

WEST VIRGINIA LEGISLATIVE AUDITOR'S OFFICE

Post Audit Division

1900 Kanawha Blvd. East, Room W-329
Charleston, WV 25305-0610
(304) 347-4880



Denny Rhodes
Director

August 20, 2017

The Honorable Mitch Carmichael, President
West Virginia State Senate
Post Audits Subcommittee, Co-Chair
Room 229 M, Building 1
State Capitol Complex
Charleston, WV 25305

The Honorable Timothy Armstead, Speaker
West Virginia House of Delegates
Post Audits Subcommittee, Co-Chair
Room 228 M, Building 1
State Capitol Complex
Charleston, WV 25305

Dear Mr. President and Mr. Speaker:

It was brought to our attention that inconsistencies may exist regarding how the State's higher education institutions grant holiday hours for employees working a modified four-day workweek. Specifically, it was alleged that employees working a modified four-day workweek receive more hours for State holidays than employees working a traditional five-day workweek. The Post Audit Division was tasked with determining if the treatment of employees' holiday time was equitable for all higher education employees, regardless of whether the employees work a four-day workweek or a five-day workweek.

We surveyed the State's 21 higher education institutions and determined 13 permit at least some fulltime non-faculty employees to work a modified four-day workweek during all or part of the calendar year. Three of these institutions only permit such a modified schedule during the summer months between the spring and fall semesters, while one institution operates exclusively on a four-day workweek throughout the year. The survey results **revealed there is inconsistency in granting holiday hours for four of the 13 institutions permitting a four-day workweek** (see *Attachment A* for more detail on survey results).

The inconsistent treatment is due to these four institutions crediting hours for a paid holiday equal to the hours an employee would work if there was no holiday. **This practice results in more hours being credited to four-day workweek employees for holidays than to five-day workweek employees.** Workweeks for all higher education regular fulltime employees consist of 37.5 total hours. The weekly work schedule for employees working a normal five-day workweek consists of five 7.5 hour workdays;

whereas, the typical work schedule for employees who work a modified four-day workweek consists of three 9.5 hour workdays and one 9-hour workday. Therefore, if a holiday occurs on a Monday, which is often the case, a four-day per week employee is excused from work for 9.5 hours while a five-day per week employee would receive 7.5 hours, two hours less, for the same holiday. Consequently, four-day workweek employees only need an additional 28 hours to meet the 37.5-hour workweek requirement, while five-day workweek employees need 30 hours. The four institutions that follow this procedure are **West Liberty University, Mountwest Community and Technical College, Southern West Virginia Community and Technical College and West Virginia Northern Community and Technical College.**

This practice has resulted in a situation where these higher education institutions and the State incur additional costs due to a loss of productivity because four-day workweek employees are granted additional holiday hours from work. Further, employees of these four institutions that work a four-day per week schedule receive a greater benefit for holidays than other higher education employees that work a traditional five-day per week schedule. Thus, employees with similar job duties and pay scales are subject to disparate treatment. This inequitable treatment could have a detrimental effect on employee morale for those employees that do not receive the additional time off work for holidays.

The other nine institutions that permit four-day workweeks limit holiday time to 7.5 hours regardless of whether employees work a four-day or a five-day workweek schedule. Employees scheduled to work 9.5 hours on the holiday may either take leave for the two additional hours not covered or work the additional hours by amending their schedules for the remainder of the workweek.

Each of the State's higher education institutions decides how to handle holiday pay for modified workweeks, resulting in an unnecessary variety of arrangements. Employees could appropriately view this inconsistency between various higher educational institutions as unfair in that employees with similar job duties and pay scales do not receive similar holiday benefits.

The WV Division of Personnel has addressed this issue by Legislative Rule whereby agencies under its jurisdiction are prohibited from granting employees more than eight hours for holidays. The intent of the policy is to ensure consistent treatment by agencies in granting time off work for State holidays. However, **the State's higher education institutions are not subject to DOP oversight.**¹

Criteria:

WV Code §18B-9A-1, as amended, states in part:

(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:...

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

¹ The federal government has a similar policy to DOP's policy that ensures all employees receive the same amount of paid time off work for federal holidays.

Higher education holidays differ somewhat from those of other State agencies. **Title 133, Series 14, Section 3.1 of the HEPC's Procedural Rule**, which stipulates the days to be recognized as higher education holidays, states:

The number of full holidays shall be twelve, plus additional days for any statewide, primary or general election. Specified holidays shall include Independence Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, and Martin Luther King's Birthday. Six additional days determined by the governing board or president as provided in Section 2.1 shall also be taken. If a specified holiday falls on a Saturday or Sunday, the preceding Friday or the following Monday will be observed as the legal holiday.

Recommendations:

Ideally, any process which involves time worked or time taken off should follow formal and consistent policies and procedures. Additionally, as compensation is one of the largest expenses of higher education institutions, it is reasonable to expect that all components relating to compensation should be managed under a uniform set of guidelines across the State.

With the adoption of House Bills 2815 and 2542 during the 2017 Legislative session, it is the opinion of the legal staff of the Legislative Services Division that **the Higher Education Policy Commission no longer has the authority to dictate personnel policy for the State's higher education institutions**. Specifically, in implementing House Bill 2815, WV Code §18B-1B-4 was amended by striking HEPC's authority to "...develop, establish and implement policy..." in regards to promulgating "...a uniform joint legislative rule for the purposes of standardizing, as much as possible, the administration of personnel matters among the state institutions of higher education..." The section, as amended, now instructs the HEPC is to "assist (higher education institutions) in the development of policy..."

Therefore, since the HEPC no longer has the authority to dictate policy to standardize personnel matters, **the Legislative Auditor recommends West Liberty University, Mountwest Community and Technical College, Southern West Virginia Community and Technical College and West Virginia Northern Community and Technical College** to elicit the assistance of the HEPC and/or the Council for Community and Technical College Education, as appropriate, in establishing a uniform policy regarding work-hour requirements for four-day per week employees during weeks that contain holidays. **The enacted policy should limit holiday hours granted for each holiday to 7.5, regardless of whether employees work a four-day or a five-day workweek**. Based on their Fulltime Equivalency (FTE) rating, eligible part-time employees should receive a pro-rata amount of the 7.5 hours for holidays.

Additionally, the policy should provide for four-day per week employees to be provided an option on holidays to either:

1. Elect to use either annual leave or compensatory time earned to make up for the time exceeding the 7.5 hours the employee was scheduled to work; or
2. Elect to amend schedules for the remainder of the week to make up the deficit.

Sincerely,



Denny Rhodes

Encl: Attachment A – Responses from Survey

Cc: Senator Kenny Mann, Chair
Senate Education Committee

Delegate Paul Espinosa, Chair
House of Delegates Education Committee

University, College and Community & Technical College Policies on Number of Hours Credited to 4 Day Workweek Employees for State Holidays

Hours Equal to Schedule <i>Institution credits greater number of hours for State Holidays to 4 day workweek employees than to 5 day workweek employees (9 to 9.5 hours vs. 7.5 hours).</i>	7.5 Hours Granted <i>Institution credits 7.5 hours for State Holidays to all employees, regardless of work schedule.</i>	Does Not Offer 4 Day Schedule <i>Institution only operates on a 5 day workweek schedule.</i>
<p>Mountwest CTC ** Huntington, WV</p> <p>Southern West Virginia CTC* Williamson, WV</p> <p>West Liberty University West Liberty, WV</p> <p>West Virginia Northern CTC* Wheeling, WV</p>	<p>Bridge Valley CTC* Charleston, WV</p> <p>Fairmont State University Fairmont, WV</p> <p>Marshall University Huntington, WV</p> <p>New River CTC* Beaver, WV</p> <p>Pierpont CTC* Fairmont, WV</p> <p>Shepherd University Shepherdstown, WV</p> <p>West Virginia University Morgantown, WV</p> <p>WVU-Institute of Technology Beckley, WV</p> <p>WVU-Parkersburg Parkersburg, WV</p>	<p>Bluefield State College Bluefield, WV</p> <p>Blue Ridge CTC* Martinsburg, WV</p> <p>Concord University Athens, WV</p> <p>Eastern West Virginia CTC* Moorefield, WV</p> <p>Glenville State College Glenville, WV</p> <p>Potomac State College of WVU Keyser, WV</p> <p>WV State University Insitute, WV</p> <p>WV School of Osteopathic Med. Lewisburg, WV</p>

*CTC– Community and Technical College

** Mountwest CTC operates on a four day per week year-round schedule of Monday through Thursday.



WEST LIBERTY UNIVERSITY

Human Resources Department
208 University Drive
College Union Box 131
West Liberty, WV 26074

Diana L. Harto, Chief Human Resources Officer
Office: (304) 336-8139

diana.harto@westliberty.edu

Attachment B

August 16, 2017

Denny Rhodes, Director
WV Legislative Auditor's Office
1900 Kanawha Blvd. East, Room W-329
Charleston, WV 25305-0610

Dear Director Rhodes:

In response to Denny Rhodes letter referencing the preliminary draft of the report on the State's higher education institutions practices regarding holiday hours granted to employees working a modified four-day workweek, we would like to clarify West Liberty University's procedure and practice for it's one employee working a four-day workweek.

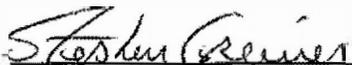
As discussed with Stan Lynch, Deputy Director, via telephone on Monday, August 14, 2017, the University has (1) one employee considered full-time by higher education policy at 30 hours per week. The employee is a .80 FTE working a standard set schedule of 7.5 hours daily, Monday through Thursday.

When a holiday occurs during her workweek, our Payroll Representative manually enters 7.5 hours for holiday pay, which represents the 7.5 hours she would work on that day. We do not consider this as overpay or over accrued holiday pay for this individual nor do we 'bank' holiday hours. However, we will review the practice with Patricia Humphries, Vice Chancellor of WVHEPC Division of Human Resources and consider possible alternatives as necessary.

Attached is the July 4, 2017 Kronos timecard that reflects the employee's holiday pay.

We hope this helps to clarify any misunderstanding. In addition, we appreciate Director Lynch's guidance and excusing West Liberty University from the need to appear before the Senate Finance Committee scheduled for August 20, 2017.

Sincerely,


Stephen Greiner, President


Diana Harto, CHRO

cc: Aaron Allred, Legislative Auditor
Les DeFelice, Chair, Board of Directors
Patricia Humphries, Vice Chancellor for Human Resources WVHEPC

KRONOS

SYLVIA E BARR
Sign Out

25 58

Workspaces

Default Workspace

Hours Detail

Back to Hours Detail

Timecard | Schedule | People | Reports | Availability

TIMECARD

Loaded: 10:29AM

Name & ID: MELKE, CHERYL V 0000051567

Time Period: 7/02/2017 - 7/14/2017, Range of Dates

DATE	DATE	Pay Code	Amount	In	Transfer	Out	In	Transfer	Out	Shift	Daily	Cumulative
Sat 7/01												
Sun 7/02												
Mon 7/03												
Tue 7/04		HOLLY-HOLIDAY LEAVE	7.5	7:59AM		4:00PM				7.5	7.5	7.5
Tue 7/04		INDEPENDENCE DAY	0.0								7.5	15.0
Wed 7/05				7:55AM		3:59PM				7.5	7.5	22.5
Thu 7/05												22.5
Fri 7/07												22.5
Sat 7/08												22.5
Sun 7/09												22.5
Mon 7/10				7:55AM		4:00PM				7.5	7.5	30.0
Tue 7/11				7:55AM		4:00PM				7.5	7.5	37.5
Wed 7/12				7:55AM		4:02PM				7.5	7.5	45.0
Thu 7/13				7:59AM		4:00PM				7.5	7.5	52.5
Fri 7/14												52.5
Sat 7/15												

TOTALS & SCHEDULE				ACCUALS REPORTING PERIOD				AUDITS				SIGN-OFFS, REQUESTS & APPROVALS				ACTIVITIES				EVENT AUDITS			
Account	Pay Code	Amount	Wages	Date	Start Time	End Time	Pay Code	Amount	Date	Start Time	End Time	Pay Code	Amount	Date	Start Time	End Time	Pay Code	Amount					
0468-06704-0000051529-235351-Z9/PC	REG-REGULAR	45.0		Sun 7/02					Mon 7/03	8:00AM	4:00PM			Tue 7/04	8:00AM	4:00PM							
0468-06704-0000051529-235351-Z9/PC	HOLLY-HOLIDA	7.5		Wed 7/05	8:00AM	4:00PM			Thu 7/05	8:00AM	4:00PM			Fri 7/07									
				Sat 7/08					Sun 7/09					Mon 7/10	8:00AM	4:00PM							
				Tue 7/11	8:00AM	4:00PM			Wed 7/12	8:00AM	4:00PM			Thu 7/13	8:00AM	4:00PM							
				Fri 7/14																			

- Request Manager
- Timecard Exceptions
- Schedule Editor
- Pay Period Close
- Work and Absence Calendar
- Quick Find
- Quick Links
- Kronos Help
- Sign Off Timecards
- Delegate Authority
- Biometric Status

August 17, 2017

Attachment C

Denny Rhodes, Director
West Virginia Legislative Auditor's Office
Post Audit Division
1900 Kanawha Blvd., East, Room G-329
Charleston, WV 25305-0610

Dear Mr. Rhodes:

In response to your emailed letter of August 10, 2017 regarding "the preliminary draft of the report on the State's higher education institutions practices regarding holiday hours granted to employees working a modified four-day workweek," I believe it is important to note some observations.

Soon after moving off the campus of Marshall University to the College's current location atop 5th Street Hill in Huntington, WV, the legislature and Governor began issuing allocation reductions to the college. The Mountwest administration solicited suggestions and comments from students and employees related to possible cost-cutting measures that might also improve services and efficiencies for the College. As a result of this process, beginning January 2, 2014, Mountwest implemented a business operations schedule of Monday – Wednesday from 8:00 a.m. to 6:00 p.m. and on Thursday's from 8:00 am. – 5:30 p.m. A 37.5 hour workweek continued to be observed by employees by reducing their unpaid lunch breaks from 1.0 hour/day to 30-minutes/day. Benefits derived from the new operating schedule included reduced operational costs in utilities, cleaning and security as our headquarters facility is not open for business Friday – Sunday. Mountwest continues to operate on this schedule as it has been proven to provide efficiencies and savings in operational costs while our students are being better served by institutional offices being staffed for longer hours each day.

Prior to implementation of this operations schedule, much thought and consideration was given as to how holidays for eligible employees would be managed. After searching WV State Code, HEPC and CTCE Rules as well as grievance decisions, we were unable to find any references to the management of holiday hours for higher education employees. We believe it is important to note that all references were to days, not hours. Series 14, the West Virginia Council for Community and Technical College Education's procedural rule on Holidays in Section 2.1. states:

*The Council hereby directs that **the governing board or president of each institution shall determine six holidays which will be observed by the employees of that institution in addition to the six holidays specified in Section 3.1 of this rule.***

Thus, we respectfully disagree with the recommendation of the Legislative Auditor's office that Mountwest, along with West Liberty University, Southern West Virginia Community and Technical College

Mr. Rhodes
August 17, 2017
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and West Virginia Northern Community and Technical College “elicit the assistance of the HEPC and/or the Council for Community and Technical College Education, as appropriate, in establishing a uniform policy regarding work-hour requirements for four-day per week employees during weeks that contain holidays limiting holidays hours granted for each holiday to 7.5, regardless of whether employees work a four-day or a five-day workweek.” We do not employ part-time employees who might be eligible to receive a pro-rata amount of the 7.5 hours for holidays. Additionally, due to the fact that higher education institutions have flexibility in the funding of salary increases and setting salary schedules for employees, including classified employees under certain circumstances, we do not agree with the assumption that “employees with similar job duties and pay scales are subject to disparate treatment.”

We believe it is important to note that when certain holidays actually occur and/or are observed by others (Presidents Day, West Virginia Day, Columbus Day, Veterans Day and Lincoln’s Day), Mountwest employees are on the job working 9.5 hours each day as classes are in session. These holidays, with my approval, are taken at later dates when classes are not in session. Forcing employees to take fewer holiday hours than they worked would not be acceptable. Also, modifying the workweek to be spread out over five days would eliminate the efficiencies that influenced our decision to implement a four-day workweek. Forcing employees to work longer hours when business offices aren’t open isn’t an effective use of time and the time spent managing and tracking the hours would result in even great inefficiencies.

While it may be true that some individuals believe our employees are receiving a benefit not afforded to them, I believe it is important to understand that Mountwest employees have made certain sacrifices in order to work within a four-day workweek in order to benefit the college. For example, employees with small children often have to make other arrangements for childcare and sometimes miss out on family activities unless they have annual leave available to take. Some employees have had responsibilities with elder care that they have had to manage differently. When considering commuting time at the end of the workday, some employees do not get home until 7:00 p.m. or even later. Their Friday’s are often spent catching up on family responsibilities and activities around their homes that they simply do not have time to do during the four-day workweek.

During the past several years the WV Legislature has granted West Virginia public higher education institutions a number of flexibilities that when implemented, have proven to be cost effective while implementing best business and human resources practices. The ability to operate on a four-day work week at Mountwest would not have been possible otherwise.

Sincerely,

Keith J. Cotroneo
President

cc: Aaron Allred, Legislative Auditor
Jeffrey Goad, Chair, Board of Governors
Stephanie Neal, Director of Human Resources
Patricia Humphries, Vice Chancellor for Human Resources
West Virginia Higher Education Policy Commission and
Community and Technical College system



Southern
West Virginia
Community and Technical College

ROBERT E. GUNTER, Ed.D.
PRESIDENT

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Attachment D

August 16, 2017

Mr. Denny Rhodes, Director
Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Dear Director Rhodes:

Upon further consideration of your request, including discussion today with another of the colleges that allow alternative workweek schedules and with the Vice Chancellor for Human Resources of the West Virginia Higher Education Policy Commission, we wish to advise you that we will, of course, revise employee work schedules for holiday weeks if required by state or federal law or policy. I have asked our legal counsel to research this matter and advise, as soon as possible, if that is the case.

If you have any questions or need additional information, please contact me.

Sincerely,

Robert E. Gunter, Ed.D.
President

REG:elb

cc: Aaron Allred, Legislative Auditor
Howard E. Seufer, Chair, Board of Governors
Samuel Litteral, Vice President for Finance and Administration
Patricia Humphries, Vice Chancellor for Human Resources
West Virginia Higher Education Policy Commission, and
Community and Technical College System



August 14, 2017

Attachment E

Mr. Denny Rhodes
Director, Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd., E.
Charleston, WV 25305-0610

Re: Response to the August 10, 2017 letter

Dear Mr. Rhodes:

This letter is in response to the preliminary draft of the report on the State's higher education institutions practices regarding holiday hours granted to employees working a modified four-day workweek.

Under the direction of Dr. Martin Olshinsky, College President at that time, an inquiry was made to the WV Higher Education Policy Commission Attorney General legal counsel regarding the four-day work week daily hours and holiday hours. We were informed the College President's had the authority to determine the length of a work day within a thirty-seven and a half hour work week and although the Procedural Rule 135, Series 14-3, indicated the number of work days, it does not include the number of holiday hours per day therefore our work days were 9.5 or 9 hours a day on two holidays a year.

It is our intent to adopt the recommendation presented by the Legislative Auditor. Please contact me if you have any questions or concerns.

Best Regards,


Dr. Vicki L. Riley
President

Cc: Aaron Allred, Legislative Auditor
Brann Altmeyer, Chair, Board of Governors
Sarah Armstrong Tucker, PHD, Chancellor for Community and Technical College Education
Patricia Humphries, Vice Chancellor for Human Resources West Virginia Higher Education Policy Commission, and Community and Technical College System.
Peggy Carmichael, Chief Human Resources Officer