WEST VIRGINIA CODE: §18B-9A-7

§18B-9A-7. Classification and compensation rules required.

(a) Notwithstanding any provision of law or rule to the contrary, the commission and council jointly shall design, develop, implement and administer the classified personnel system of classification and compensation pursuant to this article and articles seven, eight and nine of this chapter.

(b) System rule. —

The commission and council shall propose a joint rule or rules for legislative approval in accordance with article three-a, chapter twenty-nine-a of this code to implement the provisions of this article and articles seven, eight and nine of this chapter. The rule shall establish a classified employee classification and compensation system that incorporates best human resources practices.

(1) Organization accountability. —

The commission and council shall propose a joint system rule that provides a procedure for correcting deficiencies identified in the human resources reviews conducted pursuant to section nine, article seven of this chapter. The procedure shall include, but is not limited to, the following components:

(A) Specifying a reasonable time for organizations to correct deficiencies uncovered by a review;

(B) Applying sanctions when major deficiencies are not corrected within the allotted time:

(i) For purposes of this subsection, a major deficiency means an organization has failed to comply with applicable personnel rules of the commission and council.

(ii) When a major deficiency is identified, the commission or council, as appropriate, shall notify the governing board of the institution in writing, giving particulars of the deficiency and outlining steps the governing board is required to take to correct the deficiency.

(iii) The governing board shall correct the major deficiency within four months or longer provided the length of time is agreed upon by the governing board and the commission or council as applicable, and shall notify the commission or council, as appropriate, when the deficiency has been corrected.

(iv) If the governing boards fail to correct the major deficiency or fail to notify the commission or council, as appropriate, that the deficiency has been corrected within the agreed upon period, the commission or council may apply sanctions.

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Sanctions may include, but are not limited to, prohibiting compensation increases for key administrators who have authority over the areas of major deficiency until the identified deficiencies are corrected.

(2) Classified employee classification and compensation. — The classified employee classification and compensation system rule shall establish a classification and compensation system to accomplish the following objectives:

(A) Allowing for performance and other objective, measurable factors such as technical expertise, education, years of experience in higher education and experience above position requirements to be considered in compensation decisions;

(B) Achieving and maintaining appropriate levels of employee dispersion through a pay range;

(C) The rule shall provide that the salary of a current employee may not be reduced by a job reclassification, a modification of the market salary schedule or other conditions that the commission and the council consider appropriate and reasonable;

(D) Establishing a job worth hierarchy and identifying the factors to be used to classify jobs and their relative values and determining the number of points that are necessary to assign a job to a particular pay grade;

(E) Establishing an objective standard to be used in determining when a job description or a position description is up-to-date;

(F) Providing a procedure whereby a classified employee or a supervisor who believes that changes in the job duties and responsibilities of the employee justify a position review may request that a review be done at any time;

(G) Specifying that the acceptable period that may elapse between the time when an employee files a formal request for a position review and the time when the review is completed may not exceed forty-five days. An organization that fails to complete a review within the specified time shall provide the employee back pay from the date the request for review was received if the review, when completed, produces a reclassification of the position into a job in a higher pay grade;

(H) Providing a procedure by which employees may file appeals of job classification decisions for review by the Job Classification Committee prior to filing a formal grievance. The committee shall render a decision within sixty days of the date the appeal is filed with the commission or the council;

(I) Providing for recommendations from the Compensation Planning and Review Committee and the Job Classification Committee to be considered by the commission and the council and to be included in the legislative reporting process pursuant to section eight, article seven of this chapter; and

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(J) Establishing and maintaining the job classification committee mandated in section four of this article.

(3) Performance evaluations. — The system rule shall provide for developing and implementing a consistent, objective performance evaluation model and shall mandate that training in conducting performance evaluations be provided for all organization personnel who hold supervisory positions.

(c) Organization rules. —

(1) Each organization shall promulgate and adopt a rule or rules in accordance with the provisions of section six, article one of this chapter to implement requirements contained in the classification and compensation system rule or rules of the commission and council. The commission and council shall provide a model personnel rule for the organizations under their jurisdiction and shall provide technical assistance in rulemaking as requested.

(2) The initial organization rule shall be adopted not later than six months following the date on which the commission and council receive approval to implement the emergency rule promulgated pursuant to this section. Additionally, each organization shall amend its rule to comply with mandated changes not later than six months after the effective date of any change in statute or rules, unless a different compliance date is specified within the statute or rule containing the requirements or mandate.

(3) An organization may not adopt a rule under this section until it has consulted with the appropriate employee class affected by the rule's provisions.

(4) If an organization fails to adopt a rule or rules as mandated by this subsection, the commission and council may prohibit it from exercising any flexibility or implementing any discretionary provision relating to human resources contained in statute or in a commission or council rule until the organization's rule requirements have been met.

(5) Additional flexibility or areas of operational discretion identified in the system rule or rules may be exercised only by an organization which meets the following requirements:

(A) Receives certification from the commission or council, as appropriate, that the organization has achieved full funding of the temporary salary schedule or is making appropriate progress toward achieving full funding pursuant to section three, article nine of this chapter;

(B) Promulgates a comprehensive classification and compensation rule as required by this section;

(C) Receives approval for the classification and compensation rule from the appropriate chancellor in accordance with this section; and

(D) Adopts the rule by vote of the organization's governing board.

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