

SUMMARY

TITLE 128 LEGISLATIVE RULE UNIVERSITY SYSTEM OF WEST VIRGINIA BOARD OF TRUSTEES SERIES 62: PERSONNEL ADMINISTRATION

This rule establishes policy in a number of areas regarding personnel administration for the University System of West Virginia employees. The rule covers definitions, part-time and summer employment, compensation review committee, compensation and pay calculations, compensatory/overtime provisions and holiday premium time off, work schedules, workweek, notification of employment and change in employment status, access to personnel file, changes in name address, and related matters, internal appointment or promotion, inter institutional employment, probationary period, posting, classification review request, job evaluation committee, hire above entry rates, interim upgrade, critical retention, promotion, upgrade, demotion, downgrade, reviews and appeals, salary schedule and implementation strategy, and disciplinary process. The proposed amendments update the equitable system of classification and compensation procedures which were implemented in January 1994.

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

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 - ~~March 28, 1994~~
- 1.4 Effective Date - ~~March 28, 1994~~

SECTION 2. DEFINITIONS

- 2.1 This subsection defines the different types of employment, with accompanying that institutions may use and the status under the classification program and for eligibility for benefits.
- ~~2.1.4~~ 2.1.1 Casual Employee. A casual employee position is a position created to meet specific operational needs at an institution for no more than ~~225~~ 500 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. A casual employee must be paid at least minimum wage in accordance with federal and state wage/hour laws.
- ~~2.24~~ 2.1.2 Classified Employee. ~~An employee who is covered by the provisions of the classification program outlined in this rule. Any full-time regular or part-time regular employee of a governing board who holds a position that is assigned a particular job title and pay grade in accordance with the personnel classification system established by the appropriate governing board.~~
- ~~2.1.1~~ 2.1.2.1 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

2.1.2.2

Part-Time Regular Employee (PTR). An employee in a classified position created to last less than 1,040 hours during a twelve-month period, where such position is anticipated to be funded year after year.

An employee in a PTR position is not eligible for benefits, but is covered under the classification program. In case of an administrative error in which an employee works 1,040 hours or more during a twelve-month period, a change in status does not automatically occur to full-time regular status and the employee's employment shall cease immediately. An employee shall be notified if an official administrative change of her/his position from part-time regular to full-time regular status occurs. Change of status may only occur through formal, written action of the institution and not through administrative error that permits the employee to work more than 1,040 hours during a twelve-month period.

2-1.6

2.1.3

Full-Time Faculty for benefit purposes only. Employment as a faculty member for a full academic year (minimum 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 nor subject to the classification program. A classified employee teaching outside her/his regular duties shall be given an adjunct faculty appointment. Definition of Faculty: Ranks and Definitions can be found in Series 36, Section 3.

2-1.7

2.1.4

Non-Classified Employee. An employee, designated by the president, who is responsible for institutional policy formation at the department or institutional level ~~and or 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 employees shall not exceed four ten percent of the total number of employees at the institution who are eligible for membership in any state retirement system and shall serve at the will and pleasure of the president.

2-1.5

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. A student employee must be paid at least minimum

wage in accordance with federal and state wage/hour laws. A student employee is not permitted to file a grievance under West Virginia Code, Chapter 18, Article 29.

2.1.6 Vendor Services Worker. A worker, not an employee, utilized by agreement between an institution and a vendor for services. A vendor services worker is not eligible for any benefits offered by the governing boards as defined by this rule or covered by the classification program.

- ~~2.14~~ 2.2 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.~~
- 2.3 Benefits. A comprehensive package, which may include health insurance, life insurance, disability insurance, retirement, annual leave, sick leave, holidays, and all other standard benefits offered by the governing boards. All plans, programs, benefits, services, and other provisions are subject to review and change.
- ~~2.19~~ 2.4 Chancellor(s). The chancellor(s) of the state higher education State College System of West Virginia and the chancellor of the University System of West Virginia. governing board(s).
- ~~2.18~~ 2.5 Change In Status. The president or her/his 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 her/his 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.
- 2.6 Critical Retention Increase. A discretionary salary increase given a classified employee determined by the president or president's designee to be critical due to market conditions or other factors related to the institution's mission. For a classified employee, such increase shall not exceed the upper limit of the salary schedule for the employee's pay grade.
- ~~2.11~~ 2.7 Demotion. Movement from a position requiring a certain level of skill, effort ~~and or~~ 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 or~~ responsibility. A demotion is the direct opposite of a promotion.
- ~~2.12~~ 2.8 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 level of duties and responsibilities, misclassification, or resulting in a reduction of the paygrade via a decision

made by Job Evaluation Committee in accordance with the job evaluation process defined in this rule. A downgrade does not create a new position for purposes of lateral transfer, posting or demotion. 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. A downgrade is the direct opposite of an upgrade.

- 2-25 2.9 Exempt. Employees not covered by the Fair Labor Standards Act (FLSA) for overtime purposes: federal and state wage/hour laws for purposes of overtime compensation.
- 2-23 2.10 FTE. Full time equivalency is the percentage of time for which a position is established, with where a full-time position working 1950 hours per year equals being 1.00 FTE. FTE is calculated by dividing the total number of hours worked per year by 1950. A 20 hour per week employee works 1040 hours per year, therefore 1040 divided by 1950 = .53 FTE.
- 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.
- 2-17 2.11 Institution. The following are each considered separate institutions for the purpose of this rule only - West Virginia University, including Potomac State College of West Virginia University, West Virginia University at Parkersburg, and West Virginia University Institute of Technology; Marshall University, West Virginia Graduate College, including Marshall University 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 and Technical College; West Virginia Northern Community and Technical College; Eastern West Virginia Community and Technical College; the offices of each of the chancellors; the central office of the governing boards, and the West Virginia network for educational telecomputing.
- 2-9 2.12 Interim Responsibilities: Upgrade. A significant change in duties and responsibilities of a classified employee which occurs for a specified temporary period. 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 her/his 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 her/his salary reduced to its original level including any salary increase which the employee would have received in her/his regular position.)~~

- 2.13 Inter-institutional Employment. An inter-institutional employment occurs when a classified employee accepts a classified position at one of the state college or university institutions where he/she is not currently employed.
- ~~2.3~~ 2.14 Job. A collection of ~~duties and responsibilities~~ positions performed by one or more employees at one or more institutions whose work is substantially of the same nature and which requires substantially the same skill and responsibility level. For jobs occupied by only one employee, the terms "position" and "job" shall be considered equivalent. ~~the same.~~
- ~~2.27~~ 2.15 Job Evaluation Factor. One of the thirteen (13) items contained in the point factor methodology and 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.
- ~~2.29~~ 2.16 Job Family. A series of job titles in an occupational area or group.
- ~~2.4~~ 2.17 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 positions, regardless of institutional location, which are substantially the same in nature ~~duties and responsibilities~~, and which require substantially the same knowledge, skills and abilities performed under similar working conditions. A classified employee cannot have a job title different from those job titles established by the Job Evaluation Committee. A non-classified employee cannot have a job title utilized in the classification program.
- ~~2.13~~ 2.18 Lateral Transfer. Movement from ~~one a position or job title to another a vacant or newly created position or job title~~ requiring the same degree of skill, effort ~~and or authority responsibility~~. Both positions are in the same pay grade within the same institution.
- 2.19 Long-Term Temporary Employee. An employee hired into a classified position created to last a minimum of nine months of a twelve month period, where such employee is expected to work no less than 1,040 hours during the twelve month period. The position shall have a maximum end date and shall not exceed a twenty-four month 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 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. Employees in long-term temporary positions are not covered under the provisions of W. Va. Code §18B-7-1(a)-(c).

- 2-26 2.20 ~~Non-Exempt. An employee who is entitled to overtime benefits as outlined in federal and state law. Employees covered by federal and state wage/hour laws for purposes of overtime compensation.~~
- 2-7 2.21 ~~Pay Grade. A range of compensation values for a job defined by a series of step values. The number assigned by the appropriate governing board to a particular job title and refers to the vertical column heading of the salary schedule. Positions which occupy the same job title shall be assigned to the same pay grade. Job titles having similar factor levels as determined by the Job Evaluation Committee shall be classified within the same pay grade~~
- 2-28 2.22 ~~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. A job evaluation method that employs (1) compensable factors, (2) factor degrees numerically scaled, and (3) weights reflecting the relative importance of each factor. Once scaled degrees and weights are established for each factor, each job is measured against each compensable factor and a total score is calculated for each job. The total points assigned to a job determine the job's relative value and hence its paygrade in the pay structure.~~
- 2-2 2.23 ~~Position. A set of duties and responsibilities performed by a specific employee at a particular institution.~~
- 2-5 2.24 ~~Position description form: Position Information Questionnaire (PIQ). The systems-wide document developed by the Job Evaluation Committee which describes the set of essential and non-essential functions of a position the duties and responsibilities, minimum knowledge, minimum 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 of a position at a particular institution.~~
- 2-18 2.25 ~~President. In addition to the sixteen (16) college and university presidents, this term shall be used in this rule. In addition to the chief administrator at each institution, 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.~~
- 2-8 2.26 ~~Promotion. Movement from a position requiring a certain level of skill, effort and or authority responsibility to a vacant or newly created position assigned to a different job title and higher pay grade requiring a greater higher degree of skill, effort, and or authority responsibility.~~
- 2-21 2.27 ~~Recall. A situation whereby an employee was terminated laid-off under the provisions of W.Va. Code §18B-7-1 is recalled to work at her/his 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. The salary for a recalled employee shall be at the appropriate pay grade for the job title and at the appropriate years of service.~~

- 2.28 Red-lined employee An employee whose base salary is greater than the appropriate step of the pay grade on the salary schedule enacted by the Legislature or adopted by the governing boards.
- ~~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 or other institution. Salary for a rehired employee will be consistent with the entry rates described in Section 12 of this rule.
- ~~2.20~~ 2.29 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.
- ~~2.13~~ 2.30 Short-Term Temporary Employee. An employee hired into a classified position expected to last fewer than nine months of a twelve-month period regardless of hours worked per week and less than 1,040 hours. The position shall have a specified end date. A short-term temporary employee is not eligible for benefits, but is covered by the classification program. In case of an administrative error in which an employee works 1,040 hours or more during a twelve-month period, a change in status does not automatically occur to full-time regular status and the employee's employment shall cease immediately. An employee shall be notified if an official administrative change of her/his position occurs. Change of status may only occur through formal, written action of the institution and not through administrative error that allowed the employee to work more than 1,040 hours during a twelve-month period.
- 2.31 Total salary. Base salary plus any increment earned pursuant to W.Va. Code §18B-9-5 or §5-5-2
- ~~2.10~~ 2.32 Upgrade. An advancement reassignment of the employee's current position to a job title assigned to a higher pay grade as a result of an significant change expansion in the position's existing level of duties and responsibilities, misclassification, or a decision made by the Job Evaluation Committee in accordance with the job evaluation process defined in this rule. An upgrade does not create a new position for purposes of lateral transfer, posting, or promotion. 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.
- ~~2.16~~ 2.33 Longevity: Years of experience. 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. For purposes of determining placement on the classified employee salary schedule, employment for nine months or more shall equal one year of experience, but no classified employee may accrue more than one year of experience during

any given fiscal year.

SECTION 3. PART-TIME AND SUMMER EMPLOYMENT TEMPORARY EMPLOYEES (from Series 31)

- 3.1 Institutions shall not hire part-time regular employees solely to avoid the payment of benefits to full-time regular employees. ~~Consequently, institutions may only employ individuals into short-term temporary positions when the function of the position is expected to require less than nine (9) consecutive months of a twelve (12) month period and created to work less than 1040 hours employment (regardless of hours worked per week) to equal the full-time equivalency of the position.~~
- 3.2 Classified employees who are employed in less than twelve-month positions and who meet the minimum qualifications of a position shall be provided with an opportunity to accept part-time or full-time summer employment before new persons shall be hired for those positions.

SECTION ~~3~~ 4. COMPENSATION REVIEW COMMITTEE

- ~~3.1~~ 4.1 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; for annually discussing compensation changes related to classification reviews and notifying institutions of same which might affect the upcoming budget process; and for reviewing the compensation of employees who are red-lined.
- 4.2 The composition of the compensation review committee shall consist of the central office human resource ~~director administrator who shall serve as chairperson of the committee,~~ the central office finance director, ~~the chairperson or chairperson's designee from each state-wide advisory council of classified employees;~~ four two human resource administrators designees one from the State College System and one 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; two members of the job evaluation committee, one of which shall be a representative of classified staff; two classified employees appointed by the chancellors with the advice and assistance of the chairpersons of the two advisory councils of classified employees; and, a president from each of the two systems. The human resource designees administrators, classified staff representatives, job evaluation committee members, and presidents shall be appointed by the ~~appropriate~~ chancellors or the chancellors' designee 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.~~
- 4.3 The chairperson shall convene the committee to review compensation issues prior to the budgeting process for the institutions in order to relate to the chancellors and presidents any upcoming changes in classification that would affect the budgets for the next fiscal year. In addition, the chairperson shall convene the committee prior to the legislative session for the purpose of discussing the current compensation policies and the salary schedule enacted in

Article 9, Chapter 18B of the state code or any salary schedule which may be enacted by the Legislature or adopted by the governing boards

~~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 5. COMPENSATION; PAY CALCULATIONS

- ~~4.1~~ 5.1 Base salary is calculated on a thirty-seven and one-half (37 ½) hour workweek which equates to 1950 hours in a fifty-two (52) week period.
- ~~4.2~~ 5.2 When ~~base~~ salary increases are calculated and rounding is involved, the policy is to round up to the nearest ~~even~~ dollar amount.
- ~~4.3~~ 5.3 Overtime pay for non-exempt employees is calculated at the rate of one and one-half (1 ½) 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 ½) hours and forty (40) hours in a work week.
- ~~4.4~~ 5.4 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~~ 5.5 Annual leave, sick leave, years of experience and seniority 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 her/his last day on the payroll.

SECTION 5 6. COMPENSATORY/OVERTIME PROVISIONS AND HOLIDAY PREMIUM TIME OFF

SECTION 7. ~~COMPENSATORY/OVERTIME PROVISIONS~~ (from Series 31)

- ~~7.1~~ 6.1 Non-exempt employees may receive compensatory time off in lieu of overtime pay, as calculated in Section 5 of this rule, but only by written agreement arrived at between the employer and the employee. All hours worked beyond 37½ and up to and including 40 hours are calculated at the employee's regular hourly rate. Time worked beyond 40 hours in a work week are to be calculated at a rate of one and one-half times the regular hourly rate.
- ~~7.2~~ 6.2 A written agreement between the non-exempt employee and the institution where the employee chooses compensatory time off in lieu of overtime pay, shall exist prior to the employee's performance of the work. ~~when the employee chooses compensatory time off~~

~~in lieu of overtime pay.~~ The written agreement may be modified at any time, at the request of either the employee or employer ~~at any time~~.

- 7.3 6.2.1 ~~Within 60 days of passage of this rule,~~ Institutions shall develop an agreement form for compensatory time accumulation in lieu of overtime payment and shall specify the required approval process which must be completed before a non-exempt employee may work beyond 37½ hours.
- 7.4 6.3 Non-exempt employees may accumulate up to two hundred forty hours (240 hours) of compensatory time and shall be paid for all hours worked above the maximum accrual.
- 7.5 6.4 Non-exempt employees in public safety, seasonal work, and/or emergency response categories may accumulate up to four hundred eighty hours (480 hours) of compensatory time and shall be paid for all hours worked above the maximum accrual.
- 7.6 6.5 Compensatory time must be used within one year of accrual. The use of compensatory time off shall normally be requested two weeks in advance of the use of the time off. Approval of the request shall be contingent upon whether it will unduly disrupt the operation of the institutional unit.
- 7.7 6.6 Should an individual's employment be terminated, any unused compensatory time shall be reimbursed as follows:
- 7.7.1 6.6.1 The average regular rate received by such employee during the first three years of the employee's employment; or,
- 7.7.2 6.6.2 The final regular rate received by such employee, whichever is higher.
- 7.8 6.7 A non-exempt employee may not work overtime unless approved in advance per institutional policy.
- ~~5.1~~ ~~Compensatory time off shall be allowed only to the extent authorized by federal and state law.~~
- 5.2 6.8 When a full-time regular 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 her/his regular pay for that holiday plus, at her/his option, substitute time off or additional pay either of which will be calculated at the rate of one and one-half (1 ½) times the number of hours actually worked. The time off must be used within one year of accrual ~~a six-month period~~ following the holiday. For example, assume the work week has one holiday. If a full-time regular employee is required to work eight hours on the holiday, the employee will receive her/his normal pay for the week. In addition, the employee will receive pay for eight hours multiplied by 1.5 which equates to either twelve hours of substitute time off or twelve hours of pay at the regular rate.
- 5.3 6.9 When an full-time regular ~~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 4 7. WORK SCHEDULES (from Series 31)

~~4.1~~ 7.1 Each institution shall establish a policy, with the advice and assistance of staff council and other groups representing classified employees, which shall: address any institution specific procedures concerning the use of flexible work schedules, job sharing, and four-day work weeks, discourage temporary, non-emergency changes in an employee's work schedule; and provide a mechanism for changes in, and notification of, changes in work schedules. This policy shall also provide that, where possible, the institution shall provide the employee with a fifteen (15) working day notice of such changes. A copy of the policy shall be forwarded to the chancellor or chancellor's designee within 60 days of promulgation of this rule

SECTION 6 8. WORKWEEK

~~6.1~~ 8.1 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 for an employee or a group of employees provided that record keeping requirements are met as set forth in relevant law. A work schedule of thirty-seven and one-half (37 ½) hours will be established within a workweek.

SECTION ~~7~~ 9. ~~APPOINTMENT~~ NOTIFICATION OF EMPLOYMENT AND CHANGE IN EMPLOYMENT STATUS

~~7.1~~ 9.1 A classified employee ~~appointment shall receive a written notification letter shall be completed for each classified employee~~ at the time of initial employment to include: job title, annual salary, employment date, FTE status, FLSA status and any special terms and conditions of employment. Written notification including the above information shall also be given to a classified employee when any change in employment status occurs such as: promotion, demotion, upgrade, downgrade, lateral transfer, and change in salary

SECTION 8 10. ACCESS TO PERSONNEL FILE

~~8.1~~ 10.1 An classified employee may have access to his/her her/his official personnel file maintained by the institutional office of human resources when the employing institution is normally open for business. Positive identification of the employee must be established prior to providing access to the personnel file. The employer may require that employees schedule an appointment to see the personnel file. An employee may examine his/her her/his own file and the contents therein with the following exception:

~~8.1.1~~ 10.1.1 Materials which were gathered with the employee's prior agreement to forfeit

~~his/her~~ her/his right of access, such as some references.

- ~~8-2~~ 10.2 A representative of the human resources office ~~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~~ 10.3 A copy of any material in the personnel file, except as prohibited by law, rule or regulation noted above, shall be provided to an employee upon request. A ~~small~~ copy fee may be charged.
- ~~8-3~~ 10.4 Documents may not be removed from or added to a personnel file by the employee during a review. An employee may petition human resources at any time for either the removal or addition of documents to ~~his/her~~ her/his own personnel file.
- 10.5 Any medical information on applicants or employees shall be kept in a separate medical file maintained by the institutional office of human resources and shall be kept confidential to the extent required by law

SECTION 9 11. CHANGES IN NAME, ADDRESS, NUMBER OF DEPENDENTS AND RELATED MATTERS

- ~~9-1~~ 11.1 It is the exclusive responsibility of all ~~each~~ employees to notify all appropriate persons, agencies and parties when changes in name, address, number of dependents and related matters ~~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 5 12. INTERNAL APPOINTMENT OR PROMOTION (from Series 31)

- ~~5-3~~ 12.1 Provisions of this section shall not apply to casual, short-term temporary and student employees, nor shall they apply to exempt positions.
- ~~5-1~~ 12.2 Pursuant to W.Va. Code §18B-7-1(d), non-exempt classified employees who apply for and meet the minimum qualifications as determined by the human resource administrator or designee for a posted non-exempt position within an institution and are currently employed at the institution shall be hired into the posted position prior to hiring someone from outside the institution.
- ~~5-2~~ 12.3 If more than one qualified, non-exempt classified employee applies, the best-qualified non-exempt classified employee shall be awarded the position. In such cases, if the employees are equally qualified, the employee with the greatest amount of continuous seniority at the institution shall be awarded the position. A random selection method such as drawing of lots, rolling dice, or selection of playing cards shall be utilized if two or more employees have equal qualifications and seniority. Such method shall be mutually agreed upon by the affected employees and approved by the President or her/his designee. If the employees cannot agree on a random selection method, the President ~~of the institution~~ shall use the drawing of lots

to determine rankings.

5-4 12.4 The provisions of this section shall not apply in any situation where a court or federal agency has ordered, as a remedy for past discrimination, an affirmative action plan and the promotion or transfer of an internal candidate would violate such court or federal agency ordered affirmative action plan. Nor shall the provisions of this section apply in any situation where the Office of Federal Contract Compliance Programs has specifically directed in writing that federal law requires that the provisions of this section be preempted by the affirmative action plan of the institution submitted pursuant to Presidential Executive Order Number 11246, as a condition of approval of such affirmative action plan.

12.5 Notwithstanding the provisions of Section 2.11 of this rule, in applying W Va. Code §18B-7-1, and this section, West Virginia University at Parkersburg, West Virginia University Institute of Technology, and Potomac State College shall be considered separate institutions

SECTION 13. INTER INSTITUTIONAL EMPLOYMENT

13.1 When a classified employee accepts a classified position at another state institution of higher education, the employee shall maintain her/his years of experience step on the salary schedule proportionate to the amount of other positions and shall be employed in the pay grade assigned to the new position and at the appropriate years of experience step as verified by the receiving institution.

SECTION 6 14. PROBATIONARY PERIOD (from Series 31)

6-1 14.1 Full-time and part-time regular classified employees shall serve an initial six-month probationary period beginning at on the original date of employment.

6-2 14.2 ~~At the end of three months and at the end of six months~~ Every three months of a probationary period, the employee shall receive a written evaluation of her/his performance and shall be informed as to whether her/his employment will continue beyond the probationary period. If the employee's performance has been unsatisfactory, the probationary period may be extended up to a total of twelve months. As with all positions, continued employment is based on adequate funding, satisfactory performance and adherence to system and institution rules and regulations.

14.3 During a probationary period, the employee may be terminated at any time for any reason that is not arbitrary or capricious.

SECTION-8-15. POSTING (from Series 31)

8-1 15.1 Each institution shall develop a policy for posting of positions both internally and externally in order to provide employees adequate time to make application for positions. ~~Institutions~~

~~shall develop such within 90-days of the effective date of this rule:~~

- 8-2 15.2 Posting shall not apply to casual, short-term temporary, upgrades or student temporary positions.

SECTION ~~10~~ 16. CLASSIFICATION REVIEW REQUEST

- ~~10-1~~ 16.1 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 through discussion with the immediate supervisor. The employee and/or the immediate supervisor must prepare a complete and accurate position description information questionnaire (PIQ) form of the duties of the position. The completion of the PIQ should be considered a joint effort between the employee and the immediate supervisor but the description may be written by the employee at the supervisor's request.
- ~~10-1~~ 16.1.1 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 information questionnaire to the next level of management who shall be responsible for submitting the PIQ to the human resources office 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. Completion of the position information questionnaire shall be done in accordance with procedures set forth by the Job Evaluation Committee (JEC).
- ~~10-1~~ 16.2 Within ~~thirty (30)~~ sixty (60) working days from the date of request from the management level who signs the PIQ for review of a position job, the department of human resources shall report to the requestor, in writing, the results of the review, which may include whether the reclassification has been denied or approved forwarding the PIQ to the Job Evaluation Committee.
- ~~10-1~~ 16.3 The institutional president or the president's designee may also initiate action to review positions. The Human Resources Office in consultation with the institutional president or the president's designee has authority on the campus to make classification determinations for institution-specific titles or the slotting assignment of positions employees to under existing systems-wide titles. The president may delegate authority to the human resources administrator office 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 the any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.
- 16.4 An employee may not file a grievance related to whether or not they are properly classified until a formal classification review has taken place as stated in this rule.
- ~~10-2~~ 16.5 A position information questionnaire description form shall exist for every classified position. The most recently approved PIQ on file with the human resources office shall be considered

~~the official PIQ of record. 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.~~

~~16.6~~ 16.6 Institutions shall at the time of the annual performance appraisal, shall include as part of that process a statement to be signed by the employee, immediate supervisor and next level management indicating that the current PIQ on file is accurate for the position.

~~16.2~~ 16.7 The date of each review shall be recorded on the position information questionnaire description by including a new sign off sheet for the employee, immediate supervisor, management, and the human resource representative.

SECTION 17. JOB EVALUATION COMMITTEE

~~17.5~~ 17.1 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 job evaluation committee in consultation with the chancellor(s), 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.

~~17.5~~ 17.2 The composition of the job evaluation committee shall consist of nine human resource designees representatives and two four classified staff representatives. Of the nine human resource designees representatives, one shall be from the central office and shall serve as chairperson, 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 designees representatives shall be appointed by the appropriate chancellors to serve for a period of time to be determined by the chancellors and the chairperson of the job evaluation committee. 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 chairperson of the state-wide advisory council of classified employees. to staggered terms of no more than two years. In addition, the chancellors may shall appoint two additional classified staff representatives one from each system. to the committee, as they deem appropriate, representatives of major groups which represent classified employees. The four classified staff representatives shall serve for a period of time as determined by the appointing individual and the chairperson of the job evaluation committee.

~~17.6~~ 17.3 The job evaluation committee shall be convened by its chairperson at least quarterly, or more often if deemed necessary, on an as needed basis to review classification decisions made or those being proposed by the institutions, to consider classification grievances, and to review job families or parts of job families.

~~17.6~~ 17.4 To ensure the integrity of the program, random and/or complete reviews of classification decisions made or proposed by the institutions shall may 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~~ chairperson of the job evaluation committee shall review the classification actions of each institution for appropriateness and consistency of application of the point factor methodology. 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.~~ point factor methodology. The committee shall subsequently provide a report to the appropriate chancellor and/or governing board concerning its findings relative to each institutional review.

11-4 17.4.1 In those cases where the committee finds an institutional classification decision to be in error, the committee shall recommend to the appropriate chancellor or chancellor's designee ~~whether that~~ the pay grade assignment and base salary of the incumbent(s) affected ~~should~~ shall be changed to the appropriate level. All actions undertaken by the institutions ~~a president or president's designee~~ under this section are subject to audits and reviews by the job evaluation committee.

11-6-1 17.4.2 Salary reversals shall be made in accordance with the procedures for upgrades, promotions, demotions, 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.

17.5 Section 17.4.2 of this rule shall not apply to the "Mercer grievances"

SECTION 11-18. JOB EVALUATION PROCESS

11-1 18.1 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 assignment of the employee positions into an existing systems-wide titles.

11-2 18.2 The review of institution-specific job titles, as well as the reslotting assignment of employees positions into an existing institution-specific titles, shall be carried out by the president or the president's designee of that institution, of each respective institution.

11-3 18.3 If an institution initiates an action to ~~establish~~ utilize a job title which exists exclusively at another institution, the human resource designee in consultation with the institution's

president or the president's designee shall submit a request for the use of the title to the human resources office of the institution where the position exists. With approval of the institution to utilize the title, the requesting institution shall forward the approval to utilize the title, the position information questionnaire for the position at the requesting institution and the data line developed for the position at the requesting institution to the job evaluation committee for review and approval. ~~Chancellors or the chancellors' designee.~~ A review shall then be conducted, a determination made, and notification given to the human resource administrators, job evaluation committee, and central office legal staff ~~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.

SECTION ~~12~~ 19. HIRE ABOVE ENTRY RATES

~~12.1~~ 19.1 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.

~~12.4~~ 19.2 Offers for employment above the entry rate of the respective pay ~~range~~ grade shall be determined by each institution based on the established criteria stated below ~~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 and provide written justification within fifteen (15) working days of making an offer of employment at a salary level above the entry rate. ~~along with the written justification.~~

~~12.2~~ 19.3 Offers of employment at rates which exceed the entry rate are invalid unless the institution addresses each of the following policy for exceptions is followed ~~Criteria in the letter of justification to consider in determining whether exceptions shall be made shall include the following:~~

- ~~12.2.1~~ 19.3.1 Qualifications of the candidate;
- ~~12.2.2~~ 19.3.2 Number of applicants for a position;
- ~~12.2.3~~ 19.3.3 Number of interviews;
- ~~12.2.4~~ 19.3.4 Number of qualified applicants identified;
- ~~12.2.5~~ 19.3.5 Number of offers of employment;
- ~~12.2.6~~ 19.3.6 Length of the recruiting campaign;
- ~~12.2.7~~ 19.3.7 Cost of the recruiting campaign;

- ~~12.2.8~~ 19.3.8 Length of time the position was vacant;
- ~~12.2.9~~ 19.3.9 Urgency to fill the position;
- ~~12.2.10~~ 19.3.10 Market conditions for that job,
- ~~12.2.11~~ 19.3.11 The rationale underlying the difference between the entry rate and the base salary the institution wants to offer, including consideration of previous eligible service, and,
- ~~12.2.12~~ 19.3.12 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.~~

~~12.5~~ 19.4 Review of exceptions shall be made by the Job Evaluation Committee at the end of the quarter in which the hiring occurs, under the procedures set out in Section 11 of this rule. The procedures and guidelines for salary reversals contained in this policy that section shall apply to those instances where the chancellors determine a misapplication.

SECTION 20. INTERIM UPGRADE

- 20.1 Interim upgrade pay shall be provided when a classified employee accepts a temporary assignment which shall be for no less than four (4) consecutive weeks and normally no more than twelve (12) consecutive months.
- 20.2 Interim upgrade assignments are to a classification in a higher pay grade.
- 20.3 When an employee is moved into a classification with a higher pay grade and assumes the entire responsibilities of the position, the employee is to be paid at the new pay grade utilizing the provisions of the upgrade policy as outlined in this rule. Any salary schedule increase that occurs during the interim assignment will be calculated based on the interim pay grade
- 20.4 When interim upgrades are assigned to an employee, a determination as to the appropriate title shall be made by the human resource designee utilizing the point factor methodology. Should more than one employee be assigned the duties of a position with a higher pay grade, a determination as to percentage of duties assumed should be made and each employee shall be paid that percentage of the higher paygrade utilizing the upgrade policy as outlined in this rule.
- 20.5 At the end of the interim upgrade assignment, the affected employee shall have her/his salary reduced to it original level plus any salary increase which the employee would have received in her/his regular position. Such increases shall be calculated by utilizing the base pay prior to the interim upgrade and applying the appropriate formula as determined by the governing boards.

SECTION 21. CRITICAL RETENTION

- 21.1 The supervisor of an employee in a position identified to be critical to the institutional mission is required to provide a written justification which may include information related to turnover rates, market position, internal and external equity of the position.
- 21.2 Upon receipt of the justification from the supervisor by the president or designee and in consultation with the human resource administrator, shall make a determination of the need for critical retention and the amount of the increase.
- 21.3 If a critical retention increase is determined to be in order for this position and same title and/or like positions, the institution shall institute the increase not to exceed the maximum of the pay grade.
- 21.4 A notice to the employee(s) will be prepared which will include the percentage of the increase, the new salary, benefits, pay back provisions, etc. The supervisor and the president or designee will sign the letter.
- 21.5 The employee will be required to sign a statement indicating that they accept the institution's critical retention adjustment. Once this statement is signed, the increase for critical retention shall be made effective upon receipt of all necessary approvals at all levels.
- 21.6 Should an employee resign within a twelve (12) consecutive month period of the effective date of the critical retention adjustment, the critical retention increase will be withdrawn and the employee shall be required to pay back to the institution the total difference between the previous salary and the critical retention adjustment. The employee will **not** be paid at the higher rate during the terminal leave period.
- 21.7 The institution shall prepare a letter within fifteen (15) working days to the chairperson of the compensation review committee indicating the reasons for determining that a critical retention increase was provided including market data and institutional mission information, the amount of the increase, and the effective date. The compensation review committee will review the critical retention increases at the end of each quarter and shall report back to the chairperson of the compensation review committee any concerns or issues which should be related to the appropriate chancellor. The appropriate chancellor will determine what if any action should be taken and shall notify the president of the institution.

SECTION ~~13~~ 22. PROMOTION

- ~~13-1~~ 18-1 Promotions result from an employee moving from her/his 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~~ 22.1 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.~~

22.2 Should the salary schedule enacted by the Legislature or adopted by the governing boards be fully funded, when a promotion occurs, the incumbent's position shall be assigned to the appropriate higher pay grade at the appropriate years of experience step

~~SECTION 14~~ 23. UPGRADE

~~14.1~~ 23.1 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 the position information questionnaires (PIQ) shall be reviewed of other titles having the same pay grade and whose duties, responsibilities and requirements that closely match the work of the position as it is now described shall be reviewed. The position shall then be assigned ~~slotted into~~ the classification whose grade is consistent with the point value calculated and whose duties and responsibilities 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. An upgrade does not create a new position for purpose of lateral transfer, posting, or promotion.~~

~~14.2~~ 23.2 When an employee occupies a position at the time that a position upgrade occurs, ~~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~~ 24. DEMOTION

~~15.1~~ ~~Demotions result from an employee moving from her/his 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~~ 24.1 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.

- 24 2 Should the salary schedule enacted by the Legislature or adopted by the governing boards be fully funded, when a demotion occurs, the incumbent's position shall be assigned to the appropriate lower pay grade at the appropriate years of experience step.

SECTION 16 25. DOWNGRADE

- ~~16 1~~ 25.1 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~~ the position information questionnaires (PIQ) 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 shall be reviewed. The position shall then be ~~slotted~~ assigned into the classification whose grade is consistent with the point value calculated and whose duties and ~~requirements~~ responsibilities 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. A downgrade does not create a new position for purpose of lateral transfer, posting, or promotion.~~
- 16 2 25.2 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 26. REVIEWS AND APPEALS

- 26.1 Any employee who did not file a grievance within thirty (30) working days of July 1, 1994, regarding the initial classification assigned them by the implementation of the new classification system on January 1, 1994 is 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 her/his right to grieve such initial classification.
- 26.2 Any employee who believes there have been significant changes in the principal duties and responsibilities of her/his position since its initial classification may make a classification review request pursuant to procedures set forth in this policy. The findings of the president or the president's designee regarding such classification review request shall be communicated to the chair of the job evaluation committee and the employee.
- 26 3 If the employee disagrees with the findings, he/she may institute a grievance with her/his

immediate supervisor pursuant to W. Va. Code § 18-29-1 et seq. However, he/she may not file a grievance pursuant to that statute unless first utilizing the procedures set out above. Upon receipt by the institution human resources office of a grievance related to a classification decision, notification of receipt of the grievance and the related issues and relief sought shall be forwarded within five (5) working days to the chairperson of the job evaluation committee.

26.4 If an employee shall prevail in any grievance or legal action based on another institution's failure to abide by the directives of this rule, the governing board, or its chancellor, the institution failing to abide by those directives shall be responsible for any damages ordered paid to the prevailing grievant.

- ~~18.1 An employee may seek a review of her/his 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 her/his 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 her/his initial classification, job title or pay grade by filing a request for review form after formal notification of her/his 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 her/his 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 her/his 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~~ 27. SALARY SCHEDULE AND IMPLEMENTATION STRATEGY

- 27.1 For those employees whose salaries are below that set out in any salary schedule adopted by the Legislature, they shall receive a salary increase on July 1 of each year consisting of the difference between their actual salary and that set out in the salary schedule. Provided, that any such increase is contingent upon specific appropriations therefore by the Legislature and if sufficient funds are not so appropriated the difference in salary received shall be reduced proportionally.
- 27.2 Any additional salary increases given after funding those set out in Section 23.1 of this rule, shall be consistent with policies adopted jointly by the governing boards.
- ~~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 her/his 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 27.3 Any classified employee who is ~~slotted~~ assigned into the appropriate pay grade for her/his job title and whose base salary is at least the entry equity step, i.e. step 0, 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.~~

SECTION 28. DISCIPLINARY PROCESS

- 28.1 Each institution shall adopt a progressive disciplinary procedure under which classified employees are provided with counseling and/or a series of notifications, warnings, or other administrative actions calculated to conform the employee's conduct or performance to institutional standards.
- 28.2 Normally, a classified employee shall be given two written warnings before they are suspended or terminated. Such warnings shall include, but not limited to: the nature of the substandard work, performance, or conduct; remedial steps the employee must take; the date the employee's work, performance, or conduct must be brought back to standard; and, notification that failure to bring the work, performance, or conduct back to standard by the specified date may result in further disciplinary action.
- 28.3 In cases of gross misconduct by an employee, he/she may be suspended or terminated without previous counseling, warnings, or other administrative actions. Gross misconduct is conduct by the employee which presents a danger to persons or property, or to the orderly conduct of the affairs of the institution, or demonstrates willful disregard of the employer's interest or a wanton disregard of standards of behavior which the employer has a right to expect of its employees.
- 28.4 Classified employees may be suspended without pay or terminated for "just cause", which

includes, but is not limited to, the following:

- 28.4.1 Reporting to work under the influence of alcohol or narcotics or partaking of these substances while at work.
- 28.4.2 Malicious destruction or theft of property of the institution, the governing boards, or their visitors, patrons, or employees.
- 28.4.3 Wrongful injury to an employee of the governing boards or an employee's institution
- 28.4.4 Refusal to comply with institutional rules.
- 28.4.5 Neglect of duty.
- 28.4.6 Dishonesty.
- 28.4.7 Sleeping on duty.
- 28.4.8 Failure to maintain established performance standards
- 28.4.9 Habitual absence from work without permission or proper explanation.
- 28.4.10 Tardiness.
- 28.4.11 Insubordination.
- 28.4.12 Inappropriate or unprofessional conduct.
- 28.5 Prior to any suspension without pay or termination, the employee shall be notified in writing of the intent to suspend or terminate and be given the opportunity prior to the effective date of the suspension or termination to rebut the charges against her/him in an informal meeting with the administrator taking the disciplinary action. If the employee's continued presence presents an immediate danger to persons or property, he/she may be suspended or terminated without first being given this written notice of intent. However, if such immediate action is taken, the employee shall be given an opportunity to rebut the charges as soon after the effectiveness of the suspension or termination as possible
- 28.6 If an employee believes he/she has been disciplined unjustly, he/she may use the grievance procedure set out in W. Va. Code §18-29-1 et seq.

~~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~~ 29. MISCELLANEOUS

~~20.1~~ 29.1 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.~~ 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

~~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~~

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

There will be no cost to this rule due to this being an administrative policy.

3. Objectives of these rules

To update the equitable system of classification and compensation procedures which were implemented in January 1994.

4. Explanation of Overall Economic Impact of Proposed Rule

A. Economic Impact on State Government

Unknown at this time.

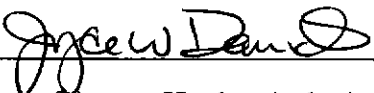
B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

Unknown at this time

C. Economic Impact on Citizens/Public at Large

Unknown at this time.

Date: 11/1/99



Signature of Agency Head or Authorized Representative

DEPARTMENT OF EDUCATION AND THE ARTS
Office of the Secretary

State Capitol Bldg. 5, Room 205
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305
Telephone: (304) 558-2440
Fax No.: (304) 558-1311



David R. Ice
Cabinet Secretary

Cecil H. Underwood
Governor

November 4, 1999

The Honorable Ken Hechler
Secretary of State
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Secretary Hechler:

I am hereby approving for filing with your office for public comment, the following legislative rule of the University System Board of Trustees:

Title 128, Series 62: Personnel Administration.

The rule is attached.

Sincerely,

A handwritten signature in cursive script that reads "David R. Ice".

David Ice
Cabinet Secretary

cc Chancellor Manning

Enclosure

The University System of West Virginia

1018 Kanawha Boulevard, East • Suite 700
Charleston, West Virginia 25301-2827
Telephone 304-558-2736 Facsimile 304-558-3264

Charles W. Manning
Chancellor

David G. Todd
Chairman, Board of Trustees



November 2, 1999

Mr. David Ice
Secretary, Education and the Arts
Building 5, Room 205
Capitol Complex
Charleston, West Virginia 25305

Dear Mr. Ice:

At its meeting on October 29, 1999, the University System Board of Trustees approved the following rules to be filed with the Secretary of State for the required 30-day public comment period:

Title 128, Series 54: Capital Project Management (Amended)

Title 128, Series 62: Personnel Administration

Additionally, the following Legislative rules were approved to be filed with the Secretary of State and with the Legislative Oversight Committee on Education Accountability. These rules have been processed through the public comment period and have received considerable review by constituents of the University System.

Title 128, Series 66: Higher Education Adult Part-Time Student Grant Program (HEAPS) (Amended)

Title 128, Series 68: West Virginia Engineering, Science and Technology Scholarship Program

Could you please review the attached and, if you approve, forward to the Secretary of State for filing. Thank you for your assistance.

Sincerely,

Charles W. Manning
Chancellor

Enclosure
cc: Dr. John Thralls