as his or her former position. Lateral transfers do not apply to employees transferring into the local agency from other local departments.

2. Compensation.

The employee's compensation may not change as the result of a lateral transfer.

C. In-charge assignments.

1. Status change.

An in-charge assignment is used for brief absences of individuals occupying upper management level positions. The employee in-charge still maintains responsibility for his current job.

2. Compensation.

An employee who is designated as in-charge shall receive a ten-step increase above the current rate of pay.

E. Temporary acting assignment.

1. Status change.

a. A temporary acting assignment is used for an extended period of absence or for the beginning of a new program. The employee must be deemed qualified to perform the duties of the temporary acting position by DHRM.

b. During a temporary acting assignment, the employee stops current job duties to function full- or part-time in the other position and classification for a specified period of time.

c. At the conclusion of the temporary acting assignment, the employee shall be returned to the rate of pay that would have been earned, had the assignment not been taken.

2. Compensation.

An employee assigned to an acting position may receive acting pay in accordance with the approved local compensation plan.

F. Redefinition.

1. Status change.

The change in the classification assignment of a position as a result of a gradual change in the duties of the position is termed a redefinition. The employee in a redefined position shall not be required to compete with other applicants for the new classification.

2. Compensation.

The employee's salary will be determined according to the approved local compensation plan.

G. Title Change.

1. Status change

A title change is the change of an employee from one position classification to another classification having the same salary grade on the state

compensation schedule. The employee shall compete with other applicants for the new position, or may be changed as the result of a disciplinary action or application of the layoff policy.

2. Compensation.

The employee's current rate of pay will remain the same unless:

- a. the rate is below the local minimum, in which case it must be increased to the new minimum and no higher; or
- b. the rate is above the locally approved range, in which case it will be reduced to the highest step of the appropriate local range.

22 VAC 40-675-320. Termination or separation from local service.

A. It is the objective of the State Board to identify the types of separation from local service and their related procedures, and to advise terminating employees of benefits to which they may be entitled. This section applies to classified and temporary positions, including both full-time and part-time employees.

B. The local board or other appointing authority subject to the Merit System Plan shall ensure that employees are separated in accordance with established procedures. Employees who have acquired permanent status shall not be separated except for cause, curtailment of work or lack of funding for the position. Kinds of separation include resignation, retirement, dismissal, reduction in force, and death.

1. Resignation.

a. Advance notice of voluntary resignation.

An employee who plans to resign from local service should give reasonable notice to the agency along with a written explanation for the resignation. An employee's failure to give the agency reasonable notice of resignation may be documented on the employee's termination report.

(1) Withdrawal of voluntary resignation.

An employee who wishes to withdraw a resignation must submit a written request to withdraw the resignation no later than one month after the effective date of the proposed resignation and the position must still be vacant.

(2) The local board or designee must approve the continuation of the employee in the position as though the resignation had not been filed.

b. Involuntary resignation.

A separation that is reported as a resignation but then is found to have been involuntary shall be treated as a dismissal.

2. Retirement.

a. There is no mandatory retirement age for employees.

b. Disability retirement.

Local department employees may retire on disability under the provisions of their local retirement system.

c. Early retirement.

Local department employees may elect early retirement under the provisions of their local retirement system.

d. Retirement as an alternative when an employee is unable to perform the duties and responsibilities of the position.

(1) If an employee becomes mentally or physically incapable of performing the job, and there is no reasonable accommodation, including transfer or demotion to another position that will enable the employee to perform the job, the agency may require the employee to apply for disability or early retirement.

(2) If an employee declines disability or early retirement, the agency may apply disciplinary measures to address unsatisfactory performance.

3. Dismissal.

Dismissal is an employee's involuntary termination from local service, but does not include termination as a result of layoff.

4. Reduction-in-force.

When an employee is removed from his position as a result of reduction-in-force or agency reorganization, the established layoff policy will apply.

5. Death in service.

The death of an employee shall be indicated as "deceased" on all documentation of separation from service.

C. Payment for accrued leave upon termination or separation.

Covered employees separating from local service may be entitled to receive payments for accrued annual, sick, compensatory, and overtime leave, in accordance with approved leave policies.

D. Recording the date of termination or separation.

1. Employee not on leave.

The termination report of an active employee shall state the separation date as the last day the employee worked and shall include any amounts to be paid for accrued leave.

2. Employee on leave.

The termination report of an employee on leave shall state the separation date as the last day that the employee was at work, except that, for an employee on leave due to illness or disability, the separation date shall be stated as the last day of paid leave.

22 VAC 40-675-330. Workers' Compensation.

A. All local employees receive benefits provided by the WCA if they suffer a work-related injury or disease. Covered employees who are entitled to benefits under the WCA also are eligible for supplemental benefits provided by the locality.

B. This section's provisions regarding benefits required by the WCA applies to all employees. The provisions regarding supplemental benefits apply only to full- and part time classified and temporary employees.

C. This section does not describe the benefits to which all employees are entitled

under the WCA, but is limited to describing the supplemental benefits provided to classified and temporary employees.

D. Types of injuries under the WCA:

1. Accidents

In order to be covered, an “accident” must:

a. occur at work or during a work-related function;

b. be caused by a specific work activity; and

(3) happen suddenly at a specific time. (Injuries incurred gradually or from repetitive trauma are not covered, although diseases caused by repetitive trauma are covered.)

2. Diseases

In order to be covered, a “disease” must:

a. be caused by work; and

b. not be a disease of the back, neck, or spinal column.

E. The local department must pay the following benefits under the WCA:

1. Wage replacement (temporary total or partial)

a. While temporarily unable to perform any work, an employee is entitled to 2/3 of the gross average weekly wage up to a set maximum weekly limit.

b. Seven days of disability must transpire before benefits are payable. However, if disabled for more than three weeks, the employee will receive payment for the first seven days.

c. Benefits cannot exceed five hundred weeks unless the employee is totally and permanently disabled.

c. If the injured employee cannot return to regular work and is given a light duty job at a lower wage, benefits are 2/3 of the difference between the pre-injury wage and the current pay, up to the maximum weekly limit.

2. Lifetime medical benefits.

a. Medical expenses for conditions caused by the accident or occupational disease are payable for as long as necessary, provided a claim was filed by the employee within the required time period.

b. The employee must select a doctor from a panel of three physicians provided by the employer or carrier. If a panel is not offered after notice of the accident, the employee may seek treatment from any physician. The treating physician may refer the employee to other doctors. Once treatment begins, the physician cannot be changed without approval of the employer or carrier or after a hearing by the Commission.

c. The employee must cooperate with medical treatment or the weekly benefits may be suspended.

d. Medical bills should be sent to the insurance carrier for payment.

3. Benefits for permanent partial impairment.

a. Separate benefits are payable for the permanent loss of use of a

body part, such as an arm, leg, finger, or eye. Vision and hearing loss, as well as disfigurement also may be compensated. This does not include the back, neck, or body as a whole.

b. Benefits are for a specific number of weeks, depending on the percentage of loss.

c. The employee can receive these benefits while working if maximum medical improvement has been reached.

4. Permanent and total disability.

Lifetime wage benefits may be payable if an individual loses both hands, arms, feet, legs, eyes, or any two in the same accident, or is paralyzed or disabled from a severe brain injury.

5. Other benefits.

a. A surviving spouse, children under 18, children under 23 enrolled full-time in an accredited education institution, parents in destitute circumstances or other qualifying dependents may be entitled to wage benefits.

b. Death benefits include funeral expenses not to exceed \$5000 and transportation costs of \$500.

F. An injured employee is responsible for:

1. Giving notice to the employer as soon as possible.

2. Filing a claim with the Commission within two years from:

a. the date of the accident; or

b. the date of the doctor's diagnosis of an occupational disease.

3. Selecting a doctor from a panel of three provided by the employer or carrier.

4. Seeking and accepting employment if released to light duty, and cooperating with rehabilitation counselors. An employee who is released to light duty work must prove that he is actively looking for a light duty job, even if he expects to return to the regular job. The employee must accept all suitable positions offered or risk suspension of benefits.

G. The employee must specifically request cost of living increases. Cost of living supplements are not paid on temporary partial benefits.

PART VI. EMPLOYEE PERFORMANCE

22 VAC40-675-340. Performance standards for local directors.

The performance standards for local directors specified in 22 VAC 40-675-340 are to be used as the basis for the local director's performance evaluation.

A. Strategic planning and partnerships.

1. Develops or coordinates a strategic plan for the local departments.

2. Involves major stakeholder groups in the planning process.

3. Develops short- and medium-range objectives for implementation of the plan in the local department.

B. Program execution.

1. Organizes and coordinates all operation activities.

2. Develops and implements policies and procedures.

3. Develops performance measures that relate process outputs and outcomes to progress toward departmental goals and objectives.

4. Accomplishes goals, timeliness, accuracy, depth of analysis, and quality of presentation.

C. County or city representation and public relations.

1. Attends meeting to represent city or county participation in job-related organizations.

2. Serves as a representative for the locality on committees and boards.

3. Provides informational opportunities for public awareness of social services programs.

D. Budget control.

1. Prepares the local department's annual budget to obtain funding.

2. Monitors and controls funds within the budget.

3. Forecasts the need for budgetary changes.

E. Human resources development.

1. Supervises, develops, and directs all personnel in the local department.

2. Ensures commitment to equal employment in personnel management.

F. Staff development.

1. Reviews employees' performance ratings.
2. Reviews and supports training, career development, and management development programs.

F. Department knowledge.

1. Advises other agencies, the city manager or county administrator, and boards of departmental activities.
2. Reports to boards on policies.
3. Recommends changes to ensure proper administration of the department.

G. Communication skills.

1. Expresses ideas or viewpoints with the public and other business representatives.
2. Negotiates or mediates with various constituents and parties.
3. Maintains open communication with the Department.
4. Serves as liaison between organizations and the locality.

H. Leadership.

1. Conducts business in a manner that encourages and fosters efficiency.
2. Provides direction for local programs.
3. Follows all associated state and federal policies.

22 VAC 40-675-350. Performance evaluation of local directors.

- A. The local board shall complete the performance evaluation of the local director.

A single copy of all evaluations shall be forwarded to the Department's regional director for further evaluation and signing prior to submission to the Employee Relations Manager, DHRM.

B. When it is determined that the local director's performance is unsatisfactory, the board may dismiss the local director. Instead of immediate dismissal, the board may apply the procedures established for performance that is less than satisfactory.

C. Procedures for completing the local director's service rating form:

1. Local directors receiving an original appointment serve a probationary period of twelve months. At the end of the twelfth month, the local board chairperson or board must rate the local director's performance on the form entitled "Service Rating of Director/Superintendent by Local Board and Regional Director". The local board subsequently rates the performance of local directors after two additional years and thereafter at intervals of three years on the month and day of permanent status.

2. Local directors receiving a promotion to the director level as permanent employees will have a service rating done by the local board chairperson or board 12 months from the date of promotion. Subsequent ratings are made annually for two more years and thereafter at intervals of three years on the month and day of promotion.

3. The elements of the local director's work are set forth in the service rating form and are evaluated separately. The individual elements are then translated into one of three levels of performance: exceeds expectations, meets expectations,

or does not meet expectations. The rating may be supplemented by a narrative statement that elaborates on any phases of the local director's work, substantiates the individual or overall ratings or supplies any information not previously covered.

4. The local board chairperson or board must discuss the evaluation with the local director. The evaluation must be signed by all participating parties prior to becoming part of the employee's permanent file.

22 VAC 40-675-360. Performance evaluation of other local department employees.

A. All employees who receive an original appointment serve a six or 12 month probationary period, except local directors and approved probationary period deviations. Although the employee's performance should be monitored continually, the supervisor must complete a performance evaluation at the end of the first five months of a six-month probationary period, or at the end of the first eleven months of a twelve-month probationary period.

1. If the evaluation is satisfactory, the employee shall attain permanent or restricted status. An unsatisfactory performance evaluation may result in the termination of the employee.

2. For employees with satisfactory evaluations, subsequent performance evaluations are conducted annually by the supervisor, one month prior to the anniversary of the employee's date of permanent status.

B. Employees receiving a promotion, title change or demotion must have a

performance evaluation conducted by the supervisor five months after the date of promotion, title change or demotion.

1. Thereafter, performance shall be evaluated annually one month prior to the month and day of the promotion, title change or demotion.

2. Employees promoted to director must be evaluated according to the rules for the director evaluation.

C. For probationary employees, the evaluation form must indicate whether permanent employment is recommended. For employees with permanent status, the form must state whether retention, dismissal, or other recommendations are made.

D. Procedure for administering the performance evaluation

1. Part I of the form shall list the five major goals, objectives or elements upon which the actual productivity of the employee will be evaluated. The supervisor shall use the scale provided to derive a numerical score indicating the quality and quantity of performance for each goal or element. The scores for all five elements are then added to give a total quality score and a total quantity score.

2. In Part II of the form, the employee's conduct in each area listed is evaluated, using the numerical scale provided for each question. The scores are then added to give a total score.

3. In Part III, the numerical evaluation score for the quality of work is determined by dividing the quality of work total by five. The numerical score for quantity of work is determined by dividing the quantity of work total by five. The

conduct numerical score is determined by dividing the conduct total by four. The quality, quantity and conduct numerical scores are then added together and divided by three to determine the overall evaluation numerical score.

4. The final numerical score is then compared to the scale provided on the form to determine the level of the employee's performance. Any numerical score of less than 4.0 is unsatisfactory. The maximum achievable score is 9.0.

E. Signing and dating the evaluation.

1. After determining whether the employee's performance is satisfactory, the supervisor should make appropriate recommendations and sign and date the evaluation.

2. The next level supervisor will act as reviewer and will sign and date the evaluation and make any appropriate comments. The reviewer shall not make any changes on the evaluation. Any comments should be shared with the evaluator and the employee.

3. The employee should sign and date the evaluation and make any comments desired. The employee's signature does not necessarily indicate agreement with the evaluation; however, it does indicate that the evaluation has been seen.

a. If the employee refuses to sign the evaluation, the evaluator should enter the comment "refused to sign" on the appropriate line.

b. Failure to sign does not negate the evaluation.

F. Levels of performance.

1. Less than satisfactory performance.

When an employee's performance is determined to be less than satisfactory, the employee's supervisor, the appointing authority and the local agency personnel officer (if any) shall review the performance. From this review, the appointing authority shall determine whether the unsatisfactory performance should be classified as Category One or Category Two.

a. Category One

This category includes performance difficulty resulting from an inability to adapt to job requirements. If a determination is made that the employee lacks the ability, the following steps should be taken:

(1) A plan of action should be outlined identifying any options that might reasonably exist at that time or in the near future, such as reassignment to an opening elsewhere in the local agency that would be compatible with the employee's ability. Such an opening may be an equal or lower rated position. The lateral or downward placement of such employees within a local agency will take precedence over the hiring of new employees into the agency.

(2) In some cases in this category, an employee may possess highly satisfactory skills for other occupational classes. In such instances, the employee may elect to apply for openings at a higher level, in which case the employee will be considered along with other applicants.

(3) The employee should be advised that if a solution fails to materialize during the next three months, the employee will be asked to resign. If the employee does not elect to resign, the employee will be removed. The removal should be identified as “unadapted for assigned work”.

b. Category Two.

Unsatisfactory job performance as a result of insufficient job application or self-discipline regarding job performance will constitute Category Two.

(1) Performance difficulty resulting from insufficient job application or self-discipline regarding job performance may constitute inadequate or unsatisfactory job performance as identified in the Employee Standards of Conduct Policy, discussed in 22 VAC 40-675-390, et. seq.

(2) A supervisor confronted with a Category Two performance situation should discuss the seriousness of the performance problem with the employee. The employee should be advised that unless the performance is corrected, corrective action as outlined in the Standards of Conduct will apply.

(3) There is no specified time period for the corrective action process. In some cases, no written notices will need to be issued because of the employee’s responsiveness to the situation. In other

cases, the employee may ultimately be terminated as the result of the accumulation of written notices. The time between the written notices will vary with the nature of the assigned work and the employee's particular problem. In a case where accuracy is the problem, repetition or error may be noticed very quickly, and the written notice would be issued accordingly. In other instances, where job cycles are longer or the performance problem is more difficult to measure, the time between written notices may be several months.

(4) If the performance is corrected and such correction is evident on a sustained basis, the supervisor should conduct a new performance evaluation. If the new evaluation is satisfactory, and the employee is not at the maximum pay rate, a performance increase should be processed. A performance increase may not be delayed more than 12 months following the issuance of the last written notice for corrective action purposes.

G. Other requirements in the evaluation process.

1. When an employee performance evaluation has been completed, the employee service rating date must be changed.
2. Only one evaluation form is completed and it shall become part of the permanent employee file maintained in the local agency. The evaluation must be discussed with the employee before becoming part of the permanent file.

3. The information in the evaluation form shall not be shared with persons other than those authorized access to the file, unless the employee provides written and signed permission.

4. A single copy of the evaluation shall be forwarded to the regional director for further evaluation and signing prior to submission to the Employee Relations Manager, DHRM.

22 VAC 40-675-370. Deviation in performance evaluation plan.

In local jurisdictions with a performance evaluation plan which applies uniformly to all local governmental employees, the local plan may be used, provided it is approved by the Commissioner as being in substantial conformity with Merit System Standards and requirements established in this section.

PART VII. EQUAL EMPLOYMENT OPPORTUNITY

22 VAC 40-675-380. Equal employment opportunity.

A. The State Board promotes equal employment opportunity in the recruitment and selection process by ensuring that qualification requirements are job-related and that such requirements do not limit or restrict employment opportunities because of race, color,

religion, sex, age, disability, national origin or public affiliation (except where sex or age is a bona fide occupational qualification.)

1. Local departments shall follow this policy in all actions pertaining to recruitment, selection, promotions, demotions, transfers, layoffs, terminations, compensation and benefits, training, leave, and use of facilities.

2. Recruitment and job advertisement efforts over and above those enumerated in this policy, and consistent with the Department plan (such as special recruiting efforts to attract minorities and females) shall be deemed to be supportive of the Department's and local departments' Equal Employment Opportunity/Affirmative Action Plans.

B. All local departments shall prepare their own plan, or comply with a written local jurisdiction plan, which provides an aggressive, coherent management program for equal employment opportunity for all employees and applicants for employment.

1. Such a plan must require equal employment opportunity on the basis of fitness and merit without regard to race, color, religion, sex, age, disability, national origin or political affiliation (except where sex or age is a bona fide occupational qualification.) In addition, the plan shall prohibit any form of sexual harassment.

2. The plan shall be tailored specifically to the work force and available skills in the community. The plan will include specific actions with goals, timetables, responsibilities, and resources to meet identified needs.

3. Compliance with the plan requires that all qualified applicants be afforded equal opportunity to compete for employment and promotion within local departments.

C. Avenues of recourse.

1. Employees or applicants for employment who believe that they have been discriminated against may file a complaint with:

The Virginia Department of Personnel and Training

Office of Equal Employment Services

James Monroe Building

101 North 14th Street

Richmond, Virginia 23219

All local departments are required to cooperate fully with the Office of Equal Employment Services when they are conducting official investigations of charges of discrimination. Cooperation includes providing papers, notes, documents, and any other written material, and responding to questions deemed necessary by that office to investigate the charge.

PART VIII. STANDARDS OF CONDUCT

22 VAC 40-675-390. Policy, intent, and purpose.

A. The intent of the Standards of Conduct, as adopted by the State Board, is to protect the well-being and rights of all employees, to assure safe, efficient operations, and to ensure compliance with public law.

B. The purpose of the Standards of Conduct is to:

1. establish a fair and objective process for correcting and treating unacceptable conduct;
2. distinguish between less serious and more serious actions of misconduct and provide timely corrective action accordingly; and
3. limit corrective action to employee conduct occurring only when employees are at work or when otherwise representing the local board in an official or work-related capacity, unless otherwise specifically provided for in this procedure.

C. The options of local boards in regard to standards of conduct are to adopt the standards under 22 VAC 40-675-390, et. seq; or to adopt local jurisdictional standards of conduct which apply to all local employees except those exempt under the Code of Virginia. Such local standards must be in conformity with State Board policy.

1. Local jurisdictional standards of conduct must submitted to DHRM and approved by the Commissioner before the date of implementation in the local agency.
2. Any changes in approved jurisdictional standards of conduct must be submitted to, and approved by, DHRM prior to the effective date of the proposed revision.

22 VAC 40-675-400. Content of standards.

Many of the standards in this section are the kind that guide employee behavior anywhere in business relationships. Other standards and procedures are more particularly applicable to employees of local government agencies. The following standards are not all-inclusive, but illustrate the minimum expectations for acceptable work performance and workplace behavior.

A. Attendance.

1. Employees should report to work as scheduled.
2. An employee who cannot report as scheduled
 - a. should arrange planned absences, including reporting to work late or leaving work early, in advance with supervisors; and
 - b. should report unexpected absences, including reporting to work late or having to leave early, to supervisors as promptly as possible.

B. Satisfactory work performance.

1. Employees are expected to meet established performance standards.
2. Supervisors should assist employees in understanding the expectations of these Standards of Conduct and those set forth in employees' performance plans.

C. Compliance with policies.

Employees are expected to abide by all policies promulgated by the Department and their agencies.

D. Reporting circumstances that affect satisfactory work performance.

1. Employees should report to their supervisors any conditions or circumstances that prevent satisfactory work performance.

3. Employees should advise their supervisor of unclear instructions or procedures that may affect satisfactory work performance.

E. Outside employment.

1. Employees may not engage in any other employment outside their agency service, in any private businesses, or in the conduct of professions, either:

a. during the hours for which they are employed to work; or

b. outside their work hours if such employment is deemed by employing agencies to affect employees' work performance, or to be in violation of the Virginia Conflict of Interest Act.

2. Employees must notify agencies of outside employment. Agencies may deny employees' requests to engage in outside employment.

3. No property belonging to, or under contract by, the agencies may be used for outside employment activities.

22 VAC 40-675-410. Inability to meet working conditions.

A. An employee unable to meet the working conditions of employment due to circumstances such as the following may be removed under this section. Reasons include:

1. loss of driver's license required for performance of the job,

2. incarceration for an extended period, or

3. loss of license or certification required for the position.

B. Resignation or “removal”.

If an employee is removed, such removal, if not a resignation, shall be reported as “dismissal” with a description of the circumstances written on the transmittal document.

C. Due process.

Prior to such removal, the appointing authority shall gather full documentation supporting such action and shall notify the employee, verbally or in writing, of the reasons for such a removal, giving the employee a reasonable opportunity to respond to the charges. Final notification of removal should be through memorandum or letter, not by a Written Notice Form.

22VAC 40-675-420. Unacceptable conduct.

A. The following offenses are not all-inclusive, but are examples of unacceptable behavior for which specific disciplinary actions may be warranted. Accordingly, any offense which, in the judgement of the local director, undermines the effectiveness of the agency’s activities, may be considered unacceptable and treated in a manner consistent with the provisions of this section.

B. The offenses listed in this section are organized into three groups according to severity.

1. Group I offenses include those types of behavior that are least severe in nature, but that require correction in the interest of maintaining a productive and well-managed workforce. They are:

- a. unsatisfactory attendance or excessive tardiness;
- b. abuse of agency time, including unauthorized time away from the work area, use of agency time for personal business, and abuse of sick leave;
- c. use of obscene or abusive language;
- d. inadequate or unsatisfactory work performance;
- e. disruptive behavior; and
- f. conviction of a moving traffic violation while using a state-owned or other public-use vehicle.

2. Group II offenses include acts and behavior which are more severe in nature. An accumulation of two Group II offenses normally should warrant removal. They are:

- a. failure to follow a supervisor's instructions, perform assigned work, or otherwise comply with established written policy;
- b. violating a safety rule where there is no threat of bodily harm;
- c. leaving the work site during work hours without permission;
- d. failure to report to work as scheduled without proper notice to supervisor;
- e. unauthorized use or misuse of local or state property or records;

and

f. refusal to work overtime hours, as required.

3. Group III offenses include acts and behavior of such a serious nature that a first occurrence normally should warrant removal. They are:

a. absence more than three days without proper authorization or a satisfactory reason;

b. falsifying any records, including, but not limited to, vouchers, reports, insurance claims, time records, leave records, or official agency documents;

c. willfully or negligently damaging or defacing agency records, agency property, or property of other persons (including, but not limited to employees, patients, supervisors, inmates, students and visitors);

d. theft or unauthorized removal of agency records, state property, or property of other persons (including, but not limited to, employees, patients, supervisors, inmates, students and visitors);

e. gambling on agency property or during work hours;

f. fighting or other acts of physical violence;

g. violating safety rules where there is a threat of physical harm;

h. sleeping during work hours;

i. participating in any kind of work slowdown or similar concerted interference with agency operations;

j. unauthorized possession or use of firearms, dangerous weapons, or

explosives;

k. threatening or coercing persons associated with any agency (including, but not limited to, employees, supervisors, and visitors); and

l. criminal convictions for illegal conduct occurring on or off the job that clearly are related to job performance or are of such a nature that to continue employees in their positions could constitute negligence in regard to the agency's duties to the public or to other local or state employees.

22 VAC 40-675-430. Corrective action.

A. As soon as a supervisor becomes aware of an employee's unsatisfactory behavior or performance, or commission of an offense, the supervisor or other management should take corrective action to address such behavior. Corrective action may include referral to professional assistance, counseling, disciplinary action, or a combination of these alternatives.

1. Whether a supervisor uses informal counseling or formal disciplinary action depends upon the nature of the behavior and attending circumstances.

2. Management should apply corrective actions consistently, while taking into consideration the specifics of each individual case.

B. Correction alternatives.

1. Before the need for, or in addition to, corrective action, supervisors may refer employees to professional counseling services. Referrals shall not be

considered a substitute for any disciplinary action imposed for the commission of an offense.

2. Supervisory counseling.

a. Counseling should consist of private discussion between the employee and supervisor regarding the desired course of action to improve the employee's performance or behavior, as well as the supervisor's expectations for the employee.

b. While many performance and behavior problems can be resolved through informal counseling, counseling is not a prerequisite to formal disciplinary action.

c. Counseling may be documented by letter or memorandum, but not on the Written Notice Form. Documentation regarding counseling should be retained in the supervisor's files, not in employee's personnel files, except as necessary to support subsequent formal disciplinary action.

22 VAC 40-675-440. Procedures for implementing disciplinary actions.

Disciplinary action should be used in response to the commission of offenses, and may consist of a written notice and suspension, transfer, demotion, or termination, or a combination of these alternatives.

A. Written notices.

1. Management should issue a written notice as soon as possible after the employee's commission of an offense.

2. The severity of a written notice depends upon the type of offense for which it is issued, and is measured by the period for which it is “active”: The active period for a written notice is definite and may not be extended due to an employee’s absence.

a. A written notice for a Group I offense is active for two years from its date of issuance to the employee.

b. A written notice for a Group II offense is active for three years from its date of issuance to the employee.

c. A written notice for a Group III offense is active for four years from its date of issuance to the employee.

3. Written notices that are no longer active shall not be considered in an employee’s accumulation of written notices, or in determining the appropriate disciplinary action for a new offense.

4. Written notices shall be kept in employees’ personnel files.

a. A written notice may be removed from an employee’s personnel file if the agency modifies or vacates its disciplinary action.

b. If, through the grievance procedure, it is determined that the written notice was not justified, the panel may direct its removal from the employee’s personnel file.

c. A written notice removed from an employee’s personnel file shall not be destroyed, but shall be retained in a grievance file or separate confidential file.

d. Once removed, a written notice shall not be considered in relation to any future disciplinary or other personnel action.

B. Mitigating circumstances.

1. While the disciplinary actions imposed shall not exceed those set forth for specific offenses, agencies may reduce the disciplinary action if there are mitigating circumstances such as:

a. conditions that would compel a reduction in the disciplinary action to promote the interests of fairness and objectivity; or

b. an employee's long service or otherwise satisfactory work performance.

2. Mitigating circumstances may result in an employee's demotion, transfer or suspension, or a combination of these actions, as an alternative to discharge.

3. When the local agency determines suspension to be the appropriate alternative to discharge, suspension shall not exceed 30 workdays for a Group III offense or for an accumulation of four Group I and two Group II offenses.

C. Disciplinary actions for specific offenses.

1. The normal disciplinary action for a Group I offense is the issuance of a written notice. Group I written notices are cumulative.

a. Upon the accumulation of three active written notices for Group I offenses, the employee normally should be suspended without pay for a period not to exceed five days.

b. A fourth active written notice for a Group I offense normally

should result in discharge, except that mitigating circumstances may justify the transfer or demotion of the employee. Mitigating circumstances also may justify a suspension for up to 30 workdays as an alternative to discharge.

2. The normal disciplinary action for a Group II offense is issuance of a written notice only, or a written notice and up to ten days of suspension without pay. Group II written notices are cumulative.

a. A second active Group II written notice normally should result in discharge.

b. A Group II written notice following three active Group I written notices normally should result in discharge.

c. Mitigating circumstances related to an employee's commission of a Group II offense may result in the employee's demotion or transfer. The employee also may be suspended for up to 30 workdays as an alternative to discharge.

d. If an employee is not discharged due to mitigating circumstances, the agency should notify the employee that a subsequent written notice during the active life of the written notice may result in discharge.

3. The normal disciplinary action for a Group III offense is the issuance of a written notice and discharge.

a. Mitigating circumstances related to an employee's commission of

a Group III offense may result in the employee's demotion or transfer.

The employee also may be suspended for up to 30 workdays.

b. If an employee is not discharged due to mitigating circumstances, the agency should notify the employee that any subsequent written notice during the active life of the written notice may result in discharge.

D. Procedures related to disciplinary suspension, demotion, transfer, or termination.

1. Prior to any disciplinary suspension, demotion, or transfer, or disciplinary removal action, an employee must be given oral or written notification of the offense, an explanation of the agency's evidence in support of the charge, and a reasonable opportunity to respond.

2. Management may immediately remove an employee, with pay, from the work area without providing advance notification when the employee's continued presence:

a. may be harmful to the employee, other employees, clients, or patients;

b. makes it impossible for the agency to conduct business; or

c. may constitute negligence in regard to the agency's duties to the public or other employees.

3. As soon as possible after an employee's removal from the work area, management must provide the employee with notification of the intended disciplinary action and evidence of the offense for which the disciplinary action is

being contemplated. Management must also provide the employee with a reasonable opportunity to respond before taking any disciplinary action.

4. Management shall report an employee's removal from the work place as "Pre-disciplinary Action Leave." Pre-disciplinary action leave is leave with pay, without charge to an employee's leave balances, for a period normally limited to five workdays.

5. A written notice documenting the cause and nature of the disciplinary action, and stating the employee's right to grieve the disciplinary action, shall be provided to any employee who subsequently is disciplined. A copy of the written notice shall be placed in the employee's personnel file.

E. Procedures related to suspension pending investigations or court actions.

1. A suspension may be imposed pending:

a. an investigation of an employee's conduct by his agency; or

b. an investigation involving the employee's conduct by the State Police or other federal, state, or local law enforcement agencies, or a court action.

2. Written notice of suspension pending an investigation or other action should be by memorandum, not by the written notice form.

3. At an employee's request, and at the agency's option, accrued annual leave may be charged to the period of suspension pending an investigation or court action to reduce or eliminate loss of earnings.

4. If, following the conclusion of the investigation, the agency determines

that the disciplinary action was not appropriate, accrued leave applied to the period of shall be reinstated.

5. If during, or upon the conclusion of, the period of an employee's suspension pending an investigation or court action, the agency determines that a disciplinary suspension is warranted, the disciplinary suspension shall begin immediately, and the period of suspension that the employee has served pending the investigation or court action shall count towards the period of disciplinary suspension.

6. Suspended employees normally shall not be allowed on the agency's premises, nor shall they be allowed to work, except to fulfill previously scheduled court obligations or to file and process a grievance.

F. Provisions specific to suspension pending agency investigation.

1. Length of suspension.

a. The period of suspension pending the agency's investigation shall be limited to ten workdays. If the agency does not make a decision regarding disciplinary action within ten workdays, the employee shall be permitted to return to work pending completion of the investigation.

The ten day limit on the period of suspension pending the agency investigation shall not apply if the court action or investigation by law enforcement agencies involves alleged criminal misconduct that occurred either on or off the job; or the misconduct under investigation is of such a

nature that to retain the employee in his position could constitute negligence in regard to the agency's duties to the public.

2. If the agency investigation clears the employee of any misconduct, the agency shall reinstate the employee with back pay for the period of suspension.

3. Upon the conclusion of an investigation by law enforcement agencies or of the court action, the agency has the discretion to:

a. impose disciplinary action, including discharge; or

b. not impose discipline, in which case the employee must be reinstated with full back pay.

H. Disciplinary suspensions of exempt employees

1. When it is necessary to impose a suspension for an exempt employee for reasons other than an infraction of a safety rule of major significance, the suspension shall not be less than a full work week of 40 hours. Suspensions of more than a work week will be in multiples of full work weeks. An employee may not be permitted to serve such a suspension period in less than whole work week segments.

2. Suspension of an exempt employee for an infraction of a safety rule of major significance may be applied for less than a full work week. Safety rules of major significance, such as prohibiting smoking in explosive areas, are defined as provisions intended to prevent serious danger to the workplace or to other employees.

3. Pay and benefits during suspension

The following provisions regarding compensation and benefits apply to suspension, whether initiated pending an investigation or court action, or imposed for disciplinary reasons.

a. Compensation

All suspensions are without pay, except that employees suspended pending an investigation or court action may be allowed to use accrued annual leave to receive pay. The agency should update records immediately upon suspending employees, and upon subsequent demotions, transfers, discharges, or reinstatements.

b. Incentive increases.

An employee's eligibility for incentive increases may be affected by the time on suspension.

c. Annual and sick leave accrual.

An employee on suspension shall not accrue annual or sick leave, except that:

(1) if a suspension extends into a second pay period, accrual of annual and sick leave shall resume in the second pay period, unless the period of suspension exceeds 15 calendar days; and

(2) if a suspension extends into a third pay period, accrual of annual and sick leave shall resume in the third pay period, unless the period of suspension exceeds 31 calendar days.

d. Health insurance

(1) A suspended employee's health insurance coverage continues until the end of the month in which the suspension began, except that there shall be no break in coverage if the employee is reinstated in time to work half of the workdays in the following month.

(2) If the length of the period of suspension results in a break in health insurance coverage, the suspended employee may retain group insurance coverage for 12 months by paying the monthly insurance premiums (both the employee's and the state's contribution) in advance.

(3) Upon reinstatement

(a) If an agency reinstates a suspended employee with back pay for any period of the suspension, the agency shall refund to the employee the state's portion of any health insurance premiums the employee paid to continue coverage during the suspension.

(b). If an agency reinstates a suspended employee without back pay, there shall be no reimbursement for any portion of health insurance premiums paid to continue coverage.

e. Life insurance coverage may continue for up to 24 months, with the agency making the full contribution.

22 VAC 40-675-450. Employee grievance procedure.

A. Employees may challenge disciplinary actions through the employee grievance procedure.

B. Authority of a grievance panel or hearing officer.

1. A grievance panel or hearing officer may uphold, modify, or reverse disciplinary action taken by an agency, so long as the panel's decision is consistent with written policy.

2. If a grievance panel or hearing officer orders an employee's reinstatement for suspension, discharge or demotion, the panel or hearing officer may order full, partial or no back pay and/or credit for annual and sick leave that the employee did not accrue during the period of discharge or suspension.

3. If a grievance panel or hearing officer reduces an employee's disciplinary record such that termination no longer could take place (i.e., the employee has only three Group I Written Notices or one Group II Written Notice), the panel must reinstate the employee with full back pay (minus an appropriate disciplinary suspension, if it wishes).

4. A grievance panel or hearing officer's award of back pay shall be offset by any interim earnings that the employee received during the period of separation, including unemployment compensation received from the Virginia Employment Commission

5. If a grievance panel or hearing officer orders reinstatement with back pay for any period of the separation, the employee shall receive reimbursement for any health insurance premiums paid during the period that would have been paid by the agency if the employee had not been separated.

6. If a grievance panel or hearing officer orders reinstatement without back pay, the employee shall not receive reimbursement for any portion of the health insurance premiums paid during the separation.

PART IX. OTHER EMPLOYEE RELATIONS POLICIES

22 VAC 40-675-460. Political activity.

A. No local department employee shall make use of his official authority or influence to:

1. interfere with or affect the result of a nomination or election of office;
2. directly or indirectly 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
3. be a candidate for public elective office in a partisan primary, general or special election.

B. The Department's provisions on political activity are consistent with the Federal Hatch Act and facilitate effective control of prohibited political activity by employees.

C. Coverage.

1. In general, the law covers officers or employees of a state or local agency if their principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency.

2. An employee subject to political activity laws and regulations continues to be covered by these laws and regulations while on annual leave, sick leave, leave without pay, administrative leave, or furlough.

D. Local boards shall adopt these provisions or, instead, adopt the provisions of the local governmental jurisdiction consistent with the Hatch Act.

22 VAC40-675-470. Outside employment of local department employees.

A. Employees in local departments shall not engage in any other employment, any private business, or in the conduct of a profession during the hours of their employment.

B. Employees seeking approval for employment outside their work hours in local departments must ensure that such employment will not affect their usefulness as an employee during normal working hours.

C. If an employee desires to seek or be engaged in additional outside employment or

in part-time employment in another local or state agency, the employee must first obtain approval from the local director.

1. The local director is responsible for determining if additional employment is likely to affect the employee's usefulness to the local agency in his regular job and if a potential conflict of interest may exist in the second job.

2. If the employee receives approval to accept the additional employment and job performance begins to deteriorate, the local director may ask the employee to give up the additional employment.

D. Unauthorized outside employment.

1. If an employee accepts employment outside the agency without receiving prior approval, the employee will be subject to disciplinary action under the Standards of Conduct.

2. If the employee is injured or becomes ill as a result of unauthorized additional employment, the employee cannot charge the resulting absence from employment with the local agency to accumulated sick leave.