

WEST VIRGINIA CODE: §5F-2-8

§5F-2-8. Special merit-based personnel system for Department of Transportation employees.

(a) In order to attract and retain employees in the Department of Transportation, the Secretary of Transportation shall establish a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state employment. All appointments and promotions to positions shall be made solely on the basis of merit and fitness for the position.

(b) The Department of Transportation personnel system shall be founded on effective performance management principles that set clear goals, provide efficient and effective services for our citizens, and appraise and reward employees for being responsible and performing as required.

(c) Beginning on January 1, 2022, notwithstanding any provision of this code or any rule to the contrary, employees and positions within the various agencies, boards, commissions, and divisions within the Department of Transportation currently governed by the provisions of §29-6-1 *et seq.* of this code shall be subject to the personnel system created pursuant to this section: *Provided*, That such employees and positions shall be deemed to retain their classified or classified-exempt status and all rights and privileges thereof. The employees of the Department of Transportation shall be afforded due process protections through §6C-2-1 *et seq.* of this code or other procedures established by the department that assure all of the protections required by law.

(d) The Department of Transportation personnel system is not exempt from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the employment process.

(e) The Department of Transportation personnel system may not be applied in any manner that would disqualify the department or its agencies, boards, commissions, or divisions for eligibility for any federal funding or assistance.

(f) The Division of Personnel shall, upon request of the Secretary of Transportation, take any action necessary to assist the Department of Transportation in completing the transition to the department's personnel system in an orderly and efficient manner.

(g) The Secretary of Transportation may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code and may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code to implement the provisions of this section.

(h) Notwithstanding any provision of this code to the contrary, the Department of Transportation personnel system shall require that any probationary employee of the Department of Transportation who is terminated for failing a drug or alcohol screen or refusing a drug or alcohol screen shall not be entitled to severance pay.