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**WEST VIRGINIA
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KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #7

FILED
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: University System of WV Board of Trustees TITLE NUMBER: 128

CITE AUTHORITY: WV Code §18B-9-4(c)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 62

TITLE OF RULE BEING AMENDED: Personnel Administration

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Pamela G. Steelhammer

Signature

**TITLE 128
LEGISLATIVE RULE
UNIVERSITY SYSTEM OF WEST VIRGINIA
BOARD OF TRUSTEES
SERIES 62**

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

DEC 21 11 09 AM '93

FILED

TITLE: PERSONNEL ADMINISTRATION

SECTION 1. GENERAL

- 1.1 Scope - This rule establishes policy in a number of areas regarding personnel administration for the University System of West Virginia employees.
- 1.2 Authority - West Virginia Code §18B-1-6, §18B-1-8, §18B-9-4.
- 1.3 Filing Date -
- 1.4 Effective Date -

SECTION 2. DEFINITIONS

- 2.1 This subsection defines the different types of employment that institutions may use and the status under the classification program and for benefits.
 - 2.1.1 Full-Time Regular Employee (FTR). Any employee in a classified position created to last a minimum of nine months of a twelve month period and in which such employee is expected to work no less than 1,040 hours during said period. The full-time equivalent (FTE) of such a position must be reported at no less than .53 FTE. Such an employee is covered under the classification program set out by this rule and is eligible for all applicable benefits of a full-time regular classified employee, subject to the qualifying conditions of each benefit. Such benefits shall be prorated in relation to a 1.00 FTE. Length of service as a full-time regular employee with the State of West Virginia shall be credited toward initial placement on the salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.

- 2.1.2 Part-Time Regular Employee (PTR). An employee in a position created to last less than 1,040 hours during a twelve-month period. An employee in a PTR position is not eligible for benefits, but is covered under the classification program.
- 2.1.3 Temporary Employee. An employee hired into a position expected to last fewer than nine months of a twelve month period regardless of hours worked per week. A temporary employee is not eligible for benefits, but is covered by the classification program.
- 2.1.4 Casual Employee. A casual employee position is a position created to meet specific operational needs at an institution for no more than 225 hours in a 12-month period. Individuals in a casual employee position are not eligible for benefits and are not covered by the classification program.
- 2.1.5 Student Employee. An employee enrolled at the institution as a student and whose primary purpose for being at the institution is to obtain an education. A student employee is not eligible for benefits and is not covered by the classification program.
- 2.1.6 Full-Time Faculty - Employment as a faculty member for a full academic year (at least a nine-month contract basis) for at least six (6) semester credit hours teaching per semester or the equivalent in teaching, research, public service, and/or administrative responsibilities. Faculty are not considered classified employees or subject to the classification program.
- 2.1.7 Non-Classified Employee. An employee who is responsible for institutional policy formation and reports directly to the president of the institution, or other positions designated by the president. Non-classified employees are not subject to the classification program but are eligible for benefits. Non-classified shall not exceed four percent of the total number of employees at the institution who are eligible for membership in any state retirement system.
- 2.1.8 Change In Status. The president or his/her designee will review and make a final determination as to the status or change in status of any employee under this subsection. When the president or his/her designee determines that a part-time regular employee becomes a full-time regular employee, he/she shall credit that employee's previous service toward any calculation of length of service for purposes of this rule and benefit eligibility based upon a prorated

comparison against a 1.00 FTE. Previous length of service as temporary, casual, and student employees shall not be credited toward seniority calculations under other sections of this rule or statute.

- 2.2 Position. A set of duties and responsibilities performed by a specific employee at a particular institution.
- 2.3 Job. A collection of duties and responsibilities performed by one or more employees at one or more institutions whose work is substantially of the same nature and which requires the same skill and responsibility level. For jobs occupied by only one employee, the terms "position" and "job" shall be considered the same.
- 2.4 Job Title. The label that uniquely identifies and generally describes a job. The same descriptive job title shall be given to a group of jobs, regardless of institutional location, which are substantially the same in duties and responsibilities, and which require substantially the same knowledge, skills and abilities performed under similar working conditions.
- 2.5 Position description form. The document which describes the set of essential and non-essential functions of a position at a particular institution.
- 2.6 Generic Job description. A summary of the essential functions of a job, including the general nature of the work performed, a characteristic listing of duties and responsibilities, and the specifications necessary to perform the work. Generic job descriptions shall be prepared for systems-wide and institution-specific titles occupied by more than one employee. For a job occupied by only one employee, the position description becomes the job description.
- 2.7 Pay Grade. A range of compensation values for a job defined by a series of step values. Positions which occupy the same job title shall be assigned to the same pay grade. Job titles having similar factor levels, shall be classified within the same pay grade.
- 2.8 Promotion. Movement from a position requiring a certain level of skill, effort and authority to a vacant or newly created position assigned to a different job title and higher pay grade requiring a greater degree of skill, effort, and authority.
- 2.9 Interim Responsibilities. A significant change in duties and responsibilities of an employee on a temporary basis justifying an interim promotion or upgrade for salary purposes. Such a temporary reassignment shall normally

be for no less than four (4) consecutive weeks and no more than twelve (12) consecutive months and shall only occur when the responsibilities being undertaken by the employee are those of another position that is vacant because of the incumbent's illness or resignation or because of temporary sufficient change in the duties and responsibilities of a filled position. If the temporary reassignment of responsibilities meets the test for a temporary upgrade or promotion under Sections 13 and 14 of this rule, the affected employee shall have his/her base salary adjusted upwards consistent with a promotion or upgrade under this rule. At the end of the temporary reassignment, the affected employee shall have his/her salary reduced to its original level including any salary increase which the employee would have received in his/her regular position.

- 2.10 Upgrade. An advancement of the employee's current position to a higher pay grade as a result of a significant change in the position's existing duties and responsibilities. When a position is upgraded, the employee does not move to a different position in a higher pay grade. Rather, it is the employee's position that is moved to a higher pay grade because of a significant increase in the position's existing responsibilities, as determined by job evaluation. When an upgrade occurs to an employee occupying a title held by more than one individual, the position's current title shall be changed to a different title in the higher pay grade. When an upgrade occurs to an employee occupying a title exclusively assigned to that position, the current title may or may not be revised depending upon how relevantly the current title describes the position.
- 2.11 Demotion. Movement from a position requiring a certain level of skill, effort and responsibility to a vacant or newly created position assigned to a different job title and lower pay grade requiring a significantly lesser degree of skill, effort and responsibility.
- 2.12 Downgrade. A reassignment of the employee's current position to a job title assigned to a lower pay grade as a result of a significant reduction in the existing position's duties and responsibilities. When a position is downgraded, the employee does not move to a different position in a lower pay grade. Rather, it is the employee's position that is moved to a lower pay grade because of a significant decrease in the position's existing responsibilities as determined by job evaluation. When a downgrade occurs to an employee occupying a title held by more than one individual, the position's current title will be changed to a different title in the lower pay grade. When a downgrade occurs to an employee occupying a title

exclusively assigned to that position, the current title may or may not be revised depending upon how relevantly the current title describes the position.

- 2.13 Transfer. Movement from one position or job title to another position or job title requiring the same degree of skill, effort and authority. Both positions are in the same pay grade.
- 2.14 Base salary. The amount of salary paid annually to an employee, excluding any annual increment earned pursuant to W.Va. Code §18B-9-5 or §5-5-2. Total salary is base salary plus any increment earned.
- 2.15 Base salary adjustment. The amount that a base salary increases within the pay grade to reward performance, to rectify inequities, or to accommodate competitive market conditions.
- 2.16 Longevity. The total number of years employed at state institutions of higher education and other agencies of state government in West Virginia for purposes of determining placement on any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards at time of implementation of the classification program authorized by this rule.
- 2.17 Institution. The following are each considered separate institutions for the purpose of this rule only - West Virginia University, Potomac State College of West Virginia University, West Virginia University at Parkersburg, Marshall University, West Virginia Graduate College, West Virginia School of Osteopathic Medicine, Bluefield State College, Concord College, Fairmont State College, Glenville State College, Shepherd College, West Liberty State College, West Virginia Institute of Technology, West Virginia State College, Southern West Virginia Community College, West Virginia Northern Community College, the offices of each of the chancellors, the central office of the governing boards, and the West Virginia Network for Educational Telecomputing.
- 2.18 President. In addition to the sixteen (16) college and university presidents, this term shall be used in this rule to refer to the senior administrator of the central office and the director of the West Virginia network for educational telecomputing, and the chancellors for those individuals employed in the offices of the chancellors.
- 2.19 Chancellors. The chancellor of the State College System of West Virginia and the chancellor of the University System of West Virginia.

- 2.20 Salary schedule. A schedule consisting of a series of pay grades, which may be subsequently enacted by the Legislature or adopted by the governing boards.
- 2.21 Recall. An employee terminated under the provisions of §18B-7-1 and recalled to work at his/her previous institution under the same provisions. Salary for a recalled employee will be consistent with the entry rates described in Section 12 of this rule.
- 2.22 Rehire. An employee who leaves the service of an institution by resignation and later applies for and accepts a position at the same institution. Salary for a rehired employee will be consistent with the entry rates described in Section 12 of this rule.
- 2.23 FTE. Full time equivalency is the percentage of time for which a position is established, with a full-time position working 1950 hours per year being 1.00 FTE.
- 2.24 Classified Employee. An employee who is covered by the provisions of the classification program outlined in this rule.
- 2.25 Exempt. Employees not covered by the Fair Labor Standards Act (FLSA) for overtime purposes.
- 2.26 Non-Exempt. An employee who is entitled to overtime benefits as outlined in federal and state law.
- 2.27 Factor. One of the thirteen (13) items used to evaluate jobs. The items are knowledge, experience, complexity and problem solving, freedom of action, breadth of responsibility, scope and effect, intrasystems contacts, external contacts, direct supervision exercised, indirect supervision exercised, working conditions, physical coordination, and physical demands.
- 2.28 Point factor methodology: The instrument used to assign weights to the factors. The total of the weights determines the pay grade to which a job title is assigned.
- 2.29 Job Family. A series of job titles in an occupational area or group.

SECTION 3. COMPENSATION REVIEW COMMITTEE

- 3.1 The compensation review committee shall be responsible for annually reviewing the salary schedule and recommending revisions based on existing economic, budgetary, and financial conditions to the chancellors, who will make a final proposal to the governing boards. The composition of the compensation review committee shall consist of the central office human resources director, the central office finance director, the chair or chair's designee from each state-wide advisory council of classified employees, four human resource administrators from the University System (which shall be deemed to include West Virginia network for educational telecomputing), three human resource administrators from the State College System, and a president from each of the two systems. The human resource administrators and presidents shall be appointed by the appropriate chancellor and shall serve staggered terms of two years. In addition, the chancellors may appoint, to the committee, as they deem appropriate, representatives of major groups which represent classified employees.
- 3.2 Recommendations of the compensation review committee approved by the governing boards are subject to the availability of funds and shall only be implemented when new funds are specifically appropriated by the Legislature for funding of the salary schedule.

SECTION 4. COMPENSATION; PAY CALCULATIONS

- 4.1 Base salary is calculated on a thirty-seven and one-half (37 1/2) hour workweek.
- 4.2 When base salary increases are calculated and rounding is involved, the policy is to round up to the nearest even dollar amount.
- 4.3 Overtime pay for nonexempt employees is calculated at the rate of one and one-half (1 1/2) times the regular hourly rate, which is the total base salary, plus any incremental pay, divided by 1,950 hours. Overtime does not commence until forty (40) hours have actually been worked within one (1) workweek. Regular hourly pay, also known as "straight time," is paid for work time between thirty-seven and one-half (37 1/2) hours and forty (40) hours in a work week.
- 4.4 Only actual hours worked are included in calculating overtime. Pay which is received for holidays, annual leave, sick leave, or work release time, as

authorized by Series 35, is not counted as working hours for purposes of overtime.

- 4.5 Annual leave, sick leave and longevity do not accumulate in any part of a month for which an employee is off the payroll on a leave without pay or during a terminal leave period. A terminal leave period is that time between the employee's last day of work and his/her last day on the payroll.

SECTION 5. COMPENSATORY AND HOLIDAY PREMIUM TIME OFF

- 5.1 Compensatory time off shall be allowed only to the extent authorized by federal and state law.
- 5.2 When a full-time or part-time classified non-exempt employee is required to work on any designated board or institution holiday, that employee at his/her option shall receive regular pay for that holiday plus substitute time off or additional pay at the rate of one and one-half (1 1/2) times the number of hours actually worked. The time off must be used within a six-month period following the holiday.
- 5.3 When an exempt employee is required to work on any designated board or institution holiday, that employee shall be given substitute time off on an hour-for-hour worked basis.

SECTION 6. WORKWEEK

- 6.1 The workweek is a regularly recurring period of one hundred sixty-eight (168) hours in the form of seven (7) consecutive twenty-four (24) hour periods. It begins at 12:01 a.m. on Sunday and ends at 12 midnight the following Saturday. The institutional president or the president's designee may establish a workweek different from this provided that record keeping requirements are met as set forth in relevant law. A work schedule of thirty-seven and one-half (37 1/2) hours will be established within a workweek.

SECTION 7. APPOINTMENT

- 7.1 A classified employee appointment letter shall be completed for each classified employee at the time of initial employment.

SECTION 8. ACCESS TO PERSONNEL FILE

- 8.1 An employee may have access to his/her personnel file when the employing institution is normally open for business. An employee may examine his/her own file and the contents therein with the following exception:
- 8.1.1 Materials which were gathered with the employee's prior agreement to forfeit his/her right of access, such as some references.
- 8.2 A representative of the custodian of records shall be present with the employee during the review. The date, time and location of each review shall be recorded in the personnel file.
- 8.3 A copy of any material in the personnel file, except as noted above, shall be provided to an employee upon request. A small copy fee may be charged. Positive identification of the employee must be established prior to providing access to the personnel file. Documents may not be removed from a personnel file by the employee. An employee may petition at any time for either the removal or addition of documents to his/her own personnel file. The employer may require that employees schedule an appointment to see the personnel file.

SECTION 9. CHANGES IN NAME, ADDRESS, NUMBER OF DEPENDENTS AND RELATED MATTERS

- 9.1 It is the exclusive responsibility of each employee to notify all appropriate persons, agencies and parties when record changes occur, including emergency information. This must be done in writing and a copy of such notification will be placed in the employee's personnel file as a permanent record that he/she notified appropriate persons, agencies and parties.

SECTION 10 CLASSIFICATION REVIEW REQUEST

- 10.1 When significant changes occur in the principal duties and responsibilities of a classified position, it is the responsibility of the supervisor to recommend through established procedures that the position be reviewed. Requests for position reviews also may be initiated by an employee after discussion with the immediate supervisor. Within thirty (30) days from the date of request for review of a job, the department of human resources shall report to the requestor, in writing, whether the reclassification has been denied or approved. The immediate supervisor must prepare a complete and accurate position description form of the duties of the position, but the

description may be written by the employee at the supervisor's request. The responsibility for assigning tasks and duties to a position belongs to the supervisor. It is the supervisor's responsibility to document and submit the position description form for classification review when significant changes occur in the principal duties and responsibilities of a position. It is also the responsibility of a supervisor to ensure completion of required forms. The institutional president or the president's designee may also initiate action to review positions. The institutional president or the president's designee has authority on the campus to make classification determinations for institution-specific titles or the slotting of employees under existing systems-wide titles. The president may delegate authority to the human resource administrator for day to day management of the classification program. Management of the program requires adherence to written rules which ensure a uniform system of personnel classification. All classified positions shall be placed on any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.

- 10.2 A position description form shall exist for every classified position. It shall be reviewed by the supervisor and/or the president or the president's designee on a formal basis at least every three years as part of the position audit procedures established by each institution. The date of each review shall be recorded on the description.

SECTION 11. JOB EVALUATION PROCESS

- 11.1 The review of individual positions occupying systems-wide titles shall be carried out by the institution's president or president's designee provided that the action involves the reclassification or the reslotting of the employee into an existing systems-wide title.
- 11.2 The review of institution-specific job titles, as well as the reslotting of employees into an existing institution-specific title, shall be carried out by the president or the president's designee of each respective institution.
- 11.3 If an institution initiates an action to establish a job which exists exclusively at another institution the institution's president or the president's designee shall submit a request for the use of the title to the chancellors or the hancellors' designee. A review shall then be conducted, a determination made, and notification given to the institution's president or the president's designee as to whether the request is approved or denied. If a request is denied, reasons for the denial will be provided to the president or president's designee. Once two or more institutions utilize a job title, that title shall

automatically become a systems-wide title.

- 11.4 All actions taken by a president or president's designee under this section are subject to audits and reviews by the job evaluation committee.
- 11.5 On-going responsibility for overseeing and administering the job evaluation program and ensuring that it is administered equitably and uniformly across the institutions rests with the chancellors or the chancellors' designee. The evaluation of all systems-wide job titles and the review of classification decisions across the system shall be under the purview of the job evaluation committee. The composition of the job evaluation committee shall consist of nine human resource representatives and two classified staff representatives. Of the nine human resource representatives, one shall be from the central office and shall serve as chair, four shall be from the University System (which shall be deemed to include West Virginia network for educational telecomputing), and four shall be from the State College System. The nine human resource representatives shall be appointed by the appropriate chancellors to staggered terms of no more than two years. The classified staff representatives shall consist of one from each state-wide advisory council of classified employees and shall be appointed by the appropriate chair of the state-wide advisory council of classified employees to staggered terms of no more than two years. In addition, the chancellors may appoint, to the committee, as they deem appropriate, representatives of major groups which represent classified employees.
- 11.6 The job evaluation committee shall be convened by its chair at least quarterly, or more often if deemed necessary, to review classification decisions made or those being proposed by the institutions. To ensure the integrity of the program, random and/or complete reviews of classification decisions made or proposed by the institutions shall be conducted by the committee. Each institution shall be responsible, however, for submitting to the central office on a monthly basis, a computer diskette of any classification decisions actualized, along with appropriate documentation where requested by the committee. The chancellors or the chancellors' designee shall review the classification actions of each institution for appropriateness and consistency of application. Pending this review, the job evaluation committee shall be convened as needed to review those actions regarded as potentially out of conformance with the compensation and classification program. The committee shall subsequently provide a report to the appropriate governing board concerning its findings relative to each institutional review. In those cases where the committee finds an institutional classification decision to be in error, the committee shall recommend to the chancellor or chancellor's designee whether the pay grade

assignment should be changed to the appropriate level.

- 11.6.1 Salary reversals shall be made in accordance with the procedures for upgrades and downgrades specified in this rule. During the course of its reviews, should the job evaluation committee discover the systematic misapplication of the program by an institution or institutions, it shall notify the chancellors, who will take the appropriate action warranted. Whenever the chancellors or their designee find that employees have been misclassified at the institutional level, they shall order that these classifications and salaries be immediately adjusted to the proper level. Absent fraud on the behalf of the employee, any overpayment to the employee because of an erroneous classification decision by an institution shall not be collected from the employee. However, any erroneous overpayment to such an employee, once corrected, shall not be deemed as evidence in claims by other employees that the classification and compensation program is not equitable or uniform.

SECTION 12. ENTRY RATES

- 12.1 The entry rate of a classified position is the published minimum rate of pay associated with each pay grade. No covered employee shall be appointed below the established minimum of the pay grade to which the position is assigned.
- 12.2 Offers of employment at rates which exceed the entry rate are invalid unless the policy for exceptions is followed. Criteria to consider in determining whether exceptions shall be made shall include the following:
- 12.2.1 Qualifications of the candidate;
 - 12.2.2 Number of applicants for a position;
 - 12.2.3 Number of interviews;
 - 12.2.4 Number of qualified applicants identified;
 - 12.2.5 Number of offers of employment;
 - 12.2.6 Length of the recruiting campaign;
 - 12.2.7 Cost of the recruiting campaign;

- 12.2.8 Length of time the position was vacant;
 - 12.2.9 Urgency to fill the position;
 - 12.2.10 Market conditions for that job;
 - 12.2.11 The rationale underlying the difference between the entry rate and the base salary the institution wants to offer; and,
 - 12.2.12 Compression problems relative to other employees within the job title who possess similar qualifications.
- 12.3 When employment above the entry rate occurs, the institution shall provide justification based on the appropriate and applicable criteria from the above list.
- 12.4 Offers for employment above the entry rate of the respective pay range shall be determined by each institution based on the above criteria. Requests for hiring exceptions shall be submitted by the requesting supervisor to the human resources department for review and approval by the president or president's designee. The institutional president or president's designee will notify the chancellor or chancellor's designee within fifteen (15) days of making an offer of employment at a salary level above the entry rate along with the written justification.
- 12.5 Review of exceptions shall be made by the Job Evaluation Committee under the procedures set out in Section 11 of this rule. The procedures and guidelines for salary reversals contained in that section shall apply to those instances where the chancellors determine a misapplication.

SECTION 13. PROMOTION

- 13.1 Promotions result from an employee moving from his/her current position to a vacant or newly created position assigned to a different job title and higher pay grade and which requires a significantly greater degree of skill, effort and responsibility than that of the employee's current position.
- 13.2 — Upon promotion from a position in one pay grade to a different position in a higher pay grade, the employee will receive an increase of five percent (5%) per pay grade rounded to the next highest step in the new pay grade based upon the employee's base salary, or the entry rate of the new pay grade, whichever is greater. However, under adverse recruiting conditions

in which an institution experiences great difficulty in filling a position, an increase which brings the employee up to a point no greater than the maximum of the grade may be given. Promotional increases which exceed the standard formula must meet the same criteria which appears in the section on entry rates of this rule and must be approved in accordance with the process outlined in that section. The new base salary may not exceed the maximum of the new pay grade.

SECTION 14. UPGRADE

- 14.1 Upgrades result from the process of job evaluation where a determination is made that a significantly higher level of skill, effort, and responsibility exists in the employee's current position. A new pay grade value shall then be established based on the application of the job evaluation plan and the calculation of a revised total point value for the position. Upon determination of the pay grade, job descriptions shall be reviewed of other titles having the same pay grade and whose duties, responsibilities and requirements closely match the work of the position as it is now described. The position shall then be slotted into the classification whose grade is consistent with the point value calculated and whose duties and requirements most appropriately characterize the position. For unique and specialized positions where no current job title exists at the needed grade, the creation of a new title shall be established so that the position is properly classified and graded within the system. This work must be done by the human resource administrator or the human resource administrator's designee.
- 14.2 When an employee occupies a position at the time that a position upgrade is to be placed into effect, the method of calculating the employee's base salary increase is the same as that specified for a promotion. In the absence of funds to support an upgrade, work at the higher level shall not be performed.

SECTION 15. DEMOTION

- 15.1 Demotions result from an employee moving from his/her current position to a vacant or newly created position assigned to a different job title and lower pay grade, and which requires a significantly lesser degree of skill, effort and responsibility than that of the employee's current position.
- 15.2 Upon demotion, the employee's base salary is decreased five percent (5%) per pay grade rounded to the nearest step in the new pay grade.

SECTION 16. DOWNGRADE

- 16.1 Downgrades result from the process of job evaluation where a determination is made that a significantly lower level of skill, effort and responsibility exists in the employee's current position. A new pay grade shall then be established based on the application of the job evaluation plan and the calculation of a revised total point value for the position. Upon determination of the pay grade, job descriptions shall be reviewed of the other titles having the same pay grade and whose duties, responsibilities and requirements closely match the work of the position as it is now described. The position shall then be slotted into the classification whose grade is consistent with the point value calculated and whose duties and requirements most appropriately characterize the position. For unique and specialized positions where no current titles exist at the needed grade, the creation of a new title shall be established so that the position can be properly classified and graded within the system. This work must be done by the human resource administrator or the human resource administrator's designee.
- 16.2 The method of calculating the employee's new base salary after a downgrade is the same as that specified for a demotion.

SECTION 17. TRANSFER

- 17.1 No change of base salary as a function of a transfer may occur.

SECTION 18. REVIEWS AND APPEALS

- 18.1 An employee may seek a review of his/her initial classification under the new program implemented pursuant to this rule and may appeal such initial classification through the procedures of W.Va. Code §18-29 after completing such review. Such review or appeal shall be governed by the provisions of this rule and to the extent these provisions are inconsistent with W.Va. Code §18B-9-7 or W.Va. Code §18B-9-4, those code provisions are deemed null and void pursuant to the authorization contained in W.Va Code §18B-9-4 (c). If an employee does not first seek a review of his/her initial classification through the internal procedures set out herein, they shall be prohibited from grieving that classification under W.Va Code §18-29.
- 18.2 An employee may seek a review of his/her initial classification, job title or pay grade by filing a request for review form after formal notification of his/her title and pay grade under the new program, but no later than January 31, 1994. Request for review forms shall be available at each institution

and shall be in a form prescribed by the governing boards.

- 18.3 The request for review form shall be filed with the president or president's designee for this purpose, and that individual shall forward copies to the employee's immediate supervisor and appropriate dean, department head or director for comment.
- 18.4 The president or president's designee shall make a recommendation to the job evaluation committee regarding the request for review by March 31, 1994, and shall notify the employee of such recommendation.
- 18.5 Upon receipt of the institutional recommendation, the employee may file supplemental information with the job evaluation committee within ten (10) days. The job evaluation committee shall make a final determination regarding the request for review based solely upon the documentation provided above and any other material or information it may seek from the institution or employee. Such final determinations by the job evaluation committee shall be completed on or before June 30, 1994, and communicated simultaneously to all affected employees. If not made or communicated by June 30, 1994, an employee may immediately proceed through the grievance procedure of W.Va. Code §18-29 within thirty (30) work days of July 1, 1994, under the procedures set out in this rule.
- 18.6 Each institution shall make available for examination to all employees the position description forms, job descriptions, and other materials used in making the initial classifications under this program.
- 18.7 If an employee is dissatisfied with the determination of the job evaluation committee the employee may grieve his/her initial classification under this program, including the job or position description and assignment to pay grade or salary schedule, within thirty (30) work days from receipt of the notification set out in Section 18.5 of this rule, by filing a grievance pursuant to the procedures of W.Va. Code §18-29. Any employee not filing a grievance under the provisions of this rule within those thirty (30) work days, or not seeking a review timely pursuant to this rule, shall be deemed to be equitably and uniformly classified and compensated for the purposes of Article 9, Chapter 18B of the state code and shall also be deemed to have expressly waived his/her right to grieve such initial classification, absent intervening and countervailing circumstances that effect that initial classification.
- 18.8 An immediate supervisor or president of an institution does not have the authority to change the initial classification of an employee under the new

program and does not have the authority to grant any such relief requested in a grievance relating to such initial classification. The governing boards are hereby designated as the lowest level at which such relief may be granted and employees seeking to appeal their initial classification under the provisions of W.Va. Code §18B-9 shall file any such grievance at that level. When filing such a grievance with the appropriate governing board, an employee shall expressly state whether or not he/she agrees to an extension of the statutory period for a hearing before the governing board.

SECTION 19. SALARY SCHEDULE AND IMPLEMENTATION STRATEGY

- 19.1 The new compensation and classification program and accompanying pay structure will be implemented on January 1, 1994.
- 19.2 Any classified employee whose current base salary is below the equity step for his/her pay grade on January 1, 1994, will be increased to at least the equity step set out in this rule.
- 19.3 For those employees whose salaries as of January 1, 1994 are below the step in any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards that equates to their appropriate years of state service, the difference in salary shall be phased in over a three-year period if sufficient additional state funds are appropriated from the Legislature.
 - 19.3.1 Nothing in this rule shall be interpreted as prohibiting the governing boards from allocating funds in any fiscal year for across-the-board raises for all classified employees, unrelated to equity or market issues, if the Legislature specifically appropriates funds for such purpose.
- 19.4 Any classified employee who is slotted into the appropriate pay grade for his/her job title and whose base salary is at least the equity step for that pay grade, shall be deemed to be equitably and uniformly compensated in relation to other classified employees within the pay grade for the purposes of Article 9, Chapter 18B of the state code.
- 19.5 After full implementation of the classification program, pay increases may occur in one of the following ways:
 - 19.5.1 Upon recommendation of the Compensation Review Committee and approval by the governing boards, the salary schedule may be

adjusted upward by the Legislature to reflect cost of living or market increase. Any new additional state funds appropriated for classified staff salaries would be applied to any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.

- 19.5.2 ... Should additional new funds be appropriated by the Legislature, application of such new funds shall be determined by the governing boards and may result in movement of employees to the next step in any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.

STATE COLLEGE AND UNIVERSITY SYSTEMS

CLASSIFIED STAFF MINIMUM EQUITY STEP AND ENTRY RATES EFFECTIVE JANUARY 1, 1994

Pay Grade	Minimum Equity Step
1	10,092
2	10,392
3	10,716
4	11,040
5	11,376
6	11,736
7	12,396
8	13,116
9	13,884
10	14,712
11	15,612
12	16,596
13	17,640
14	18,780
15	20,004
16	21,348
17	22,800
18	24,372
19	26,088
20	27,948
21	29,964
22	32,172
23	34,584
24	37,212
25	40,080

SECTION 20. MISCELLANEOUS

20.1 Pursuant to the authorization contained in West Virginia Code §18B-9-4(c), the following provisions of Article 9, Chapter 18B of the state code are deemed inconsistent with this rule and are ruled null and void.

20.1.1 West Virginia Code §18B-9-2(c), (d), (e), (f), (h), (k), (l).

20.1.2 West Virginia Code §18B-9-5(c), (d).

20.1.3 West Virginia Code §18B-9-6.

20.1.4 West Virginia Code §18B-9-3.

20.2 Any other rule, regulation, or policy of this board or its institutions, inconsistent with the provisions of this rule is deemed superseded by the provisions of this rule.

December 20, 1993

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 128 - Series 62 - Personnel Administration

Type of Rule Legislative Interpretive Procedural

Agency: University System of West Virginia

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates

The only increases that are mandated are being funded from current resources at each institution. The approximate cost to all institutions in both systems is \$2.3 million.

3. Objectives of these rules.

To establish an equitable system of classification and compensation for the higher education systems and provide personnel administration policies.

4. Explanation of Overall Economic Impact of Proposed Rule

A. Economic Impact on State Government

Unknown at this time.

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

Unknown at this time.

C. Economic Impact on Citizens/Public at Large

Unknown at this time.

Date: December 20, 1993

Pamela G. Steelhammer

Signature of Agency Head or Authorized Representative

TITLE 128
LEGISLATIVE RULE
STATE COLLEGE SYSTEM OF WEST VIRGINIA
BOARD OF DIRECTORS
SERIES 62

TITLE: PERSONNEL ADMINISTRATION

SUMMARY. W.Va. Code § 18B-9-4 requires the higher education governing boards, by January 1, 1994, to establish by rule and implement an equitable system of job classification, together with the designation of an appropriate pay grade for each job title, for all classified employees. Pursuant to specific statutory language contained at W.Va. Code § 18B-9-4(c), the governing boards were authorized to establish by emergency rule, after approval by the Legislative Oversight Commission on Education Accountability (LOCEA), a rule to accomplish these purposes.

A proposed rule was approved by the LOCEA on December 12, 1993, contingent upon certain changes being made in the proposed rule. On December 17, 1993, both governing boards made the required changes and approved filing of the attached rule as an emergency rule effective immediately upon filing with the Secretary of State.

The rule substantially amends the present Series 62 of both governing boards and can be summarized as accomplishing the following purposes:

1. Defines the types of employment at higher education institutions and the status of such employees under the classification program and for benefits, as well as other terms used in the rule.
2. Establishes a compensation review committee and job evaluation committee to make recommendations regarding compensation and classification.
3. Establishes procedures for classification and compensation decisions, upgrades, downgrades, promotions, and demotions.
4. Establishes procedures for calculation of entry rates.
5. Establishes a review and appeal procedure for grievances regarding classification decisions.
6. Establishes a minimum equity step for every paygrade below which an employee may not be paid.
7. Nullifies various statutory procedures deemed inconsistent with the rule.

**Actions of the LOCEA
on the Classification System
Series 62
December 12, 1993**

The LOCEA took the following actions and then adopted Series 62. The rule was modified, based on their actions, and approved by the Board of Trustees and Board of Directors.

1. Move that equity be separated from pay raises in concept and definition.
2. Move that the salary schedule be removed from this rule except for the minimum equity step.
3. Move that the Boards consider adding to the Compensation Review Committee and the Job Evaluation Committee members from major organizations that represent classified employees.
4. Move that the Directors consider levels within classification for librarians or preferably faculty status.
5. Move that the Boards retain present language regarding access to personnel file and consider any changes in a different policy.
6. Move that issues incorporated from S.B. 377 and including that section of the rule regarding "pay above the maximum," "part time and temporary employees," "work schedules," and "appointment or promotion," be removed from the proposed rule and considered in a separate policy.
7. Move that timeframe for classification review request be changed from 90 days to 30 days.
8. Move to phase in equity step over three years.
9. Move to allow staff to make additional technical changes in language.
10. Move to approve the rule contingent upon the Board making the required changes.

Series 62 Changes

- Section 2** **Definitions**
- Section 2.1.2 Language clarification since the salary schedule has been removed from this rule.
- Section 2.17 Clarification recommended by LOCEA
- Section 3** **Compensation Review Committee**
- Section 3.1 Language change to add representatives from major groups who represent classified employees as recommended by LOCEA.
- Section 6** **Workweek**
- Section 6.1 Language clarification.
- Section 10** **Classification Review Request**
- Section 10.1 Change in time frame and clarification as recommended by LOCEA.
- Section 11** **Job Evaluation**
- Section 11.5 Language change to add representatives from major groups who represent classified employees as recommended by LOCEA.
- Section 13** **Pay Above The Maximum**
- Section 13.0 Removal of SB 377 provision as recommended by LOCEA.
- Section 18** **Review and Appeals**
- Section 18.2 Extension of the deadline for filing appeals by two weeks. The recommendation is made by staff.
- Section 20** **Part-Time and Temporary Employees**
- Section 20 Removal of SB 377 provision as recommended by LOCEA.

Section 21 Work Schedule

Section 21 Removal of SB 377 provision as recommended by
LOCEA.

Section 22 Appointment or Promotion

Section 22 Removal of SB 377 provision as recommended by
LOCEA.

Section 23 Market Premium

Section 23 Removal of this section as recommended by
LOCEA.

Section 24 Salary Schedule and Implementation Strategy

Section 24 Changes based on the removal of the salary
schedule.

UNIVERSITY SYSTEM OF WEST VIRGINIA BOARD OF TRUSTEES

1018 KANAWHA BOULEVARD, EAST
SUITE 1100
CHARLESTON, WEST VIRGINIA 25301 - 2827

TELEPHONE (304) 558-2736
FAX (304) 558-3264

John R. Hoblitzell
Chairman

Charles W. Manning
Chancellor

December 17, 1993

The Honorable Ken Hechler
Secretary of the State of West Virginia
Capitol Building
Charleston, West Virginia 25305

FILED
DEC 21 11 08 AM '93
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

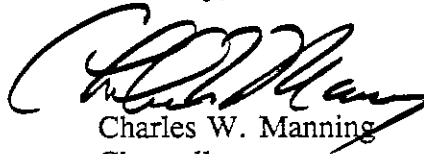
Dear Secretary Hechler,

On behalf of the University System of West Virginia Board of Trustees I am filing the following rule with modifications as an emergency rule:

Title 128, Series 62: *Personnel Administration*.

The Legislature deemed it necessary to file these rules as emergency regulations in Senate Bill 377, during the 1993 regular session. [West Virginia Code §18B-9-4(c)]

Sincerely,



Charles W. Manning
Chancellor

Enclosures:

Copy of letter from Secretary of Education and the Arts, September 15, 1993
Form #4
Form #7
Series 62: *Personnel Administration*
Fiscal Note
Summary of Rule
Modifications of Rules

Marshall University
University of West Virginia College of Graduate Studies
West Virginia School of Osteopathic Medicine
West Virginia University
Potomac State College of West Virginia University
West Virginia University at Parkersburg

DEPARTMENT OF EDUCATION AND THE ARTS

Office of the Secretary

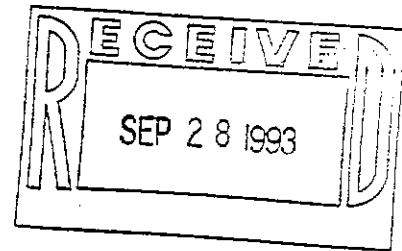
State Capitol, Bldg. 1, R-151
Charleston, West Virginia 25305
Telephone: (304) 558-2440
Fax No.: (304) 558-1311

Gaston Caperton
Governor

Barbara Harmon-Schamberger
Cabinet Secretary

September 15, 1993

The Honorable Ken Hechler
Secretary of State
State of West Virginia
State Capitol Building
Charleston, WV 25305



Dear Secretary Hechler:

As required pursuant to WV Code §5F-2-2, I hereby consent to the promulgation of proposed rules by the Board of Trustees of the University System of West Virginia as follows:

- (1) Title 128, Series 62, amending an existing rule relating to personnel administration. This rule is being filed as an emergency legislative rule.

Copies of the proposed rules are enclosed.

Sincerely,

Barbara Harmon-Schamberger
Secretary

BHS:mc

cc: Dr. Charles Manning
Dr. John Thralls



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

January 21, 1994

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: University System of WV Board of Trustees

RULE: Amendments, Series 62 Personnel Administration

DATE FILED AS AN EMERGENCY RULE: December 21, 1993

DECISION NO. 5-94

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

KEN HECHLER
Secretary of State

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

JAN 21 3 48 PM '94

FILED



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

DECISION

EMERGENCY RULE DECISION
(ERD 5-94)

AGENCY: University System of WV Board of Trustees
RULE: Amendments, Series 62, Personnel Administration
FILED AS AN EMERGENCY RULE: December 21, 1993

- par. 1 The University System of WV Board of Trustees (Trustees) has filed the above amendments to an existing rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-15a(b))].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the thirty-five day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The Trustees filed this emergency rule with supporting documents with the Secretary of State December 21, 1993 and with the LOCEA December 21, 1993.

par. 7 It is the determination of the Secretary of State that the Trustees has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §18B-9-4(c) reads:

The Legislature finds that an emergency situation exists and therefore, the governing boards are hereby authorized to establish by emergency rule, under the procedures of §29A-3a of this code, a rule to implement the provisions of this article, after approval by the legislative oversight commission on education accountability, which shall receive said proposed rule by the first day of November, 1993. Upon approval of such emergency rule by the legislative oversight commission on education accountability, and the effective date of the implementation of said rule, the salary schedule set out in section 3 of this article shall be deemed null and void and without the force and effect of law. Any other provisions of this article inconsistent with said rule shall be deemed null and void upon lawful implementation of the rule: Provided, That nothing in this subsection shall be interpreted to required that the Legislature appropriate any additional funds for such implementation.

par. 9 It is the determination of the Secretary of State that the Trustees has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency -- WV Code 29A-3-15(g) defines "emergency" as follows:

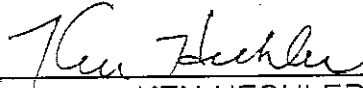
(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Trustees are as follows:

Pursuant to W. Va. Code §18B-9-4(c), the University System of WV Board of Trustees was authorized to establish by emergency rule, after approval of the LOCEA, a rule to establish and implement an equitable system of job classification. The rule must be filed by January 1, 1994.

- par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(g). . . "time limitation."
- par. 14 This decision shall be cited as Emergency Rule Decision 5-94 or ERD 5-94 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the University System of WV Board of Trustees, the Attorney General and the Legislative Oversight Commission on Education Accountability.



KEN HECHLER
Secretary of State

Entered _____

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

JUN 21 3 49 PM '94

FILED