



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

ROGER W. TOMPKINS
ATTORNEY GENERAL

(304) 348-2021

CONSUMER HOTLINE
(800) 368-8808

April 18, 1990

Perry Dotson
Acting Director of Personnel
Building 6, Room B-456
State Capitol Complex
Charleston, West Virginia 25305

Dear Mr. Dotson:

You have requested an opinion concerning the rights of county health department employees who are included in the West Virginia classified service in relation to state employees in that same classified service. Specifically, you have asked the following questions:

- 1) Must county health departments comply with rules and regulations promulgated by the Division (Personnel Board), or may they adopt their own policies?
- 2) Are county health departments required to adjust employees' salaries in accordance with the January 1, 1990 adjustment?

West Virginia Code § 29-6-17(a) (1989 Supp.) provides, in part: "Subject to the approval of the board [State Personnel Board created by W. Va. Code § 29-6-6 of this article], the director [head of the Division of Personnel] may enter into an agreement with the state-department of health for the inclusion of personnel of local health departments under the classified service system established by this article." This provision was included in the original civil service statute and served as the basis for the inclusion of the local boards of health in the classified service by agreement between the Civil Service Commission and the Department of Health in the late 1960's. Since that time, county employees of local boards of health have been included in the classified service.

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Your question centers upon the third paragraph of W. Va. Code § 16-2A-4 (1985) which states:

Any such county or municipal board of health may, with the consent and approval of the county court or municipal governing body creating and maintaining such local board of health, establish and adopt a merit system for any or all employees of the county or municipal health department. Such merit system may be similar to the state merit system and may be established by the local board by its order, subject to the approval of the county court or municipal governing body, adopting and making applicable to the local health department all, or such portion, of any order, rule, standard, or compensation rate in effect in the state merit systems as may be desired by the local board of health and as it may consider properly applicable to the local health department.

According to your letter, it is the contention of at least one county health department that county health departments are not obligated to comply with the rules and regulations promulgated by the Division of Personnel and that they may adopt their own policy for a merit system. Therefore, they contend that county health departments are not required to adjust their employees' salaries in accordance with the January 1, 1990, 5% increase mandated by the 1989 Legislature. They base their position upon W. Va. Code § 16-2A-4 (1985) which states in part: "[S]uch county . . . board of health may . . . establish and adopt a merit system for any or all employees of the county . . . health department." The Code further states, in part, that the county boards of health may adopt all or such portion of the compensation rate in effect with the State Merit System as may be desired by the local board. The argument made by the county boards of health is that this statute is discretionary and that they may adopt all of the compensation system of the state merit system or any portion thereof.

It is our opinion that the section of § 16-2A-4 which provides for discretion in selecting portions of the State Merit System is only applicable when county health departments establish their own local merit system and that it does not apply when they affiliate with the state merit system. The Division of Health has, as have the county boards of health, adopted the West Virginia Civil Service Merit System for its employees. At its meeting of December 18, 1948, the Merit System Council approved the proposal of the Department of Health to adopt guidelines governing

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affiliation of local public health units with the State department.
(See Attachment A.)

As a condition of eligibility for many federal funds, state and local agencies that receive federal grants must establish merit personnel systems for personnel engaged in the administration of the grant program. In order for local county boards of health to maintain their receipt of grants from the federal government, they must have a merit system as a condition of the grants. Without such merit systems in existence, it is likely that the federal government would cease the grants program to the West Virginia Division of Health, thus cutting off funds to the local county boards of health. Affiliation of local public health units with the State Division of Health has extended the State Merit System coverage to the local employees.

The question then becomes whether or not the local county boards of health may adopt their own individual merit systems. The answer is yes. However, the local county boards of health, through the Division of Health, have adopted the West Virginia Civil Service merit system, which has been determined by the federal government to be in compliance with all prerequisite requirements prior to the granting of aid to the Division of Health.

Since the Division of Health and, thus, the local county boards of health, have adopted the Civil Service Merit System, they must comply with all rules, regulations, orders, etc. of the Division of Personnel (Personnel Board) established in accordance with W. Va. Code § 29-6-10 (1989 Supp.). West Virginia Code § 29-6-10 authorizes the Personnel Board to promulgate, amend, or repeal rules, "[f]or a pay plan for all employees in the classified service" and "such other rules and administrative regulations . . . as may be proper and necessary."

W. Va. Code § 29-6-12 (1989 Supp.) states in part: "[A]ll officers and employees of the state shall comply with and aid in all proper ways in carrying out the provisions of this article and the rules and orders thereunder." In addition, W. Va. Code § 29-6-22 (1986) delineates penalties, including fine and imprisonment, for willful violation of this article. Thus, the county health departments are participants in the state merit system and must comply with all rules and regulations, orders, etc. of the Personnel Board under penalty of law.

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Historically, the Division of Health, formerly the Department of Health, has demonstrated that county health departments are participants in the State Merit System and that they must comply with all rules and regulations, including compensation plans. On June 18, 1985, a memorandum from Jack H. Hartley, Director, Office of Administrative Services, Department of Health, stated in part: "[T]he local health department, as a participant in the West Virginia Civil Service System, must comply with all rules and regulations of the Civil Service Commission." (See Attachment B.) Therefore, the only way local county departments of health would not be required to comply with all rules and regulations of the Division of Personnel would be if the Division of Health or local county boards revoked or repealed their acceptance of the West Virginia Civil Service Merit System in whole. The local boards of health would then be required to create their own merit systems, either by adopting portions of the State Merit System, or by creation of their own. However, this action should be taken with caution, because the local departments of health would then have to receive approval of their system from the federal government in order to determine that it has met the stringent requirements necessary to receive federal grants. (See Attachment C.) If the federal government does not approve the proposed merit systems, the local boards of health, as well as the State Division of Health, would be deprived of federal grant money which helps fund the local county programs.

In conclusion, we are of the opinion that county health departments that are members of the State Merit System must comply with all rules and regulations promulgated by the State Personnel Board, and are required to adjust their employees' salaries in accordance with the January 1, 1990, 5% increase mandated by the 1989 Legislature.

Very truly yours,

ROGER W. TOMPKINS
ATTORNEY GENERAL



By: JAN L. FOX
DEPUTY ATTORNEY GENERAL

JLF/kc

Attachments

Merit System Council

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December 18, 1948

(7) Approved: Proposal of the Department of Health to adopt the following formula to govern affiliation of local public health units with the state department:

Persons who are employed by a city, county or joint city-county health department may secure Merit System status in the manner hereinafter described:

1. Employees shall be classified. That is, each employee shall be assigned a job-title of the position classification in the classification plan of the State Health Department which includes the work performed by him. In the event the work performed is not adequately described by an existing job specification, a specification shall be prepared which does describe the position.
2. Each employee shall complete an application for examination which shall be filed with the Merit System Supervisor. Examinations shall be administered at a time agreed upon by the agency and Supervisor. In the absence of specific Council action to the contrary, the nature of an examination for a particular position shall be that of the nature of the examination for the same position when last administered.
3. An employee who is certified by the agency as having given satisfactory service continuously for 6 calendar months preceding the date upon which the examination is announced may be admitted to the examination for the position held by him one year prior to that date without regard to minimum qualifications of training and experience.
4. In the event an employee's salary is at a step in the salary range for the position class in which he is classified, no change in salary shall be made. In the event the salary is between the minimum and maximum steps in the range for the position, but not at any particular step, the salary shall be adjusted to the nearest higher or nearest lowest step in the range, except that the upward or downward adjustment shall be followed for all employees in the class. In the event the salary is above the maximum prescribed for the class of position, no salary adjustment shall be made. In the event the salary is below the minimum prescribed for the class of position, adjustment shall be made to the minimum.
5. The status of employees prior to establishment of registers as a result of examinations shall be that of provisional employees.

(8) Approved: Department of Public Assistance proposal to revise the salary range for the position of Mechanical Foreman, to become effective December 1, 1948 as follows:

From: \$220 - 230 - 240 - 250 - 260 To: \$250 - 260 - 270 - 280 - 290

The council also approved the department's request that the incumbent's salary be adjusted to the same step in the new range that he occupies in the present one.

Arch A. Moore, Jr.
Governor



David K. Hevlinger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

MEMORANDUM

DATE: June 18, 1985

TO: Local Health Department Health Officers
and Administrators of Local Health Departments

FROM: Jack Hartley, Director
Office of Administrative Services

SUBJECT: Question regarding the July 1, 1985 Salary Increase and Incremental Increases

As you are aware, the Legislature appropriated additional dollars to State Aid for the 1986 fiscal year to permit a three (3%) salary adjustment for local health department employees effective July 1, 1985. This appropriation was deemed by the legislature to be the maximum amount available for this purpose. Further, the legislature stipulated that, notwithstanding the applicability of any Civil Service classification schedule, it was not intended that the local Board of Health be required to provide any further or additional percentage increase. Consequently, a separate pay plan was developed by Civil Service for local health department employees which would permit the implementation of the legislature's intent in this regard.

Several questions have arisen concerning whether or not a local health department may give salary increases beyond the mandated three percent salary adjustment if it has the financial resources to do so. If a local health department has sufficient funds and wishes to give salary increases beyond the three percent salary adjustment, it may do so by taking further personnel actions as usual. You must keep in mind that the local health department, as a participant in the West Virginia Civil Service System, must comply with all rules and regulations of the Civil Service Commission. Specifically, the local health department must comply with the salary regulations of Section 6 of the Civil Service Rules and Regulations. If the local Board of Health wishes to give an increase beyond the three percent salary adjustment, it may do so through a merit increase or salary advancement. These are the only mechanisms available to increase an employee's salary after the mandated three percent salary adjustment by the Legislature.

Several other questions have been posed concerning whether or not the local Board of Health has the authority to provide for incremental or longevity salary increases for its employees as discussed in Chapter 5 of the West Virginia Code.

OFFICE OF ADMINISTRATIVE SERVICES

1800 WASHINGTON STREET, EAST

CHARLESTON, WEST VIRGINIA 25305

TELEPHONE (304) 348-3217

Chapter 5, Article 5 of the Code specifically states that: "For the purposes of this article: (1) "Eligible employee" means any regular full-time employee of the State or any spending unit thereof..." In discussions with the Attorney General's Office, the Auditor's Office and the Department of Finance and Administration, it has been determined that local health departments are not considered State employees nor are they considered spending units of the State.

Several local health departments, since they are not mandated to provide longevity increases by this particular statute, have asked if there are any restrictions which would not permit them to exceed the pay plan should they want to make this benefit available to their employees.

All agencies who participate in the Civil Service System, again, must comply with the rules and regulations of the Civil Service Commission. Specifically, the compensation plan and salary regulations apply in this case. The only exception to this is if legislation exists which allows otherwise. Because Chapter 5, Article 5 mandates longevity salary increases for employees of State agencies only, State agencies are the only ones exempted from the compensation plan and salary regulation in this case. Consequently, if you wish to give salary increases, you will be required to comply with the salary regulations and they must be done through merit increases or salary advances. Therefore, if you desire to give salary increases similar to the incremental increases provided for state employees, they must comply with the salary regulations and be on a step in the local health department pay plan.

Please understand that all merit increases/salary advancements must be accompanied with a letter of justification for this type of personnel transaction.

Should you have any further questions concerning these issues, please do not hesitate to contact the Personnel Office.

JHH/RJS/eaw

cc: David K. Heydinger, M.D.
Ann M. Stottlemyer, Deputy Director
Tom Sims, Acting Director
Office of Community Health Services
Ruth Pearson, Director
Division of Local Health Services

FEDERAL STATUTORY AND REGULATORY PROVISIONS
FOR PERSONNEL STANDARDS IN GRANT-AIDED PROGRAMS

Congress amended the provisions of the Social Security Act in 1939 to provide for a merit system as a condition of grants under three public assistance programs, two maternal and child health programs and the unemployment insurance program. (The Social Security Act, as passed in 1935, had prohibited any Federal requirement relating to selection, tenure or compensation of State or local personnel.) From 1946 to 1968, a number of additional laws were enacted which included specific merit system requirements. Merit system requirements also have been applied by administrative action to a number of programs.

A typical provision requiring a merit system is:

A State plan must...provide such methods of administration (including) methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan.....

The programs covered by statutes or regulations relating to a merit system of personnel administration are:

PROGRAM	STATUTE OR REGULATIONS
Comprehensive Health Planning	42 U.S.C. 246 (a) (2) (F)
Comprehensive Public Health Service	42 U.S.C. 246 (d) (2) (F)
Hospital Survey & Construction	42 U.S.C. 291d (a) (8)
Old Age/Medical Assistance for the Aged	42 U.S.C. 302 (a) (5) (A)
Aid to Families with Dependent Children	42 U.S.C. 602 (a) (5) (A)
Maternal & Child Health & Crippled Childrens Services	42 U.S.C. 705 (a) (3) (A)
Aid to the Blind	42 U.S.C. 1202 (a) (5) (A)
Aid to Permanently and Totally Disabled	4 U.S.C. 1352 (a) (5) (A)
Aid to the Aged/Aid to Blind/Aid to Disabled/Medical Assistance to Aged	42 U.S.C. 1382 (a) (5) (A)
Medical Assistance	42 U.S.C. 1396a(a) (4) (A)
Mental Retardation Facilities Construction	42 U.S.C. 2674 (a) (6)
Community Mental Health Center Construction	42 U.S.C. 2684 (a) (6)
Older Americans	42 U.S.C. 3023 (a) (5)
Child Welfare Services	45 C.F.R. 220.49 (c)
*Disability Insurance Determination	SSA Disability Insurance State Manual, Part IV, Sec. 425.1
*Health Insurance for the Aged	SSA State Operations Manual, Part IV, Sec. 4510 (a)

Appendix D
Federal Statutory and Regulatory Provisions
For Personnel Standards in Grant-Aided Programs
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PROGRAMS	STATUTE OR REGULATIONS
Work Experience and Training	Handbook of Public Assistance Administration, Supp.B, B-3120
*Vocational Rehabilitation Admin.	29 U.S.C. 35 (a) (6)
*Vocational Evaluation and Work Adjustment	29 U.S.C. 42-1 (c) (5)
Food Stamp	7 U.S.C. 2019 (e) (2)
Unemployment Compensation	42 U.S.C. 503 (a) (1)
Employment Service	29 U.S.C. 49d (b)
Work Incentive Program	WIN Program Handbook, Sec. 3-300 and Sec. 8, (Exhibit, 1, V-F)
Civil Defense Financial Assistance	50 U.S.C. App. 2286 (a) (4)

*Federal requirements for personnel standards, which may be met by coverage under a State merit system.

APPENDIX D

(2)

STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION

These standards are promulgated by the Department of Health, Education, and Welfare, Labor, and Defense to implement statutory and regulatory provisions requiring the establishment and maintenance of personnel standards on a merit basis in the administration of various grant-in-aid programs. They are applicable to the grant-in-aid programs listed in Appendix D (1).

The development of proper and efficient administration of the grant-in-aid program is a mutual concern of the Federal, State, and local agencies cooperating in the programs. Proper and efficient administration requires clear definition of functions, employment of the most competent available personnel, and development of staff morale and individual efficiency. The cooperative efforts of merit system and program agency personnel offices in providing comprehensive personnel programs are essential. Such programs provide for analyzing and classifying jobs; establishing adequate and equitable salary, fringe benefit, and retirement plans; projecting manpower needs and planning to meet them; developing effective recruitments, selection, placement, training, employee evaluation, and promotion programs; assuring equal opportunity and providing affirmative action programs to achieve that end; protecting employees from discrimination, arbitrary removal, and political pressures; conducting positive employee-management relations and communications; and providing research to improve personnel methods. Personnel programs must be planned and administered in a timely, expeditious manner to meet effectively program and merit system objectives.

An integral part of the grant-in-aid programs is the maintenance by the State and local governments of a merit system of personnel administration for the grant-aided agencies. The Federal agencies are interested in the development and continued improvement of State and local merit systems but exercise no authority over the selection, tenure of office, or compensation of any individual employed in conformity with the provisions of such systems.

Laws, rules, regulations, and policy statements of effectuate a merit system in accordance with these standards are a necessary part of the approved State plans required as a condition of Federal grants. Such laws, rules, regulations, policy statements, and amendments thereto, will be reviewed for substantial conformity to these standards. The administration of the merit system will likewise be subject to review for compliance in operation.

Continuing application of these standards will give reasonable assurance of a proper basis for personnel administration, promote a career service, and result in increased operating efficiency and program effectiveness. Within these standards means are provided for the effectuation of national policies for structuring jobs and the training and employment of the disadvantaged.

In order to assist State and local jurisdictions in maintaining their merit systems under these standards, technical consultative service will be made available.

JURISDICTION

These standards are applicable to all personnel, both State and local, except those exempted in this section, engaged in the administration of grant-in-aid programs under Federal laws and regulations requiring the establishment and maintenance of personnel standards on a merit basis. The standards apply to personnel engaged in the administration of the Federally aided programs, irrespective of the source of funds for their individual salaries. The following positions may be exempted from application of these standards: Members of policy, advisory, review, and appeals boards or similar bodies who do not perform administrative duties as individuals; officials serving ex officio and performing incidental administrative duties; the executive head and a deputy or deputies to the executive head of each State agency as warranted by the size and complexity of the organization, scope of programs, and nature of the positions; one confidential assistant or secretary to any of the foregoing exempted officials; attorneys serving as legal counsel; the executive head of an independent local public health or civil defense agency; part-time professional health and related personnel; time-limited positions established for the purpose of conducting a special study or investigation; and unskilled labor.

MERIT SYSTEM ORGANIZATION

Any one of a variety of types of merit system organizations covering substantially all employees in a State or local government would meet the requirements of this section if it adequately provides for impartial administration and the system and its administration are in substantial conformity with these standards. The system will be administered by a qualified merit system executive who may be responsible to the chief executive, a top level official, or a board or commission.

In the absence of such a system, a State may establish a cooperative interagency merit system for the grant-aided agencies covered by the standards. In the interest of economy, efficiency, and effectiveness, a single cooperative merit system will be established for all of these grant-aided agencies. The cooperative merit system will be administered by a qualified executive and adequate staff appointed on the basis of merit and serving in accordance with the provisions of the merit system. An impartial citizens' merit system council will be established to assure that in accordance with merit principles public employment is based on the public interest, including management effectiveness and sound employee relations. The members of this council or board will be appointed by the chief executive or by the administrative agencies, as determined by the State, and will serve overlapping terms. No member will be employed in any other capacity in any of the agencies covered by the merit system. A local government may elect, at the option of the State, to cover grant-aided programs under a merit system serving other grant-aided agencies covered by the standards, such as system serving State agencies, another city or county, or a group of local jurisdictions.

EQUAL EMPLOYMENT OPPORTUNITY

Equal employment opportunity will be assured in the State system and affirmative action provided in its administration. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline or any other aspects of personnel administration because of political

or religious opinions or affiliations or because of race, national origin, or other nonmerit factors will be prohibited. Discrimination on the basis of age, sex or physical disability will be prohibited except when specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration. The regulations will include provisions for appeals in cases of alleged discrimination to an impartial body whose determination shall be binding upon a finding of discrimination.

EMPLOYEE - MANAGEMENT RELATIONS

The rights of public employees to organize and join or refrain from joining an organization for purposes of representation and the matters on which they may negotiate or on which management agrees to meet and confer should be delineated, along with other employee rights and obligations and management rights and obligations. Means should be established for resolution of impasses. The maintenance of a system of personnel administration based on merit principles must be assured.

POLITICAL ACTIVITY

Every employee will have the right freely to express his views as a citizen and to cast his vote. Coercion for political purposes of any by employees of Federally aided programs and use of their positions for political purposes will be prohibited. Participation in partisan political activity by any employee subject to these standards will be prohibited with respect to activity prohibited in Federally grant-aided programs under the Federal Hatch Political Activities Act, as amended, 5 U.S.C. 1501-1508. (Individuals whose principal employment is in a Federally grant-aided program are subject to the prohibitions in the Hatch Act, administered by the U.S. Civil Service Commission, regardless of whether their employment is covered by these standards.)

CLASSIFICATION

A position classification plan based upon analysis of the duties and responsibilities of each position will be established and maintained on a current basis. The classification plan will include an appropriate title for each class of position, a description of the duties and responsibilities of positions in the class, and minimum requirements of training, experience, skills, knowledges, abilities, and other qualifications necessary for entry into the class.

A plan of compensation for all classes of positions will be established and maintained on a current basis. The plan will include salary rates adjusted to the responsibility and difficulty of the work and will take into account the prevailing compensation for comparable positions in the recruiting areas and in other agencies of the government and other relevant factors. It will provide for salary advancement for full-time permanent employees based upon quality and length of service and for other salary adjustments.

Compensation in a local agency will be governed by a compensation plan which, at the option of the State, is established by: a local government and covers other local agencies; the State and covers local grant-aided agencies or the State and covers the agency responsible for State administration of Federal grants.

RECRUITMENT

An active recruiting program will be conducted, based upon a plan to meet current and projected manpower needs. The recruiting efforts of the merit system and program agencies will be coordinated and carried out in a timely manner. Recruitment will be tailored to the various classes of positions to be filled and will be directed to all appropriate sources of applicants in order to attract an adequate number of candidates for consideration and to permit successful competition with other employees. Recruiting publicity will be carried out through all appropriate media for a sufficient period to assure open opportunity for the public to apply and be considered for public employment on the basis of abilities and potential. Such publicity will indicate that the agency is an equal opportunity employer.

SELECTION

Selection for entrance to the career service will be through open competition. The selection process will maximize reliability, objectivity, and validity through a practical and normally multipart assessment of applicant attributes necessary for successful job performance and career development. Applicants will meet the minimum requirements of the job class. The parts of the total examination will consist, in various combinations as appropriate to the class and to available manpower resources, of such devices as work-sample and performance tests, practical written tests, individual and group oral examinations, ratings of training and experience, physical examinations, and background and reference inquiries. In determining ranking of candidates, the examination parts will be appropriately weighted.

To facilitate employment of disadvantaged persons in aide or similar positions competitive appointments may be made to such positions under a systematic recruitment and selection plan, provided that the appointees are given training and experience designed to qualify them for entry to the career service.

APPOINTMENT

Appointments to positions not herein exempted will be made on the basis of merit by selection from among the highest available eligibles on appropriate registers established in accordance with the above provisions on recruitment and selection. Permanent appointment will be based upon satisfactory performance of employee during a fixed probationary period.

In the absence of an appropriate register, individuals appointed to temporary or other non-status positions or given provisional appointments to permanent positions pending establishment of a register will be certified by the merit system executives as meeting at least the minimum qualifications established for the class of position. Such appointments will be time-limited. Provisional appointments will not be continued beyond the established time limit unless compelling extenuating circumstances exist and are a matter of record. Provisional appointments will be terminated within a specified reasonable period following establishment of an appropriate list of eligibles.

Emergency appointments may be made for a specified limited period to provide for maintenance of essential services in an emergency situation where normal employment procedures are impracticable.

CAREER ADVANCEMENT

Employees performance and potential should be evaluated systematically in order to improve individual effectiveness, to assess training needs and plan training opportunities, and to provide a basis for decisions on placements, promotions, separations, salary advancements and other personnel actions.

When in the best interest of the service it is determined to fill a position by promotion, consideration will be given to the eligible permanent employees in the agency or in the career service and the selection will be based upon demonstrated capacity, and quality and length of service. Promotions will require certification of eligibility by the merit system executive.

LAYOFFS AND SEPARATIONS

Employees who have acquired permanent status will not be subject to separation or suspension except for cause or reasons as curtailment of work or lack of funds. Retention of employees in classes affected by reduction in force will be based upon systematic consideration of type of appointment, length of service, and relative efficiency. In the event of separation permanent employee will have the right to appeal to an impartial body through an established procedure.

COOPERATION BETWEEN MERIT SYSTEMS

To facilitate public service mobility and maximum utilization of manpower provision should be made for: cooperative interjurisdictional recruiting, examining, certifying, training and other personnel functions; adding to registers of eligibles applicants with eligibility on comparable examinations in other jurisdictions appointing employees on the basis of their permanent merit system status in another jurisdiction, with maximum protection of their retirement and other benefits.

EXTENSION OF MERIT SYSTEM

As determined by the State, upon the initial extension of the merit system to a program, an incumbent may obtain permanent status through an open competitive examination, or if he has a specified period of service in the agency, at its discretion he may attain permanent status if he passes a non-competitive qualifying examination. If he does not pass, such an employee may be retained in the position in which he has incumbency preference without acquiring the rights of merit system status.

An employee with permanent status under a merit system meeting these standards will retain comparable status if the employing agency is placed under the jurisdiction of another merit system.

PERSONNEL RECORDS AND REPORTS

Such personnel records as are necessary for the proper administration of a merit system and related agency personnel programs will be maintained. Periodic reports will be prepared as necessary to indicated compliance with applicable State and local requirements and these standards.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
DEPARTMENT OF LABOR
DEPARTMENT OF DEFENSE

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