

ENGROSSED  
COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 439**

(By Senators Prezioso, Carmichael,  
Gaunch, D. Hall, Kessler, Leonhardt,  
Walters, Williams and Plymale)

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[Originating in the Committee on Education;  
reported February 27, 2015.]

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A BILL to amend and reenact §18B-4-2a of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-7-1, §18B-7-2, §18B-7-8, §18B-7-9, §18B-7-11 and §18B-7-16 of said code; to amend and reenact §18B-9-1 and §18B-9-2 of said code; to amend and reenact §18B-9A-1, §18B-9A-2, §18B-9A-3, §18B-9A-4, §18B-9A-5, §18B-9A-6 and §18B-9A-7 of said code; and to amend said code by adding thereto a new section, designated §18B-9A-5a, all relating to public higher education personnel generally; clarifying roles of Higher Education Policy Commission, Council for

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Community and Technical College Education and state organizations of higher education; providing legislative purposes and intent for higher education personnel; defining terms; clarifying duties of Vice Chancellor for Human Resources of the Higher Education Policy Commission; eliminating outdated and redundant reporting and review requirements; providing for evaluation and reviews of organizations for certain human resource deficiencies, best practices and compliance with state higher education personnel laws; providing percentages of employees designated as "nonclassified" employees; directing the Higher Education Policy Commission and the Community and Technical College Council to study employment practices; providing legislative purposes and intent for classified employees salary schedule; defining terms; providing legislative purposes and intent for classification and compensation system; defining terms; clarifying that certain provisions are only applicable to classified employees; clarifying powers and duties of the

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Job Classification Committee; clarifying powers and duties of the Compensation Planning and Review Committee; eliminating requirement that salary schedules fall within relative market equity; restricting duties of Job Classification Committee and Compensation Planning and Review Committee; clarifying role and considerations of the Higher Education Policy Commission and Community and Technical College Council in developing salary schedules for classified employees; and requiring classification and compensation rules.

*Be it enacted by the Legislature of West Virginia:*

That §18B-4-2a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18B-7-1, §18B-7-2, §18B-7-8, §18B-7-9, §18B-7-11 and §18B-7-16 of said code be amended and reenacted; that §18B-9-1 and §18B-9-2 of said code be amended and reenacted; that §18B-9A-1, §18B-9A-2, §18B-9A-3, §18B-9A-4, §18B-9A-5, §18B-9A-6 and §18B-9A-7 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18B-9A-5a, all to read as

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follows:

**ARTICLE 4. GENERAL ADMINISTRATION.**

**§18B-4-2a. Employment of Vice Chancellor for Human resources; powers and duties generally; staff; office.**

1 (a) By and with the advice and consent of the Council for  
2 Community and Technical College Education, the commission shall  
3 employ a Vice Chancellor for Human Resources who may not be  
4 dismissed without the consent of the council. ~~The person employed~~  
5 ~~as senior director of human resources by the commission on~~  
6 ~~January 1, 2011, becomes the Vice Chancellor for Human~~  
7 ~~Resources on the effective date of this section. Thereafter, any Any~~  
8 vacancy occurring in this position shall be filled in accordance with  
9 this section.

10 (b) The successful candidate for the position of vice  
11 chancellor provides vision, leadership and direction to ensure the  
12 human resources system for employees of the commission, council  
13 and governing boards is effective, efficient and aligned with  
14 industry best practices. The successful candidate possesses the  
15 following minimum qualifications:

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1           (1) A master's degree in human resources or a related field;

2 and

3           (2) Thorough knowledge of and experience administering

4 employment laws and regulations, recruiting and selection

5 techniques, employee relations techniques and methodologies, legal

6 reporting and compliance requirements.

7           (c) The vice chancellor, in consultation with the

8 chancellors, performs functions, tasks and responsibilities necessary

9 to carry out the policy directives of the council and commission and

10 any other duties prescribed by law. The vice chancellor oversees

11 and monitors all issues related to the personnel system for higher

12 education employees and provides advice and technical support to

13 organizations as directed or requested on all issues related to the

14 design, development, implementation and administration of the

15 personnel system established by this chapter and by duly

16 promulgated rules.

17           (d) The vice chancellor supervises employees at the

18 commission offices involved in human resources functions,

19 including the professional, administrative, clerical and other

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1 employees necessary to carry out assigned powers and duties. In  
2 consultation with the Vice Chancellor for Administration and the  
3 chancellors, the vice chancellor shall delineate staff responsibilities  
4 as considered desirable and appropriate.

5 (e) The vice chancellor provides support to the chancellors  
6 and organizations on a highly diverse range of issues, including  
7 assisting them to develop a culture of constant improvement in a  
8 rapidly changing, complex market. Duties of the position include,  
9 but are not limited to, the following:

10 (1) Developing and implementing business-related  
11 initiatives involving organizational design, labor cost management,  
12 executive recruitment and compensation, leadership and  
13 management development, human resources data and technology,  
14 and compensation and benefits programs;

15 (2) Chairing, or designating a qualified designee to chair the  
16 Job Classification Committee and the Compensation Planning and  
17 Review Committee established by sections four and five, article  
18 nine-a of this chapter.

19 (3) Assuming responsibility for coordinating compensation

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1 and benefits programs for all employees, including designing these  
2 programs, and for supporting each higher education organization in  
3 implementing the programs;

4 (4) Assuming responsibility for coordinating classification  
5 and compensation programs for classified employees, including  
6 designing these programs, and for supporting each higher education  
7 organization in implementing the programs;

8 (5) Assisting, as directed or requested, organizations with  
9 classification and/or compensation programs for faculty and/or  
10 nonclassified employees, including, as appropriate, design and  
11 implementation of the programs;

12 ~~(4)~~ (6) Maintaining consistent human resources information  
13 systems and selecting and supervising benefits consultants, brokers,  
14 trustees and necessary legal assistants;

15 ~~(5)~~ (7) Maintaining the classified employee classification  
16 system by providing for regular review of jobs to determine  
17 whether the current job description accurately reflects the duties  
18 and responsibilities and whether the job is properly classified or  
19 needs to be modified or deleted. Every job shall be reviewed at

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1 least once within each five-year period;

2           ~~(6)~~ (8) Ensuring that market comparison studies are  
3 conducted for ~~each class of~~ classified employees and providing a  
4 report annually ~~to~~ from data collected from each organization on the  
5 status of ~~relative market equity~~ compensation among the employee  
6 classifications.

7           ~~(7)~~ (9) Carrying As requested by organizations, assist with  
8 carrying out the following duties related to training and  
9 development:

10           (A) Analyzing and determining training needs of  
11 organization employees and formulating and developing plans,  
12 procedures and programs to meet specific training needs and  
13 problems. ~~Successful completion of these tasks requires the vice~~  
14 ~~chancellor to work closely with and communicate regularly with the~~  
15 ~~training and development coordinators employed by each~~  
16 ~~organization;~~

17           (B) Developing, constructing, maintaining and revising  
18 training manuals and training aids or supervising development of  
19 these materials by outside suppliers;

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1 (C) Planning, conducting and coordinating management  
2 inventories, appraisals, placement, counseling and training;

3 (D) Coordinating participation by all employees in training  
4 programs developed internally or provided by outside contractors;  
5 and

6 (E) Administering and analyzing an annual training and  
7 development needs ~~survey~~ surveys. The survey may coincide with  
8 the completion of the annual performance review process.

9 ~~(8)~~ (10) Conducting As requested, assisting boards of  
10 governors and/or presidents in conducting performance reviews of  
11 personnel who administer human resources functions at each  
12 organization in relation to best practices pursuant to articles seven,  
13 eight, nine and nine-a of this chapter and rules of the commission  
14 and council. Human resources personnel at each organization shall  
15 be evaluated at least once within each three-year period. ~~The~~ Copies  
16 of evaluations will be submitted to the Vice Chancellor who shall  
17 analyze the results of these evaluations and target training and  
18 professional development to identified areas of deficiency.

19 (f) To assist in performing the duties of vice chancellor, the

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1 commission, with the consent of the council, shall employ a  
2 generalist/manager who is well qualified in the field of human  
3 resources. The position reports to the Vice Chancellor for Human  
4 Resources. ~~and shall be filled on a permanent basis by September~~  
5 ~~1, 2011~~. The successful candidate is responsible for a wide range  
6 of human resources management, reporting and development  
7 activities and works collaboratively with governing boards and their  
8 employees at all levels.

**9 ARTICLE 7. PERSONNEL GENERALLY.**

**10 §18B-7-1. Legislative intent and purpose.**

11 (a) The intent of the Legislature in enacting this article and  
12 articles eight, nine and nine-a of this chapter is to establish a  
13 statewide, integrated higher education human resources ~~structure~~  
14 system capable of, but not limited to, meeting the following  
15 objectives:

16 (1) Providing benefits to the citizens of the State of West  
17 Virginia by supporting the public policy agenda as articulated by  
18 state policymakers;

19 (2) Assuring fiscal responsibility by making the best use of

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1 scarce resources;

2 (3) Promoting fairness, accountability, credibility, and  
3 ~~transparency and a systematic approach to progress (FACTS)~~ ,  
4 when possible, in personnel decision-making;

5 (4) Reducing or, wherever possible, eliminating arbitrary  
6 and capricious decisions affecting employees of higher education  
7 organizations as defined in section two, article nine-a of this  
8 chapter;

9 (5) Creating a stable, self-regulating human resources  
10 system capable of evolving to meet changing needs;

11 (6) Providing for institutional flexibility with meaningful  
12 accountability;

13 (7) Adhering to federal and state laws;

14 (8) Adhering to duly promulgated and adopted rules; and

15 (9) Implementing best practices throughout the state higher  
16 education system.

17 (10) Providing current, reliable data to governing boards,  
18 the commission, the council, the Governor and the Legislature to  
19 inform the decision-making process of these policymakers.

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1 (b) To accomplish these goals, the Legislature encourages  
2 organizations to pursue a human resources strategy which provides  
3 monetary and nonmonetary returns to employees in exchange for  
4 their time, talents and efforts to meet articulated goals, objectives  
5 and priorities of the state, the commission and council, and the  
6 organization. The system should maximize the recruitment,  
7 motivation and retention of highly qualified employees, ensure  
8 satisfaction and engagement of employees with their jobs, ensure  
9 job performance and achieve desired results.

10 (c) It is the intent of the Legislature to establish a human  
11 resources strategy that is fair, accountable, credible, transparent and  
12 systematic. In recognition of the importance of these qualities, the  
13 human resources strategy outlined in this article, together with  
14 articles eight, nine and nine-a of this chapter, is designated and may  
15 be cited as “FACTS for Higher Education”.

16 (d) It is the intent of the Legislature to require each higher  
17 education organization to achieve full funding of the salary  
18 schedule established in section three, article nine of this chapter. A  
19 higher education organization, as defined in section two, article

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1 nine-a of this chapter, is subject to the provisions of article nine of  
2 this chapter until full funding is reached.

3 **§18B-7-2. Definitions.**

4 For the purposes of this article and articles eight, nine and  
5 nine-a of this chapter, the following words have the meanings  
6 ascribed to them unless the context clearly indicates a different  
7 meaning:

8 (a) “Benefits” means programs that an employer uses to  
9 supplement the cash compensation of employees and includes  
10 health and welfare plans, retirement plans, pay for time not worked  
11 and other employee perquisites.

12 (b) “Compensation” means cash provided by an employer  
13 to an employee for services rendered.

14 (c) “Compensatory time” and “compensatory time off”  
15 mean hours during which the employee is not working, which are  
16 not counted as hours worked during the applicable work week or  
17 other work period for purposes of overtime compensation and for  
18 which the employee is compensated at the employee's regular rate  
19 of pay.

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1           (†) “Employee classification” or “employee class” means  
2 those employees designated as classified employees; nonclassified  
3 employees, including presidents, chief executives and top level  
4 administrators and faculty, as these terms are defined in this article  
5 and articles eight, nine and nine-a of this chapter.

6           “Full-time” means an employee whose employment, if  
7 continued, accumulates to a minimum total of one thousand forty  
8 hours during a calendar year and extends over at least nine months  
9 of a calendar year.

10          (ϵ) “Health and welfare benefit plan” means an arrangement  
11 which provides any of the following: Medical, dental, visual,  
12 psychiatric or long-term health care, life insurance, accidental death  
13 or dismemberment benefits, disability benefits or comparable  
14 benefits.

15          ~~(f) “Relative market equity” means the relative market~~  
16 ~~status of each employee classification at an organization falls within~~  
17 ~~five percent of all other employee classifications within the~~  
18 ~~organization for the preceding three-year period.~~

19          ~~(g) “Relative market status” means the calculated~~

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1 ~~relationship between the average salary of each employee~~  
2 ~~classification and its peer group.~~

3 **§18B-7-8. Reporting.**

4 ~~(a) *Implementation reports.* --~~

5 ~~For the fiscal years commencing on July 1, 2011, and July~~  
6 ~~1, 2012, the commission and council jointly shall report to the~~  
7 ~~Legislative Oversight Commission on Education Accountability~~  
8 ~~once during each six-month period on their progress in designing,~~  
9 ~~developing, implementing and administering the personnel~~  
10 ~~classification and compensation system established by this article~~  
11 ~~and articles eight, nine and nine-a of this chapter. The initial report~~  
12 ~~is due December 1, 2011, and shall include, but is not limited to, the~~  
13 ~~following information:~~

14 ~~(1) A summary of findings generated by the human~~  
15 ~~resources review conducted pursuant to section nine of this article;~~

16 ~~(2) Documentation of professional staffing changes made~~  
17 ~~in compliance with section two-a, article four of this chapter;~~

18 ~~(3) A systematic plan, including a time line, for designing,~~  
19 ~~developing, and implementing the classification and compensation~~

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1 ~~system contained in this article and articles eight, nine and nine-a~~  
2 ~~of this chapter;~~

3 ~~(4) An explanation of the research design and time line for~~  
4 ~~completing studies identified in section sixteen of this article;~~

5 ~~(5) An assessment of progress made by the governing~~  
6 ~~boards toward achieving full funding of the temporary classified~~  
7 ~~employees' salary schedule pursuant to section three, article nine of~~  
8 ~~this chapter;~~

9 ~~(6) Detailed data disaggregated by organization and~~  
10 ~~employee category or classification, comparing funding for salaries~~  
11 ~~of faculty, classified employees and nonclassified employees as a~~  
12 ~~percentage of the average funding for each of these classes or~~  
13 ~~categories of employees among the organization's peers, in regional~~  
14 ~~or national markets, as appropriate, and among similar~~  
15 ~~organizations within the state systems of public higher education;~~  
16 ~~and~~

17 ~~(7) Other data requested by the Legislature or considered~~  
18 ~~appropriate by the commission or council.~~

19 ~~(b) (a) *Annual personnel reports.* --~~

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1 (1) No later than December 1, 2013, and annually  
2 thereafter, the commission and council shall report to the  
3 Legislative Oversight Commission on Education Accountability  
4 addressing the following issues:

5 (A) Progress made by organizations toward achieving full  
6 funding of the temporary classified employees' salary schedule  
7 pursuant to section three, article nine of this chapter; and

8 (B) Detailed data disaggregated by organization and  
9 employee category or classification, comparing funding for salaries  
10 of faculty, classified employees and nonclassified employees as a  
11 percentage of the average funding for each of these classes or  
12 categories of employees among the organization's ~~peers, in the~~  
13 state, region or national markets, as appropriate, and among similar  
14 organizations within the state systems of public higher education.

15 (2) The commission and council shall prepare a human  
16 resources report card summarizing the performance of organizations  
17 on key human resources measures established by the commission  
18 and council. The report card shall be presented to the Legislative  
19 Oversight Commission on Education Accountability ~~no later than~~

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1 ~~December 1, 2012, and annually thereafter,~~ and shall be made  
2 available to the general public. At a minimum, the human resources  
3 report card shall contain the following data:

4 (A) Human resources department metrics by organization:

5 (i) Number of human resources staff;

6 (ii) Ratio of human resources staff to total number of full-  
7 time equivalent employees;

8 (iii) Percentage of human resources staff functioning in  
9 supervisory roles and percentage in administrative roles;

10 (iv) Number of positions reporting to the head of human  
11 resources;

12 (v) Areas of human resources functions outsourced to  
13 external entities;

14 (vi) Total expenses per full-time equivalent employee; and

15 (vii) Tuition revenue per full-time equivalent employee.

16 (B) Human resources expense data:

17 (i) Ratio of human resources expenses to operating  
18 expenses;

19 (ii) Ratio of human resources expenses to number of full-

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1 time equivalent employees; and

2 (iii) Total human resources expense per organization  
3 employee.

4 (C) Compensation data:

5 (i) Average amount of annual salary increase per full-time  
6 equivalent organization employee;

7 (ii) Total amount of organization employee salaries as a  
8 percent of operating expenses; and

9 (iii) Total amount of organization employee benefit costs as  
10 a percent of cash compensation.

11 (D) System metrics:

12 (i) Comparisons of faculty salaries at each organization to  
13 market averages; and

14 (ii) Comparisons of classified and nonclassified employee  
15 salaries at each organization to current market averages;

16 (E) An account of the total amount, type of training or  
17 professional development provided, the number of employees who  
18 participated and the overall cost of the training and professional  
19 development provided to employees pursuant to section six of this

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1 article; and

2 (F) Other measures the commission or council considers  
3 appropriate to assist policymakers in evaluating the degree of  
4 success in implementing best human resources practices by higher  
5 education organizations.

6 ~~(c)~~ (b) *Job classification system report.* --

7 By July 1, ~~2014~~ 2016, and at least once within each five-  
8 year period thereafter, the commission and council jointly shall  
9 review the effectiveness of the system for classifying jobs and  
10 submit an in-depth report to the Legislative Oversight Commission  
11 on Education Accountability. The report shall include, but is not  
12 limited to, findings, recommendations and supporting  
13 documentation regarding the following job classification issues:

14 (A) The effectiveness of the point factor methodology and  
15 a determination of whether it should be maintained; and

16 (B) The status of the job evaluation plan, including the  
17 factors used to classify jobs or their relative values, and a  
18 determination of whether the plan should be adjusted.

19 ~~(d)~~ (c) It is the responsibility of the head of human

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1 resources for each organization to prepare and submit to the  
2 president or chief executive officer all human resources data  
3 requested by the commission and council. The president or  
4 executive officer of each organization shall submit the requested  
5 data at times established by the commission and council.

6 (c) ~~(e)~~ (d) In meeting reporting requirements established by this  
7 article and articles eight, nine and nine-a of this chapter:

8 (1) The commission and council shall use the most recent  
9 data available and, as appropriate, shall benchmark it against  
10 ~~national and regional markets or peer data~~ best practices and  
11 appropriate labor markets; and

12 (2) With the exception of the ~~semiannual implementation~~  
13 ~~reports,~~ the annual human resources report card and any other  
14 report designated as due no later than a date certain, the commission  
15 and council may combine two or more personnel reports if the dates  
16 on which they are due to the Legislature fall within a sixty-day  
17 period.

18 **§18B-7-9. Human resources reviews.**

19 (a) The commission and council jointly shall conduct an

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1 initial human resources review of each organization to be carried  
2 out, subject to legislative appropriation, by an external vendor  
3 possessing experience and expertise in conducting these reviews.  
4 The initial review shall be completed by October 1, 2011, and shall  
5 be designed to compare current human resources practices at each  
6 organization to best practices to identify areas of strength or  
7 deficiency, to identify functions that should be the responsibility of  
8 the human resources department, but are incorrectly assigned or  
9 carried out by other offices within each organization, to assist in  
10 targeting employee training and development, to determine the  
11 degree to which organizations are adhering to state and federal laws  
12 related to human resources administration and to provide data  
13 necessary to guide policymakers in developing personnel rules and  
14 implementing the classification and compensation system.

15 (b) Following completion of the initial human resources  
16 review, the commission and council jointly shall conduct a  
17 systematic human resources review of each organization at least  
18 once within each five-year period.

19 (1) The review shall focus on ~~correcting areas of deficiency~~

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1 ~~identified by previous reviews,~~ on compliance with statutory  
2 mandates contained in this article and articles eight, nine and nine-a  
3 of this chapter and on adherence to personnel rules of the  
4 commission and council.

5 (2) In the absence of special circumstances, the commission  
6 and council shall provide organizations with reasonable notice prior  
7 to conducting a human resources review and shall identify the  
8 subjects to be examined in the review.

9 **§18B-7-11. Employees designated as nonclassified; limits;**  
10 **reports required.**

11 (a) Notwithstanding any provision of this code to the  
12 contrary, by July 1, ~~2015,~~ 2016, the percentage of personnel placed  
13 in the category of nonclassified at a higher education organization  
14 may not exceed ~~twenty~~ twenty-five percent of the total number of  
15 classified and nonclassified employees of that organization as those  
16 terms are defined in section two, article nine-a of this chapter and  
17 who are eligible for membership in a state retirement system of the  
18 State of West Virginia or other retirement plan authorized by the  
19 state.

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1           A higher education organization which has more than  
2 ~~twenty~~ twenty-five percent of its employees placed in the  
3 nonclassified category as defined by this subsection on July 1, ~~2011~~  
4 2015, shall reduce the number of nonclassified employees to no  
5 more than twenty-five percent by July 1, ~~2013~~ 2016, and to no more  
6 ~~than twenty percent by July 1, 2015, except as set forth in~~  
7 ~~subsections (b) and (c) of this section.~~

8           (b) For the purpose of determining the ratio of nonclassified  
9 employees pursuant to this section, the following conditions apply:

10           (1) Organizations shall count faculty or classified  
11 employees, respectively, who retain the right to return to faculty or  
12 classified employee positions, in the employee category they are  
13 serving in at the time of reporting as required by subsections (a) and  
14 (b), section eight of this article. Such employees will be counted in  
15 their original category at such time as they exercise their return  
16 rights.

17           (2) Athletic coaches are excluded from calculation of the  
18 ratio. The commission and the council shall include consideration  
19 of this employee category in each review required by section nine

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1 of this article and shall monitor organizations' use of this category  
2 and include this information in the reports required by subsection  
3 (a) and (b), section eight of this article.

4 (c) An organization may place up to twenty-five percent of  
5 the total number of classified and nonclassified employees of that  
6 organization as defined by this section in the nonclassified category  
7 under the following conditions:

8 (1) The governing board of an institution votes to approve  
9 any percentage or fraction of a percentage number above twenty  
10 percent and seeks and receives the approval of the commission or  
11 council, as appropriate, before increasing the total above twenty  
12 percent:

13 (A) The commission and council each shall approve or  
14 disapprove the increase and shall include the vote, as well as details  
15 of the position and justification for placing the position in the  
16 nonclassified category, in its minute record:

17 (B) The number of nonclassified personnel may not be  
18 increased above twenty percent unless the increase is approved by  
19 both the commission and the council.

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1           ~~(Z)~~ (C) *Powers and duties of commission and council*  
2 *regarding nonclassified staff ratios. –*

3           ~~(A)~~ ~~It is the duty of the commission and council jointly to~~  
4 ~~establish criteria for the purpose of making decisions on approving~~  
5 ~~or disapproving requests by organizations to exceed the twenty~~  
6 ~~percent limit for personnel placed in the nonclassified category;~~

7           ~~(B)~~ (A) The commission and council shall provide advice  
8 and technical assistance to organizations under their respective  
9 jurisdictions in collecting and interpreting data to ensure that they  
10 fulfill the requirements established by this section. Consideration  
11 of these issues shall be made part of each review required by  
12 section nine of this article and information from the review included  
13 in the reports required by subsection (a) ~~and (b)~~, section eight of  
14 this article;

15           ~~(C)~~ (B) The chancellors shall monitor the progress of the  
16 organizations in meeting the deadlines established in this section  
17 and shall report ~~periodically to the council and commission.~~ The  
18 ~~commission and council shall make a preliminary compliance report~~  
19 ~~to the Legislative Oversight Commission on Education~~

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1 ~~Accountability by September 1, 2013, and a final report on~~  
2 ~~organization compliance to that body by September 1, 2015. such~~  
3 ~~in the annual human resources report card.~~

4       ~~(D)~~ Subject to a joint recommendation by the commission  
5 and the council and subsequent affirmative action by the  
6 Legislature to extend the authority beyond the specified date of  
7 termination, the authority of an organization to place more than  
8 twenty percent of its personnel in the nonclassified category  
9 pursuant to this section expires on July 1, 2016.

10       ~~(d)~~ (c) The current annual salary of a nonclassified  
11 employee may not be reduced if his or her position is redefined as  
12 a classified position solely to meet the requirements of this section.  
13 If such a nonclassified employee is reclassified, his or her salary  
14 does not constitute evidence of inequitable compensation in  
15 comparison to other employees in the same pay grade.

16       ~~(e)~~ (d) For the purposes of this section only the commission  
17 and council are not considered higher education organizations.

18 **§18B-7-16. Study of employment practices.**

19       (a) The commission and council shall study the following

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1 issues relating to employment practices:

2 (1) Developing a fair and rational policy based upon best  
3 human resources practices for covering reductions in force,  
4 furloughs and other issues relating to seniority, including  
5 determining how employees shall be treated whose salaries are  
6 derived from funds other than state appropriations;

7 (2) Determining the advantages and disadvantages of  
8 maintaining the internal preferences for hiring, promoting and  
9 transferring classified employees;

10 ~~(3) Collecting and analyzing data and developing~~  
11 ~~recommendations on the advantages and disadvantages of~~  
12 ~~outsourcing certain functions at the organization level. The data~~  
13 ~~shall include, but are not limited to, the following items:~~

14 ~~(A) A current database of outsourcing practices followed by~~  
15 ~~each organization including procedures or rules developed to~~  
16 ~~inform policy decisions;~~

17 ~~(B) The total number, disaggregated by organization, of~~  
18 ~~positions or services being outsourced or filled by temporary~~  
19 ~~employees;~~

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1           ~~(C) The amount of actual cost savings, if any, that are~~  
2 ~~realized or may be realized as a direct result of organizations'~~  
3 ~~outsourcing decisions;~~

4           (3) Determining the appropriate definition of a  
5 “nonclassified” position, recommending a best practice criteria for  
6 designating positions as nonclassified and recommending the  
7 appropriate number or ratio of nonclassified positions for  
8 commission and council organizations.

9           (4) Recommending a rational, uniform policy to determine  
10 the status of employees whose positions are funded, in whole or in  
11 part, by an external grant or contract from a federal, state or local  
12 government or a private entity.

13           (b) The commission and council shall complete the work  
14 and report their findings, conclusions and recommendations,  
15 together with drafts of any legislation necessary to effectuate the  
16 recommendations, to the Legislative Oversight Commission on  
17 Education Accountability upon completion, but no later than  
18 January 1, ~~2012~~ 2018.

19 **ARTICLE 9. TEMPORARY CLASSIFIED EMPLOYEE**

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1           **SALARY SCHEDULE; CLASSIFICATION AND**  
2           **COMPENSATION SYSTEM.**

3 **§18B-9-1. Legislative purpose and intent.**

4           (a) The purpose of the Legislature in enacting this article is  
5 to require the commission and council jointly to implement, control,  
6 supervise and manage a complete, uniform system of personnel  
7 classification and compensation in accordance with the provisions  
8 of this article for classified employees at higher education  
9 organizations.

10          ~~(b) It is the intent of the Legislature to require each higher~~  
11 ~~education organization to achieve full funding of the salary~~  
12 ~~schedule established in section three of this article. A higher~~  
13 ~~education organization, as defined in section two, article nine-a of~~  
14 ~~this chapter, is subject to the provisions of this article until full~~  
15 ~~funding is reached.~~

16          ~~(c) It is further the intent of the Legislature to encourage~~  
17 ~~strongly that each organization dedicate a portion of future tuition~~  
18 ~~increases to fund the classified salary schedule and, after full~~  
19 ~~funding of the salary schedule is achieved, to move toward meeting~~

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1 ~~salary goals for faculty, classified and nonclassified employees.~~

2 **§18B-9-2. Definitions.**

3           The following words have the meanings ascribed to them  
4 unless the context clearly indicates a different meaning:

5           (a) "Classified employee" or "employee" means a regular  
6 full-time or regular part-time employee of an organization who  
7 holds a position that is assigned a particular job title and pay grade  
8 in accordance with the personnel classification and compensation  
9 system established by this article or by the commission and council;

10           (b) ~~"Job description" means the specific listing of duties and~~  
11 ~~responsibilities as determined by the appropriate governing board,~~  
12 ~~the commission or council and associated with a particular job title;~~

13           (c) ~~"Job title" means the name of the position or job as~~  
14 ~~defined by the commission and council;~~

15           (d) ~~"Pay grade" means the number assigned by the~~  
16 ~~commission and council to a particular job title and refers to the~~  
17 ~~vertical column heading of the salary schedule established in~~  
18 ~~section three of this article;~~

19           (e) ~~"Personnel classification system" means the process of~~

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1 ~~job categorization adopted by the commission and council jointly~~  
2 ~~by which job title, job description, pay grade and placement on the~~  
3 ~~salary schedule are determined;~~

4 (f) "Salary" means the amount of compensation paid  
5 through the State Treasury per annum, excluding those payments  
6 made pursuant to section two, article five, chapter five of this code,  
7 to an organization employee;

8 (g) "Schedule" or "salary schedule" means the grid of  
9 annual salary figures established in section three of this article; and

10 (h) "Years of experience" means the number of years a  
11 person has been an employee of the State of West Virginia and  
12 refers to the horizontal column heading of the salary schedule  
13 established in section three of this article. For the purpose of  
14 placement on the salary schedule, employment for nine months or  
15 more equals one year of experience, but a classified employee may  
16 not accrue more than one year of experience during any given fiscal  
17 year. Employment for less than full time or for fewer than nine  
18 months during any fiscal year shall be prorated. In accordance with  
19 rules established by the commission and council jointly, a classified

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1 employee may be granted additional years of experience not to  
2 exceed the actual number of years of prior, relevant work or  
3 experience at accredited institutions of higher education other than  
4 state institutions of higher education.

5 **ARTICLE 9A. CLASSIFICATION AND COMPENSATION**  
6 **SYSTEM.**

7 **§18B-9A-1. Legislative intent and purpose.**

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

14 ~~It is further the intent of the Legislature to establish a plan~~  
15 ~~that is fair, accountable, credible, transparent and systematic. In~~  
16 ~~recognition of the importance of these qualities, this article, together~~  
17 ~~with articles seven, eight and nine of this chapter, is designated and~~  
18 ~~may be cited as “FACTs for Higher Education”.~~

19 (b) In furtherance of the principles described in subsection

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1 (a) of this section, the chief purposes of the classified classification  
2 and compensation system are to accomplish the following  
3 objectives:

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

8 ~~(2) Provide current, reliable data to governing boards, the~~  
9 ~~commission, the council, the Governor and the Legislature to~~  
10 ~~inform the decision-making process of these policymakers;~~

11 ~~(3) Attract well-qualified and diverse job applicants and~~  
12 ~~retain and motivate employees to accomplish the goals, objectives~~  
13 ~~and priorities identified in state law, rules of the commission and~~  
14 ~~council, the statewide master plans for higher education and the~~  
15 ~~institutions' compacts;~~

16 ~~(4) Retain and reward employees who make valuable~~  
17 ~~contributions to state and organization goals, objectives and~~  
18 ~~priorities;~~

19 ~~(5)~~ (2) Compensate employees within an organization fairly

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1 in relation to one another;

2 (6) (3) Compensate employees across organizations who are  
3 performing similar work at similar wage rates;

4 (7) (4) Compensate employees at levels that are competitive  
5 with appropriate external markets and are fiscally responsible; and

6 (8) (5) Improve the process for evaluating jobs, including,  
7 but not limited to, mandating training and development in best  
8 human resources practices and directing that key terms, job titles  
9 and evaluation forms are consistent across organizations; ~~and~~.

10 (9) (c) It is further the intent of the Legislature to Ensure  
11 ensure that regular ~~market salary~~ compensation analyses are  
12 performed to determine how organization compensation for all  
13 classes of employees compares to compensation in relevant external  
14 markets.

15 **§18B-9A-2. Definitions.**

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

19 (a) “Classification system” means the process by which

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1 jobs, job titles, career ladders and assignment to pay grades are  
2 determined.

3 (b) ~~“Classified employee” or “employee” means any regular~~  
4 ~~employee of an organization who holds a position that is assigned~~  
5 ~~a particular job and job title within the classification system~~  
6 ~~established by this article, article nine and by duly promulgated and~~  
7 ~~adopted rules of the commission and council. a regular full-time or~~  
8 ~~regular part-time employee of an organization who holds a position~~  
9 ~~that is assigned a particular job title and pay grade in accordance~~  
10 ~~with the personnel classification and compensation system~~  
11 ~~established by this article or by the commission and council.~~

12 (c) “Job” means the total collection of tasks, duties and  
13 responsibilities assigned to one or more individuals whose work is  
14 of the same nature and level.

15 (d) “Job description” or “position description” means a  
16 summary of the most important features of a job, including the  
17 general nature and level of the work performed.

18 (e) “Job evaluation” means a ~~formal process used to create~~  
19 ~~a job worth hierarchy~~ systematic way of determining the

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1 value/worth of a job in relation to other jobs in an organization by  
2 analyzing weighted compensable factors resulting in the assignment  
3 of a job title and pay grade to a position described by a position  
4 information questionnaire.

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

8 “Job specification” means the generic description of a group  
9 of jobs assigned a common job title in the classification system.  
10 The job specification contains a brief summary of the purpose of the  
11 job; the most common duties and responsibilities performed by  
12 positions holding the title; knowledge, skills and abilities necessary  
13 to perform the work; and minimum qualifications required for  
14 positions assigned the title.

15 (g) “Job title” means the descriptive name for the total  
16 collection of tasks, duties and responsibilities assigned to one or  
17 more individuals whose positions have the same nature of work  
18 performed at the same level.

19 (h) “Job worth hierarchy” means the perceived internal

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1 value of jobs in relation to each other within an organization.

2 “Midpoint differential” means the difference in wage rates  
3 paid in the midpoints of two adjacent pay grades. A midpoint  
4 differential is calculated by taking the difference between the two  
5 adjacent midpoints as a percentage of the lower of the midpoints.

6 (i) “Nonclassified employee” means an employee of an  
7 organization who holds a position that is not assigned a particular  
8 job and job title within the classification system established by this  
9 article and article nine of this chapter and by duly promulgated and  
10 adopted rules of the commission and council and who meets one or  
11 more of the following criteria:

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

14 (2) Reports directly to the president or chief executive  
15 officer of the organization.

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

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

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

6           (m) ~~“Position description” means a summary of the total~~  
7 ~~duties and responsibilities of a position based on factors provided~~  
8 ~~in the position information questionnaire (PIQ).~~

9           (n) “Position information questionnaire” or “PIQ” means a  
10 tool ~~used in the creation and evaluation of position descriptions and~~  
11 ~~includes to~~ gather specific job information for a specific position  
12 held by an individual, and used for the purposes of evaluating the  
13 position for determination of job title and pay grade. The PIQ is  
14 used to gather information used to assess the compensable factors  
15 of knowledge, experience, complexity and problem solving,  
16 freedom of action, scope and effect, breadth of responsibility, intra-  
17 systems contacts, external contacts, direct supervision of personnel,  
18 indirect supervision of personnel and health, safety and physical  
19 considerations.

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1           ~~(o) “Step” means a standard progression in pay rate that is~~  
2 ~~established within a pay grade.~~

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

5 **§18B-9A-3. Applicability.**

6           ~~(a) The provisions of this article apply to employees whose~~  
7 ~~employment, if continued, accumulates to a minimum total of one~~  
8 ~~thousand forty hours during a calendar year and extends over at~~  
9 ~~least nine months of a calendar year.~~

10           ~~(b)~~ (a) Until the commission or council, as appropriate, has  
11 certified that an organization has achieved full funding of the  
12 temporary classified employee annual salary schedule or is making  
13 appropriate progress toward attaining full funding as defined by  
14 section three, article nine of this chapter, the organization is subject  
15 to article nine of this chapter and may not exercise flexibility  
16 provisions in any area of human resources identified in this chapter  
17 or in commission and council rule. Flexibility provisions include  
18 paying classified employees in excess of the salary established for  
19 their pay grade and years of experience indicated on the temporary

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1 classified employee annual salary schedule established by section  
2 three, article nine of this chapter. Additional flexibility provisions,  
3 such as the ability to modify the classified salary schedule at the  
4 organization level are identified and governed in section four,  
5 article nine of this chapter.

6 **§18B-9A-4. Job classification system; job classification**  
7 **committee established; membership; meetings; powers**  
8 **and duties.**

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

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

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

17 (A) A systematic method for appointing committee  
18 members who are representative of all the higher education  
19 organizations and affected constituent groups, including specifically

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1 providing for membership selections to be made from nominations  
2 from these higher education organizations and affected constituent  
3 groups;

4 ~~(B)~~ A requirement that members be approved by the  
5 commission and council before beginning service on the committee;

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

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

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

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

19 (2) Reviewing and revising job titles to make them

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1 consistent among organizations, including adopting consistent title  
2 abbreviations;

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

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

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

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

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

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

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

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

9           ~~(e) When evaluating jobs, the committee shall use the~~  
10 ~~following procedure:~~

11           ~~(1) Each committee member shall classify each job~~  
12 ~~individually, independently of other members;~~

13           ~~(2) The chair shall compile and share the individual~~  
14 ~~evaluations with the whole committee; and~~

15           ~~(3) After discussing the issues and resolving differences, the~~  
16 ~~committee shall make a determination of the appropriate~~  
17 ~~classification for each job.~~

18           ~~(f)~~(e) The commission and council shall use a point factor  
19 an appropriate methodology to classify jobs. The commission and

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1 council jointly may adjust the job evaluation plan, including the  
2 factors used to classify jobs and their relative values, at any time.

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

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

10 **§18B-9A-5. Compensation planning and review committee**  
11 **established; membership; meetings; powers and duties.**

12 (a) Pursuant to the rule authorized in section seven of this  
13 article, the commission and council jointly shall establish and  
14 maintain a compensation planning and review committee.

15 (b) Within the guidelines established in this article and  
16 articles seven, eight and nine of this chapter, the committee shall  
17 manage all aspects of compensation planning and review that the  
18 commission and council jointly delegate to it.

19 The rule shall contain the following requirements related to

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1 the compensation planning and review committee:

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

7 ~~(2) A requirement that members be approved by the~~  
8 ~~commission and council before beginning service on the committee;~~

9 ~~(3)~~ (2) A requirement that an organization may have no  
10 more than two members serving on the committee at any time and  
11 the combined membership representing various groups or divisions  
12 within or affiliated with an organization in total may not constitute  
13 a majority of the membership; and

14 ~~(4)~~ (3) A requirement that committee members serve  
15 staggered terms. One third of the initial appointments shall be for  
16 two years, one third for three years and one third for four years.  
17 Thereafter, the term is four years. A member may not serve more  
18 than four years consecutively.

19 (c) The committee shall meet at least quarterly and at other

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1 times at the call of the chair. A majority of the voting members  
2 serving on the committee at a given time constitutes a quorum for  
3 the purpose of conducting business.

4 (d) An institution may not have a majority of the committee  
5 members, and the combined membership representing various  
6 groups or divisions within or affiliated with an organization in total  
7 may not constitute a majority of the membership.

8 (e) The Compensation Planning and Review Committee has  
9 powers and duties related to classified employee compensation  
10 programs which include, but are not limited to, the following:

11 (1) Making annual recommendations for revisions in the  
12 system classified compensation plan, based on existing economic,  
13 budgetary and fiscal conditions or on market study data.

14 (2) Overseeing the five-year external market salary study;

15 (3) Overseeing the annual internal market review;

16 (4) Meeting at least annually with the Job Classification  
17 Committee to discuss benchmark jobs to be included in salary  
18 surveys, market “hot jobs” that may require a temporary salary  
19 adjustment, results of job family reviews and assessment of current

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1 job titles within the classification system for market matches and  
2 other issues as the Vice Chancellor for Human Resources, in  
3 consultation with the chancellors, determines to be appropriate; and

4 (5) Performing other duties as assigned by the commission  
5 and council or as necessary or expedient to maintain an effective  
6 classification and compensation system.

7 (f) The commission and council may allow the committee  
8 to collapse the three lowest pay grades into a single pay grade and  
9 provide for employees to be paid at rates appropriate to the highest  
10 of the three lowest pay grades.

11 **§18B-9A-5a. Restriction on duties of job classification**  
12 **committee and compensation planning and review**  
13 **committee.**

14 The commission and council may not delegate any of the  
15 following duties to the Compensation Planning and Review  
16 Committee or the Job Classification Committee:

- 17 (1) Approval of a classification and compensation rule;  
18 (2) Approval of the job evaluation plan; and  
19 (3) Approval of the annual classified salary schedule.

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1 §18B-9A-6. Salary structure and salary schedules.

2 (a) The commission and council shall develop and maintain  
3 a ~~market salary structure and minimum salary schedules~~ classified  
4 salary schedule and ensure that all organizations under their  
5 respective jurisdictions adhere to state and federal laws and duly  
6 promulgated and adopted organization rules.

7 ~~(b) The commission and council may not delegate any of~~  
8 ~~the following duties to the Compensation Planning and Review~~  
9 ~~Committee or the Job Classification Committee:~~

10 ~~(1) Approval of a classification and compensation rule;~~

11 ~~(2) Approval of the job evaluation plan;~~

12 ~~(3) Approval of the annual market salary schedule; and~~

13 ~~(4) Approval of the annual minimum salary schedule.~~

14 (c) The ~~market salary structure~~ classified salary schedule  
15 serves as the basis for the following activities:

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

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

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1 (d) The ~~market salary structure~~ classified salary schedule  
2 shall meet the following criteria:

3 (1) Sets forth the number of pay grades ~~and steps~~ to be  
4 included in the structure;

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

9 (3) Includes minimum and maximum ~~step~~ pay range values  
10 based on an established range spread, ~~as well as values for other~~  
11 ~~steps in the salary structure.~~

12 (e) The commission and council jointly shall contract with  
13 an external vendor to conduct a classified employee market salary  
14 study at least once within each five-year period. At the conclusion  
15 of the study, or for good cause, the commission and council, in  
16 consultation with the Compensation Planning and Review  
17 Committee, may take any combination of the following actions:

18 (1) Adjust the number of pay grades and the point values  
19 necessary ~~for a job to be assigned to a particular pay grade to~~

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1 validate the result of the classification system and the job worth  
2 hierarchy with the market;

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

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

6 (f) The commission and council jointly may perform an  
7 annual review of market salary data to determine how salaries have  
8 changed in the external market. Based on data collected, the  
9 commission and council jointly, in consultation with the  
10 Compensation Planning and Review Committee, shall adjust the  
11 ~~market salary structure~~ classified salary schedule if changes are  
12 supported by the data. ~~In the absence of a market salary study~~  
13 ~~conducted by an external vendor, the commission and council may~~  
14 ~~not adjust the midpoint differentials between pay grades unless~~  
15 ~~required to do so by a change in minimum wage or other laws and~~  
16 ~~may not adjust the range spread for any pay grade.~~

17 (g) Annually, the commission and council may approve a  
18 minimum salary ~~schedule~~ amount that sets forth a compensation  
19 level for each ~~step and~~ pay grade below which no organization

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1 employee may be paid.

2 (1) The minimum salary ~~floor~~ amount for each pay grade  
3 ~~and step~~ on the ~~minimum~~ classified salary schedule is determined  
4 by applying ~~the percentage fixed by commission and council rule~~  
5 ~~promulgated pursuant to section seven of this article~~ a percentage  
6 determined after analysis of the market and existing compensation  
7 levels to the annual market salary data. ~~The commission and~~  
8 ~~council also shall consider the minimum wage and other laws that~~  
9 ~~ensure that employees earn a living wage and shall maintain a~~  
10 ~~salary structure which ensures that the average salary of each class~~  
11 ~~of employees meets relative market equity among employee classes.~~  
12 The commission and council may take into consideration other  
13 factors they consider appropriate.

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

16 (h) The organization rule promulgated pursuant to  
17 subsection ~~(d)~~ (c), section seven of this article may provide for  
18 differential pay for certain employees who work different shifts,  
19 weekends or holidays.

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1 **§18B-9A-7. Classification and compensation rules required.**

2 (a) Notwithstanding any provision of law or rule to the  
3 contrary, the commission and council jointly shall design, develop,  
4 implement and administer the classified personnel system of  
5 classification and compensation pursuant to this article and articles  
6 seven, eight and nine of this chapter. ~~In developing and designing~~  
7 ~~the system, they shall give careful consideration to the~~  
8 ~~recommendations and supporting documentation contained in the~~  
9 ~~Final Report to the Select Committee on Higher Education~~  
10 ~~Personnel, prepared pursuant to section thirteen, article one-b of~~  
11 ~~this chapter, which was received and approved by the Select~~  
12 ~~Committee on January 11, 2010.~~

13 (b) ~~Classification and compensation system~~ System rule. --

14 ~~By November 1, 2011, the~~ The commission and council  
15 shall propose a joint rule or rules for legislative approval in  
16 accordance with article three-a, chapter twenty-nine-a of this code  
17 to implement the provisions of this article and articles seven, eight  
18 and nine of this chapter. The rule shall establish a classified  
19 employee classification and compensation system that incorporates

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1 best human resources practices ~~and takes into consideration the~~  
2 ~~recommendations of the Legislative Select Committee on Higher~~  
3 ~~Education Personnel. At a minimum, the system rule shall address~~  
4 ~~the areas of organization accountability, employee classification~~  
5 ~~and compensation, performance evaluation and development of~~  
6 ~~organization rules.~~

7 (1) *Organization accountability.* --

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

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

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

18 (i) For purposes of this subsection, a major deficiency  
19 means an organization has failed to comply with federal or state law

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1 or with personnel rules of the commission and council.

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

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

12 (iv) If the governing boards fail to correct the major  
13 deficiency or ~~fails~~ fail to notify the commission or council, as  
14 appropriate, that the deficiency has been corrected within ~~a period~~  
15 ~~of four months from the time the governing board receives~~  
16 ~~notification~~ the agreed upon period, the commission or council shall  
17 apply sanctions. ~~as specified:~~

18 (f) A formal reprimand shall be placed in the personnel file  
19 ~~of each key administrator who shares responsibility and has~~

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1 ~~operational authority in the area of the identified deficiency; and~~

2       (H) ~~Other sanctions~~ Sanctions may include, but are not  
3 limited to, suspending new hiring by the organization and  
4 prohibiting compensation increases for key administrators who have  
5 authority over the areas of major deficiency until the identified  
6 deficiencies are corrected.

7       (C) ~~Certifying that an organization has achieved full~~  
8 ~~funding of the temporary annual classified employee salary~~  
9 ~~schedule or is making appropriate progress toward achieving full~~  
10 ~~funding pursuant to section three, article nine of this chapter.~~

11       (2) ~~Employee~~ Classified employee classification and  
12 compensation. -- The classified employee classification and  
13 compensation system rule shall establish a classification and  
14 compensation system to accomplish the following objectives:

15       (A) ~~Moving classified employees through the classification~~  
16 ~~system based on~~ Allowing for performance and other objective,  
17 measurable factors including such as technical expertise, education,  
18 years of experience in higher education and experience above  
19 position requirements to be considered in compensation decisions;

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1 (B) Achieving and maintaining appropriate levels of  
2 employee dispersion ~~across steps~~ through a pay range;

3 (C) ~~Assigning each current employee to an initial step for  
4 his or her pay grade that is closest to and exceeds his or her current  
5 salary regardless of previous education, experience or performance.~~

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

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

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

17 (F) Providing a procedure whereby a classified employee or  
18 a supervisor who believes that changes in the job duties and  
19 responsibilities of the employee justify a position review may

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1 request that a review be done at any time;

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

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

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

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

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

8 ~~(c) *Emergency rule.* --~~

9 ~~(1) The Legislature hereby finds that an emergency exists  
10 and, therefore, the commission and council shall propose a joint  
11 emergency rule or rules by November 1, 2011, in accordance with  
12 article three-a, chapter twenty-nine-a of this code to implement the  
13 provisions of this article and articles seven, eight and nine of this  
14 chapter.~~

15 ~~(2) The commission and council shall file the emergency  
16 rule or rules with the Legislative Oversight Commission on  
17 Education Accountability by the date specified in subdivision (1) of  
18 this subsection and may not implement the emergency rule or rules  
19 without prior approval.~~

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1           (†) (c) *Organization rules.* --

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

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

18          (3) An organization may not adopt a rule under this section  
19 until it has consulted with the appropriate employee class affected

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1 by the rule's provisions.

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

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

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

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

18 (C) Receives approval for the classification and  
19 compensation rule from the appropriate chancellor in accordance

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1 with this section; and

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

4 (6) Notwithstanding any provision of this code to the  
5 contrary, each chancellor, or his or her designee, has the authority  
6 and the duty to review each classification and compensation rule  
7 promulgated by an organization under his or her jurisdiction and to  
8 recommend changes to the rule to bring it into compliance with  
9 state and federal law, commission and council rules or legislative,  
10 commission and council intent. Each chancellor may reject or  
11 disapprove any rule, in whole or in part, if he or she determines that  
12 it is not in compliance with law or rule or if it is inconsistent with  
13 legislative, commission and council intent.