WEST VIRGINIA CODE CHAPTER 18B ARTICLE 9A

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§18B-9A-1. Legislative intent and purpose.

(a) The intent of the Legislature in enacting this article is to establish the classification and compensation system for certain employees of higher education organizations and apply recognized best human resources practices in order to use available resources in the most effective and efficient manner for the benefit of the citizens of West Virginia.

(b) In furtherance of the principles described in subsection (a) of this section, the chief purposes of the classified classification and compensation system are to accomplish the following objectives:

(1) Develop and implement a classification and compensation system that is fair, transparent, understandable, simple to administer, self-regulating and adaptable to meet future goals and priorities;

(2) Compensate employees within an organization fairly in relation to one another;

(3) Compensate employees across organizations who are performing similar work at similar wage rates;

(4) Compensate employees at levels that are competitive with appropriate external markets and are fiscally responsible; and

(5) Improve the process for evaluating jobs, including, but not limited to, mandating training and development in best human resources practices and directing that key terms, job titles and evaluation forms are consistent across organizations.

(c) It is further the intent of the Legislature to ensure that regular compensation analyses are performed to determine how organization compensation for all classes of employees compares to compensation in relevant external markets.

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§18B-9A-2. Definitions.

As used in this article and articles seven, eight and nine of this chapter, the following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) "Classification system" means the process by which jobs, job titles, career ladders and assignment to pay grades are determined.

(2) "Classified employee" or "employee" means a regular full-time or regular part-time employee of an organization who: (i) does not meet the duties test for exempt status under the provisions of the Fair Labor Standards Act; and (ii) is not otherwise a nonclassified employee designated pursuant to subdivision (11) of this section: Provided, That any employee of an organization who was a classified employee as of January 1, 2017, retains that status unless otherwise deemed a nonclassified employee pursuant to the provisions of subparts (A) through (D) of subdivision (11) of this section.

(3) "Job" means the total collection of tasks, duties and responsibilities assigned to one or more individuals whose work is of the same nature and level.

(4) "Job description" or "position description" means a summary of the most important features of a job, including the general nature and level of the work performed.

(5) "Job evaluation" means a systematic way of determining the value/worth of a job in relation to other jobs in an organization by analyzing weighted compensable factors resulting in the assignment of a job title and pay grade to a position described by a position information questionnaire.

(6) "Job family" means a group of jobs having the same nature of work, but requiring different levels of skill, effort, responsibility or working conditions.

(7) "Job specification" means the generic description of a group of jobs assigned a common job title in the classification system. The job specification contains a brief summary of the purpose of the job; the most common duties and responsibilities performed by positions holding the title; knowledge, skills and abilities necessary to perform the work; and minimum qualifications required for positions assigned the title.

(8) "Job title" means the descriptive name for the total collection of tasks, duties and responsibilities assigned to one or more individuals whose positions have the same nature of work performed at the same level.

(9) "Job worth hierarchy" means the perceived internal value of jobs in relation to each other within an organization.

(10) "Midpoint differential" means the difference in wage rates paid in the midpoints of two adjacent pay grades. A midpoint differential is calculated by taking the difference between the two adjacent midpoints as a percentage of the lower of the midpoints.

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(11) “Nonclassified employee” means, an employee of an organization who meets one or more of the following criteria:

(A) Holds a direct policy-making position at the department or organization level;

(B) Reports directly to the president or chief executive officer of the organization;

(C) Is in a position considered by the president or designee to be critical to the institution pursuant to policies or decisions adopted by the governing board;

(D) Is in an information technology-related position;

(E) Is hired after July 1, 2017, and meets the duties test for exempt status under the provisions of the Fair Labor Standards Act at the time of hire or anytime thereafter; or

(F) Was in a nonclassified position as of January 1, 2017.

Unless otherwise established by action of the institution where employed, a nonclassified employee serves at the will and pleasure of the organization, which authority may be delegated by act of the board.

(12) “Organization” means the commission, the council, an agency or entity under the respective jurisdiction of the commission or the council or a state institution of higher education as defined in section two, article one of this chapter.

(13) “Pay grade” means the level to which a job is assigned within a job worth hierarchy as a result of job evaluation.

(14) “Point factor methodology” means a quantitative job evaluation process in which elements of a job are given a factor value and each factor is weighted according to its importance.

(15) “Position information questionnaire” or “PIQ” means a tool used to gather specific job information for a specific position held by an individual, and used for the purposes of evaluating the position for determination of job title and pay grade. The PIQ is used to gather information used to assess the compensable factors of knowledge, experience, complexity and problem solving, freedom of action, scope and effect, breadth of responsibility, intra-systems contacts, external contacts, direct supervision of personnel, indirect supervision of personnel and health, safety and physical considerations.

(16) “Pay range spread” means the difference in the minimum and maximum rate of pay for a pay grade expressed as a percentage.

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§18B-9A-3

Repealed

Acts, 2017 Reg. Sess., Ch. 123.

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§18B-9A-4. Job classification system; job classification committee established; membership; meetings; powers and duties.

(a) The commission and council jointly shall maintain a uniform system for classifying jobs and positions of organization classified employees.

(b) Pursuant to the rule authorized in section seven of this article, the commission and council jointly shall establish and maintain a job classification committee.

The rule shall contain the following provisions related to the job classification committee:

(1) A systematic method for appointing committee members who are representative of all the higher education organizations and affected constituent groups, including specifically providing for membership selections to be made from nominations from these higher education organizations and affected constituent groups;

(2) A requirement that an organization may have no more than two members serving on the committee at any time and the combined membership representing various groups or divisions within or affiliated with an organization in total may not constitute a majority of the membership; and

(3) A requirement that committee members serve staggered terms. One third of the initial appointments shall be for two years, one third for three years and one third for four years. Thereafter, the term is four years. A member may not serve more than four years consecutively.

(c) Powers and duties of the committee include, but are not limited to, the following:

(1) Modifying and deleting jobs and assigning job titles;

(2) Reviewing and revising job titles to make them consistent among organizations, including adopting consistent title abbreviations;

(3) Establishing job worth hierarchies and data lines for each job title;

(4) Classifying jobs, establishing proper pay grades and placing jobs in pay grades consistent with the job evaluation plan;

(5) Determining when new job titles are needed and creating new job titles within the system;

(6) Recommending base pay enhancements for jobs for which the application of point factor methodology produces significantly lower salaries than external market pricing. The committee may exercise this authority only if it reevaluates each job annually to make a determination whether the enhancement should be continued;

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(7) Recommending a procedure for performing job family reviews;

(8) Determining appropriate career ladders within the classification system and establishing criteria for career progression; and

(9) Hearing job classification appeals prior to commencement of the formal grievance process pursuant to commission and council rule.

(d) The committee shall meet monthly if there is business to conduct and also may meet more frequently at the call of the chair. A majority of the voting members serving on the committee at a given time constitutes a quorum for the purpose of conducting business.

(e) The commission and council shall use an appropriate methodology to classify jobs. The commission and council jointly may adjust the job evaluation plan, including the factors used to classify jobs and their relative values, at any time.

(f) No later than July 1, 2012, the commission and council shall have in place an up-to-date job description for every classified job.

(g) The commission and council shall develop a position information questionnaire to be used by all organizations to gather data necessary for classification of positions within the job worth hierarchy.

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§18B-9A-5. Compensation planning and review committee established; membership; meetings; powers and duties.

[Repealed].

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§18B-9A-5a. Restriction on duties of job classification committee and compensation planning and review committee.

[Repealed].

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§18B-9A-6. Salary structure and salary schedules.

(a) The commission and council shall develop and maintain a classified salary schedule and ensure that all organizations under their respective jurisdictions adhere to state and federal laws and duly promulgated and adopted organization rules.

(b) The classified salary schedule serves as the basis for the following activities:

(1) Evaluating compensation of classified employees in relation to appropriate external markets; and

(2) Developing the minimum salary per pay grade to be adopted by the commission and council.

(c) The classified salary schedule shall meet the following criteria:

(1) Sets forth the number of pay grades to be included in the structure;

(2) Includes a midpoint value for each pay grade which represents the average market rate of pay for jobs in that pay grade. The commission and council may choose a midpoint value that is not based exclusively on market salary data; and

(3) Includes minimum and maximum pay range values based on an established range spread.

(d) The commission and council jointly shall use workforce compensation data provided by Workforce West Virginia and other compensation data as is readily available from national recognized sources, including compensation data of CUPA-HR, to establish the appropriate external market conditions of classified positions. The commission and council, in consultation with the Compensation Planning and Review Committee, may take any combination of the following actions:

(1) Adjust the number of pay grades and the point values necessary to validate the result of the classification system and the job worth hierarchy with the market;

(2) Adjust the midpoint differentials between pay grades better to reflect market conditions; or

(3) Adjust the range spread for any pay grade.

(e) The commission and council jointly may perform an annual review of market salary data to determine how salaries have changed in the external market. Based on data collected, the commission and council jointly, in consultation with the Compensation Planning and Review Committee, shall adjust the classified salary schedule if changes are supported by the data.

(f) Annually, the commission and council may approve a minimum salary amount that sets forth a compensation level for each pay grade below which no organization employee may be

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paid, subject to available funds.

(1) The minimum salary amount for each pay grade on the classified salary schedule is determined by applying a percentage determined after analysis of the market and existing compensation levels to the annual market salary data. The commission and council may take into consideration other factors they consider appropriate.

(2) The salary of an employee working fewer than thirty-seven and one-half hours per week shall be prorated.

(g) The organization rule promulgated pursuant to subsection (c), section seven of this article may provide for differential pay for certain employees who work different shifts, weekends or holidays.

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§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.

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.

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(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

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

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(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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§18B-9A-8

Repealed

Acts, 2017 Reg. Sess., Ch. 123.

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