



West Virginia Department of Transportation Policy: **Agency Dress Codes**

Issued by the Secretary of Transportation

Policy No: DOT 3.20

Issue Date: 06/07/2019

Revised: 11/02/2021

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1.0 PURPOSE

The purpose of this policy is to communicate basic principles regarding written standards of dress and to establish appropriate guidelines agency heads should consider when regulating the dress standards of its employees. This policy requires the approval of the Division of Human Resources prior to the establishment of a dress policy by any department, division, or agency under the jurisdiction of the Department of Transportation.

2.0 SCOPE

This policy applies to all Department of Transportation employees and agencies, excluding the Parkways Authority.

3.0 DEFINITIONS

- 3.1 **Agency:** Any authority, bureau, commission, or Division similar cabinet subpart of the Department of Transportation
- 3.2 **Agency Head:** Chief executive officer of any agency
- 3.3 **Employee:** A person who lawfully occupies a position in a DOT agency and who is paid a wage of salary and who has not severed the employee-employer relationship

4.0 POLICY

- 4.1 Generally, dress standards should address issues regarding clothing, grooming, personal hygiene, safety, public image, productivity and be job-related. Written standards established by any agency head should be clear, unambiguous, consistently enforced, non-discriminatory and must be reasonably related to a legitimate business need such as interference with job performance, the disruption of the workplace, or workplace safety.
- 4.2 The rationale for establishing standards of dress should not be based on an arbitrary desire to control the dress of employees; nor should it be intended to impede an individual's right to self-expression through mode of dress. Rather, it should be based on the legitimate business necessity and obligation of maintaining a professional and safe working environment. In general, the government may regulate the appearance of its employees provided that the regulation is rationally related to a governmental purpose and is not arbitrary.
 - A. Personal grooming practices are oftentimes defended by employees on racial, cultural, or religious reasons, so it is essential for any standards to be attuned to current morality, attitudes and legal precedent and thus are to be considered on particular facts and circumstances, which may change.

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- B. In the absence of a formal policy which mandates specific requirements, it shall be within the discretion of the agency head to determine the standards to be applied.
 - C. Business attire in a central location may be more restrictive than in a rural area; however, caution should be exercised that no discriminatory practice is established in this regard, and differences or variances allowed or based on this premise must be defended based on business necessity and nature of the worksite.
 - D. Several religions prohibit shaving, and a number of African-Americans suffer from pseudo folliculitis barbae (a skin condition that makes shaving painful). However, employees who may be required to wear protective masks to keep out poisonous fumes may be prohibited from growing a beard because of the obvious threat a beard would pose to an employee's health and safety.
 - E. Restrictions on hairstyles or length of hair should be considered and implemented when related to workplace safety, if applicable.
 - F. The wearing of clothing that contains a message and/or advocates illegal drugs, alcohol, tobacco, sexual or illegal activities is prohibited within this policy.
 - G. Uniformed personnel could have different regulations or guidelines according to agency policies.
 - H. Generally, interference with an employee's dress or grooming for no reason other than to effect conformity to one individual's personal preference is to be avoided.
- 4.3 What constitutes acceptable dress and grooming will be dependent on many factors: safety, nature of the business, or requirements of a position. Additionally, what constitutes acceptable dress and grooming for an employer may be different from those of an employee.
- A. Thus, a degree of flexibility and tolerance should be reflected and written into any policy on required dress or grooming standards and the requirements would be expected to meet an implied test of reasonableness.
 - B. When creating and implementing dress code policies, consideration and attention should be given to the following:
 - 1. Employees involved in construction work or hazardous positions are required to observe safety standards (e.g., hard hats v. baseball caps, work boots v. sneakers).
 - 2. Employees involved in work requiring a high degree of sanitation are required to wear protective clothing (e.g., smocks, uniforms, rubber gloves).

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3. Employees whose position requires high visibility or identification are often required to wear uniforms (e.g., transportation workers, bridge safety inspectors).
 4. Employees who may serve as role models for an agency with a high degree of public contact are asked to wear clothing that reflects a professional image (e.g., blouses v. halters or see-through tops, shoes v. flip-flops, slacks v. jeans).
- 4.4 The impression employees make on others is often a visual one and personal appearance should reflect an appropriate concern for the employer's image; however, any written policy conveying specific restrictions should not infringe on the constitutional rights of employees when ". . . no disruptive or distracting effects occur which are detrimental to the . . . process." (*Webb v. Mason County Board of Education.*) An employer's image is reflected by the appearance or impression employees make through their daily contacts. Therefore, employees are reasonably expected to dress in a clean and neat manner.
- 4.5 Some generic dress code standards that should apply to most workplace situations, unless otherwise directed by an agency head, include:
- A. Clothing should be clean and reflect a high standard of personal hygiene.
 - B. Revealing clothing is prohibited. Examples of such garments include shorts; strapless, halter, or tank tops; muscle shirts; and see-through articles.
 - C. Clothing that states or alludes to an obscenity, politics, violence, sex, or advertise alcohol, tobacco, or illegal substances are prohibited. Defamatory and derogatory subjects are also prohibited.
 - D. Jeans may be appropriate attire for the employee's work site and job functions as determined by the agency head or designee. If jeans are determined appropriate for the work site and job function, they may be worn so long as they are clean, in good repair and comply with the other provisions of this policy.
 - E. Hair length and facial hair shall not interfere with the performance of job functions, nor the wearing of any protective gear or devices.
 - F. Any employee engaged in any type of hazardous or specialized duty will be required to wear clothing and footwear appropriate to the hazardous or specialized duty as determined by the agency head or designee.
 - G. Employees are expected to use good judgement in determining what attire is appropriate and must consider their levels of customer and public contact and the types of meetings they are scheduled to attend.
 - H. The agency head or designee reserves the right to address all situations which are not specifically outlined in the agency policy in a manner consistent with the stated purpose of the policy and delegates this authority to all management/supervisory staff.

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- I. All uniformed personnel shall appear in complete uniform as defined in the agency's policy and the *DOH 1.2 Uniform Policy*, if applicable. The uniform shall be worn only when on official duty, or when it is reasonable to expect recall to duty. All uniforms shall be clean, neat and in good repair and no alterations shall be made to an issued item. Items of the uniform having the official logo, badge, or other identifying marks shall not be worn in conjunction with civilian attire.
- 4.6 Efforts to restrict or limit other forms of personal expression, which are commonly considered along with dress and grooming (e.g., body piercing, tattooing, etc.) must also be job-related and based on concerns for productivity, safety or public image.
- 4.7 It shall be the responsibility of the immediate supervisor to inform and counsel employees regarding what constitutes appropriate dress.

5.0 RELEVANT MATERIALS/DOCUMENTS

- 5.1 Kelly v. Johnson, 425 U.S. 238, 96 S.Ct. 1440.
- 5.2 Lilly v. Dept. of Revenue, State Tax Dept., Docket No. 06-TD-153 (Aug. 31, 2006).
- 5.3 Webb v. Mason County Board of Education, Kanawha County Civil Action No. 89-AA-107, October 24, 1989.
- 5.4 M. Todd Jenkins, et al v. DHHR/Mildred Mitchell-Bateman Hospital, Docket No. 00-HHR-334 (Apr. 13, 2001).
- 5.5 Burdette v. W. Va. Public Serv. Comm., Docket No. 93-PSC-132 (Nov. 16, 1993).

6.0 CHANGE LOG

November 2, 2021 –

- Reformatted policy to DOT.
- Added change log.
- Added definitions.
- Outlined specific guidelines for dress codes.