

NEW EMPLOYEE AND DIVISION HANDBOOK

November 2013



West Virginia
Higher Education
Policy Commission

**West Virginia Higher Education Policy Commission
West Virginia Council for Community and Technical College Education**

New Employee and Division Handbook Receipt

The West Virginia Higher Education Policy Commission (Commission) and the West Virginia Council for Community and Technical College Education (Council) provide each new employee with a New Employee and Division Handbook (Handbook). This collection of policies, procedures and protocols relates to and includes personnel administration, operational procedures, Legislative rules and interpretive memoranda. Some of these policies may be covered with you during your orientation; some others may not. It is your responsibility to familiarize yourself with the Handbook so you are aware of the policies that govern employment with the Commission and the Council.

The Handbook **does not create a contract of employment** for any particular time nor does it alter the at-will status of your employment. "At-will employees" are subject to discharge at any time with or without notice and may terminate their employment at any time with or without notice. The policies contained within the Handbook are subject to change at any time and any amended policies will be publicized and distributed to all employees; it is your responsibility to keep your Handbook updated. Employees hired under a specific employment contract and those covered by the classification system are nonetheless bound by these policies except to the extent that they may conflict with a specific provision in an employment contract or the provisions of *West Virginia Code §6C-2-1 et seq.*

Your signature below acknowledges your receipt of the Handbook and your responsibility to familiarize yourself with its provisions.

Employee Signature

Date

NOTE:

THE POLICIES AND PROCEDURES CONTAINED IN THIS HANDBOOK ARE TITLED WITH THE HEADING, "WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION" BUT ARE APPLICABLE TO EMPLOYEES OF BOTH THE WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION AND THE WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION. ANY REFERENCE TO THE COMMISSION MAY BE SUBSTITUTED WITH THE COUNCIL.

TO VIEW THE HANDBOOK, FOLLOW THE LINK BELOW:

TABLE OF CONTENTS
November 2013

A. WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

West Virginia Higher Education Policy Commission Members 1
West Virginia Higher Education Policy Commission Institutions 3
West Virginia Higher Education Policy Commission Agenda Preparation Guidelines 5

B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION

West Virginia Council for Community and Technical College Education Members 7
West Virginia Council for Community and Technical College Education Institutions 9
West Virginia Council for Community and Technical College Education Agenda Preparation Guidelines 11

C. STAFF INFORMATION

Chancellors' Cabinet Members..... 13
Commission / Council Staff Listing 15
Organizational Chart..... 17
West Virginia Higher Education Policy Commission Office Classified Staff Council Members 19

D. PERSONNEL GUIDELINES, POLICIES AND PROCEDURES

Affirmative Action Plan for Minorities and Women, Affirmative Action Plan for Individuals with Disabilities and Covered Veterans 21
Catastrophic Leave Transfer Procedures 23
Disciplinary Policy 27
Dress Policy 31
Drug Free Workplace Information..... 33
Educational Release Time Procedures..... 37
Emergency Contact Information..... 43
Employee Benefits 45
Family and Medical Leave Policy 47
Grievance Procedures and Forms 57
Harassment: Nondiscrimination/Anti-harassment Policy and Complaint Procedure..... 75
Leave Reporting Procedures 79
Overtime Work Administrative Procedures 81
Payroll Procedures to Address Insufficient Leave..... 85
Performance Appraisal Procedures..... 87
Personnel Action Procedures 93
Telecommuting Policy and Guidelines..... 99
Work Schedule Procedures 107

E. OPERATIONAL GUIDELINES, POLICIES AND PROCEDURES

Computer Use Policy 109
Duplicating Cost Procedures..... 113
Electronic Mobile Communication Devices Stipend Procedures..... 115

E-mail Signature and Usage.....	119
Freedom of Information Act Procedures	121
Lunchroom Guidelines.....	123
Inclement Weather Procedures	125
Parking Procedures	127
Purchasing Procedures Manual.....	131
Safety Policy	157
Security Card Issuance	177
Smoking Guidelines.....	179
Telephone Tips and Tricks.....	181
Tuition Waiver Guidelines.....	201

**F. WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION RULES
RELATING TO PERSONNEL**

Series 8 Personnel Administration.....	205
Series 14 Holidays	223
Series 29 Travel	225
Series 30 Purchasing.....	235
Series 31 Ethics.....	261
Series 38 Employee Leave.....	267
Series 39 Classified Employees.....	279
Series 40 Equal Opportunity / Affirmative Action.....	283
Series 53 Human Resources Administration	287

**G. CHANCELLOR’S INTERPRETATIVE MEMORANDUM RELATING TO
PERSONNEL**

No. 3 Internal Hiring of Non-Exempt Classified Employees.....	313
No. 5 Grievance Process for Faculty, Classified Employees and Administrators.....	315

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Chair



Paul L. Hill, Ph.D.
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Effective August 23, 2013



Directory of Public Baccalaureate and Graduate Institutions

Bluefield State College

219 Rock Street | Bluefield, WV | 24701-2198
1-800-654-7798

[website](#) | [president](#) | [board of governors](#) | [BOG policies](#) | [holiday schedule](#)

Concord University

Vermillion Street | PO Box 1000 | Athens, WV | 24712-1000
1-888-384-5249

[website](#) | [president](#) | [board of governors](#) | [BOG policies](#) | [holiday schedule](#)

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1201 Locust Avenue | Fairmont, WV | 26554
1-800-641-5678

[website](#) | [president](#) | [board of governors](#) | [BOG policies](#) | [holiday schedule](#)

Glenville State College

200 High Street | Glenville, WV | 26351
1-304-462-7361

[website](#) | [president](#) | [board of governors](#) | [BOG policies](#) | [holiday schedule](#)

Marshall University

One John Marshall Drive | Huntington, WV | 25755
1-800-642-3463

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Shepherd University

P.O. Box 5000 | Shepherdstown, WV | 25443-3210
1-800-344-5231

[website](#) | [president](#) | [board of governors](#) | [BOG policies](#) | [holiday schedule](#)

West Liberty University

P.O. Box 295 | West Liberty, WV | 26074-0295
1-866-WESTLIB

[website](#) | [president](#) | [board of governors](#) | [BOG policies](#) | [holiday schedule](#)

West Virginia School of Osteopathic Medicine

400 N. Lee Street | Lewisburg, WV | 24901
1-800-356-7836

[website](#) | [president](#) | [board of governors](#) | [BOG policies](#) | [holiday schedule](#)

West Virginia State University

P.O. Box 1000 | Institute, WV | 25112-1000
1-800-987-2112

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West Virginia University

P.O. Box 6201 | Morgantown, WV | 26506
1-304-293-0111

[website](#) | [president](#) | [board of governors](#) | [BOG policies](#) | [holiday schedule](#)

West Virginia University Divisional Campuses

Potomac State College of West Virginia University

101 Fort Avenue | Keyser, WV | 26726
1-800-262-7332

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West Virginia University Institute of Technology

405 Fayette Pike | Montgomery, WV | 25136

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[website](#) | [campus executive officer](#)

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**West Virginia Higher Education Policy Commission
Meeting of Month, day, year**

- ITEM:** Title
- INSTITUTION(S):** Name of Institution/s
- RECOMMENDED RESOLUTION:** *Resolved*, That the West Virginia Higher Education Policy Commission.....
- STAFF MEMBER:** Name of staff member
- BACKGROUND:**

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August 23, 2013

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Technology Center

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Martinsburg, WV 25405

Bridgemont Community and Technical College

www.bridgemont.edu

Montgomery Campus

619 2nd Avenue
Montgomery, WV 25136
Phone: 304.734.6600

Bridgemont Technology Center

1200 Science Park Drive
South Charleston, WV 25303
Phone: 304.734.6700

Eastern WV Community and Technical College

www.eastern.edu

316 Eastern Drive
Moorefield, WV 26836
Phone: 304.434.8000

Kanawha Valley Community and Technical College

www.kvctc.edu

2001 Union Carbide Drive
Building 2000
South Charleston, WV 25303
Phone: 304.205.6600

Mountwest Community and Technical College

www.mctc.edu

2205 5th Street Road
Huntington, WV 25701
Phone: 866.676.5533

New River Community and Technical College

www.newriver.edu

Beckley Campus

167 Dye Drive
Beckley, WV 25801
Phone: 304.929.5450

Greenbrier Valley Campus

101 Church Street
Lewisburg, WV 24901
Phone: 304.647.6560

Nicholas County Campus

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Summersville, WV 26651
Phone: 304.872.1236

Advanced Technology Center

527 Odd Road
PO Box 307
Ghent, WV 25843
Phone: 304-929-3300

Mercer County Campus

1397 Stafford Drive
Princeton, WV 24740
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Pierpont Community and Technical College

www.pierpont.edu

Fairmont Campus

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Fairmont, WV 26554
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Braxton County Center

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Sutton, WV 26601
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Lewis County Center

205 Minuteman Drive
Weston, WV 26452
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(Pierpont Community and Technical College Continued)

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Morgantown, WV 26501
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Gaston Caperton Center

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Clarksburg, WV 26301
Phone: 304.623.5721

Robert C. Byrd National Aerospace Education Center

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Bridgeport, WV 26330
Phone: 304.367.4225

Southern WV Community and Technical College

www.southernwv.edu

Logan Campus

2900 Dempsey Branch Road
Mount Gay, WV 25637
Phone: 304.792.7098
TTY: 304.792.7054

Boone/Lincoln Campus

3505 Daniel Boone Parkway, Suite A
Foster, WV 25081
Phone: 304.369.2952
TTY: 304.369.2960

Wyoming/McDowell Campus

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Soulsville, WV 25876
Phone: 304.294.8346
TTY: 304.294.8520

Williamson Campus

1601 Armory Drive
Williamson, WV 25661
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TTY: 304.235.6056

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Hamlin, WV 25523
Phone: 304.307.0710

West Virginia Northern Community College

www.wvncc.edu

Wheeling Campus

1704 Market Street
Wheeling, WV 26003
Phone: 304.233.5900

New Martinsville Campus

141 Main Street
New Martinsville, WV 26155
Phone: 304.455.4684

Weirton Campus

150 Park Avenue
Weirton, WV 26062
Phone: 304.723.2210

West Virginia University at Parkersburg

www.wvup.edu

300 Campus Drive
Parkersburg, WV 26104
Phone: 304.424.8000

Jackson County Center

105-107 Academy Drive
Ripley, WV 25271
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**WV Council for Community and Technical College Education
Meeting of Month, day, year**

ITEM: Title

INSTITUTION(S): Name of Institution/s

RECOMMENDED RESOLUTION: *Resolved, That the West Virginia Council for
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 Health Sciences 558-0532
 Human Resources 558-4306
 Legal/Policy and Planning 558-4820
 Office of Financial Aid and Outreach Services 558-4622
 Office of Vice Chancellor for Technology 522-7305
 Policy Commission Office 558-1011
 PROMISE Scholarship Program 558-3264
 WV EPSCoR 558-2321

CONFERENCE ROOMS

9th Floor Conference Room A Ext. 263
 9th Floor Conference Room B (President's Room) Ext. 281
 & 282
 10th Floor Conference Room Ext. 228

TOLL FREE NUMBERS

**PROMISE Scholarship Program
 1-877-WVPROMISE**

**WV Council for Community and Technical College
 Education
 1-866-TWO-YEAR**

**West Virginia Higher Education Grant Program
 1-888-825-5707**

**WVNET
 1-800-253-1558**

ORGANIZATIONAL CHART

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION OFFICE

UNDER DEVELOPMENT
June 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

CLASSIFIED STAFF COUNCIL

July 1, 2013 to June 30, 2014

Chair:	Karen Martin
Office / Clerical Category:	Maria Nova Carrie Watters
Paraprofessional Category:	Victoria Timbers Vickie Hairston
Professional Category:	Tana Mounts Melissa Samples
Representative to the Advisory Council of Classified Employees:	Carrie Watters

***WEST VIRGINIA HIGHER EDUCATION
POLICY COMMISSION OFFICE***

**AFFIRMATIVE ACTION PLAN
for Minorities and Women**

and

**AFFIRMATIVE ACTION PLAN
for
Individuals with Disabilities and
Covered Veterans**

Full plan available for review at <http://wvhepcnew.wvnet.edu/> or by contacting the Division of Human Resources.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

CATASTROPHIC LEAVE PROCEDURES

Provisions

1. A catastrophic illness or injury means an illness or injury which is expected to incapacitate the employee and which creates a financial hardship because the employee has exhausted all sick and annual leave and other paid time off. Catastrophic illness or injury shall also include an incapacitated immediate family member as defined in Procedural Rule Series 38, Employee Leave, if this results in the employee being required to take time off from work for an extended period of time to care for the family member and the employee has exhausted all leave and other paid time off.
2. Leave may be donated to any benefits eligible employee experiencing a catastrophic illness or injury. Such leave shall be donated at the request of the employee or employee's designated representative upon appropriate verification that the requesting employee is unable to work due to the catastrophic illness or injury as determined by the Executive Vice Chancellor for Administration or her/his designee.

Upon approval of the transfer of leave by the Executive Vice Chancellor for Administration, any employee may donate sick and annual leave in one-day increments. Donations will be reflected as a day-for-day deduction from the leave balance of the donating employee. No employee shall be compelled to donate leave.

3. An employee receiving the transfer of leave shall have any time which is donated credited to such employee's leave account in one-day increments and reflected as a day-for-day deduction to the leave balance of the donating employee.

Use of donated credits may not exceed the maximum of twelve continuous calendar months for any one catastrophic illness or injury. The total amount of leave donated may not exceed an amount sufficient to insure the continuance of regular compensation and shall not be used to extend insurance coverage. An employee receiving leave donations shall use on a monthly basis any leave personally accrued prior to receiving additional donated leave.

The length of time required for an employee to be on catastrophic leave may be extended with the appropriate verification from the doctor. If additional days of leave are needed from employees, a second request may be sent out.

Procedures

1. A benefits eligible employee, unless in a six-month probationary period, experiencing catastrophic illness or injury as defined in the law who wishes to request approval to receive leave donations shall submit such request on the catastrophic leave request form

to the Executive Vice Chancellor for Administration with a copy to the Division of Human Resources.

2. An employee shall submit a request for catastrophic leave on the appropriate form within ten (10) work days of the event which created the catastrophic illness or injury or being notified that her/his combined sick and annual leave balance has been exhausted. A doctor's statement indicating approximate length of time the employee will be required to remain off from work is to be attached to the request form. Any request for catastrophic leave which does not have the appropriate doctor's verification will not be considered.
3. The Executive Vice Chancellor for Administration or her/his designee shall determine whether the request meets all requirements of the policy set forth in Procedural Rule Series 38, Employee Leave and shall advise the employee in writing with a copy to the immediate supervisor and Division of Human Resources regarding action on the request.
4. Any employee who wishes to donate accumulated sick or annual leave to an approved recipient must have a leave balance of at least ten (10) days of combined sick and annual leave before donating leave. Leave donations shall be made on the donation form provided by the Division of Human Resources. Donated leave shall be in one-day increments.

An employee considering donating leave days should understand that he/she may be relinquishing his/her rights to use such leave for personal reasons or at retirement, i.e., for extension of insurance coverage or service credit.

5. The Division of Human Resources will maintain a record of the date that a recipient is approved for catastrophic leave and written donations to the employee are received. Transfers of leave time on a day-for-day basis will then be made in the order written donations are received and for the duration of the time period approved for the recipient.
6. As transfers occur and adjustments are made to the employee's electronic leave record, an e-mail confirmation will be provided to the recipient and donor by the Division of Human Resources.
7. An employee who desires to withdraw donated leave must do so in writing to the Division of Human Resources with the understanding that leave already added to the approved recipient's leave account will not be returned.

June 1993
Updated: May 17, 2004
Revised May 5, 2010
Updated: June 2013



Request for Catastrophic Leave

Requesting employee: _____

In accordance with the Catastrophic Leave Procedures, I hereby request approval to receive catastrophic leave.

I will exhaust my sick and annual leave on: _____

Attached to this form is a doctor's statement indicating the approximate length of time I will be required to remain off from work.*

Printed Name _____
Employee or Employee's Designated Representative

Signature _____ Date _____
Employee or Employee's Designated Representative

Forward copies of the completed form to the Executive Vice Chancellor for Administration and the Division of Human Resources. Requests must be submitted within **ten (10)** days of the event creating the catastrophic illness/injury or notification that combined sick/annual leave balance has been exhausted.

*Request without the appropriate doctor's verification will not be considered.

Executive Vice Chancellor for Administration's Action
Approved
Denied Explain: _____

Signature _____ Date _____

Human Resources Office Use
Date Approved _____
Date notice for donation sent _____
Deadline for donations _____



Catastrophic Leave Donation Form

Donating Employee Name _____

I agree to donate:

Day(s) sick leave

Day(s) annual leave

To:

as part of the Catastrophic Leave Procedures. It is my understanding that these days will not be deducted from my leave balance until used by the receiving employee.*

If donating both sick and annual leave, please indicate which type of leave should be utilized first:

Sick Leave

Annual Leave

Signature _____ Date _____

*Leave is used by the receiving employee on a first donated/first used one-day at a time basis as determined by the Division of Human Resources.

Should you desire to withdraw your donation, you must do so in writing to the Division of Human Resources with the understanding that leave already added to the recipient's leave account will not be returned.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

DISCIPLINARY PROCEDURES FOR CLASSIFIED EMPLOYEES

Classified employees of the West Virginia Higher Education Policy Commission (Commission) are expected to perform their work-related functions in a professional manner, adhering to commonly accepted standards of conduct. In addition, the classified employee's immediate supervisor will outline specific standards of performance and conduct for each employee. Finally, certain standards of conduct and work-related expectations can be found in the New Employee and Division Handbook and related policies. If an employee fails to observe any of these standards, her/his supervisor will counsel her/him to try to resolve the problem. If counseling is not effective, the employee may receive a series of warning letters, then a period of suspension and, finally, if the conduct does not improve, dismissal. The degree of any disciplinary action is a management function exclusively within the discretion of the supervisor and the Human Resources Division and each case will be considered independently on its own facts and circumstances.

An employee who believes he/she has been disciplined unjustly may use the grievance procedure at West Virginia Code § 6C-2-1 et seq. to present her/his case.

Types of Disciplinary Action

Disciplinary action, including suspension or dismissal, may be taken whenever an employee's conduct interferes with the operation of her/his unit or brings discredit to the work unit. In general, progressive discipline will follow these steps: verbal warning; written warning; suspension; discharge. The Commission reserves the right to accelerate discipline beyond that in the formal disciplinary progression in the event circumstances justify such a deviation.

Verbal Warning

A verbal warning will generally be issued when the conduct in question is minor in nature and does not warrant more substantial corrective action. The supervisor will make a written record of the fact of a verbal warning for placement in the employee's personnel file.

Written Warnings

An employee written warning will generally be issued about her/his performance or conduct when the conduct is more severe than that justifying a verbal warning or when it represents a repeated instance of conduct for which the employee has previously been issued a verbal warning. Written warnings are given to the employee with a copy placed in the employee's personnel file.

Suspension

A supervisor may recommend suspension without pay of a period varying from one to fifteen days, depending on the gravity of the offense and the employee's previous record. A suspension will not be issued without first consulting and obtaining approval from the Chancellor, Executive Vice Chancellor for Administration, Vice Chancellor for Human Resources and the Division Director. Suspension may be applied in cases of first serious offenses or repeated minor ones when, in the judgment of the appropriate Commission staff, proper conduct can be attained without resorting to dismissal.

Dismissal

Immediate dismissal may be appropriate in cases of flagrant or willful violations of rules, regulations, standards of accepted behavior or performance, or for actions where an investigation proves the employee was in clear violation of policy or law.

Some Reasons for Dismissal

The Commission retains the right of dismissal for "just cause." In cases of immediate dismissal, a written statement will be given to the employee and a copy will be included in the employee's record. Just cause includes, but is not limited to, the following:

1. Reporting to work under the influence of alcohol or narcotics or partaking of these substances while at work;
2. Malicious destruction or theft of property of the institution, the Commission, or its visitors, patrons, or employees;
3. Wrongful injury to an employee of the Commission or an employee of an institution;
4. Refusal to comply with institutional rules;
5. Neglect of duty;
6. Dishonesty;
7. Sleeping on duty;
8. Failure to maintain established performance standards;
9. Habitual absence from work without permission or proper explanation;
10. Tardiness;
11. Insubordination; and
12. Any other conduct determined by the Commission to be detrimental to the best interests of the organization.

Employee Response to Immediate Dismissal Notification

An eligible employee may respond to immediate dismissal charges by filing a written request for a hearing through the grievance procedure. He/she may have representation of choice to assist her/him at any such hearing. A request for such a hearing does not cancel the immediate dismissal.

Acceleration of Employee Discipline

The Commission strives to be fair and equitable in administering discipline. Nonetheless, every potential disciplinary episode is individual in nature and the decision as to the appropriate level of discipline will always consider the individual facts of that employee's situation. Nothing in this policy shall limit the capacity of the Commission to respond appropriately and immediately to any potential conduct justifying discipline.

Non-Classified Employees

Non-classified employees serve at the will and pleasure of the Chancellor and may be terminated at anytime for any reason or no reason at all unless the reason is a substantial contravention of public policy.

October 2004
Updated: May 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

DRESS POLICY

Procedure Statement

It is the policy of the West Virginia Higher Education Policy Commission to present a professional business image to the customers we serve. Because every employee does, at one time or another, come in contact with our customers, it is important for all staff members to be dressed appropriately at the office every day.

Implementation of Regular Dress Code

Division Directors and members of the Chancellors' Cabinet are responsible for interpreting and enforcing the dress and grooming code in their areas of responsibility. This includes counseling employees who are inappropriately dressed. Reasonable accommodations will be made for employees' religious beliefs and medical conditions. A statement from a physician may be required. The dress should be consistent with the necessity to present a professional business appearance to the public. Questions or complaints that cannot be handled to the employee's satisfaction by her/his supervisor or Division Director should be directed to the Division of Human Resources staff.

The professional, business image the West Virginia Higher Education Policy Commission wants to present to its customers dictates that employees dress in clothing which is appropriate for greeting the public and is functional for performance of the duties of the position. For example, someone whose job involves heavy lifting would not be expected to wear a suit and tie. Acceptable clothing would be slacks, casual shirt, and appropriate shoes for walking and lifting. Exceptions could be made by the Division Director for specific days when physical work is required. Where exceptions are granted, notification to the Executive Vice Chancellor for Administration should be made in advance. In addition to proper dress, employees are expected to present clean, neat, and business-like appearance. Clothing that is described below as being inappropriate for casual dress days is also inappropriate for Monday through Thursday.

Implementation of Casual Dress Code

The West Virginia Higher Education Policy Commission will observe "dress down day" every Friday. Business or casual dress will be appropriate on these days. The examples which follow are permitted only on dress down days; they would not be acceptable on any other day. Jeans that are not overly worn or faded and without holes, casual shirts, and tennis or other casual shoes. In all cases, clothing is to be clean and in good taste. Items not acceptable would include jogging suits, sweat pants, distracting or revealing clothing, shorts except for dress shorts designed as business wear, midriff tops, cotton/knit tank tops, T-shirts with advertising, pictures, or generally considered to be offensive or inappropriate, torn clothing, or other items deemed unprofessional by the immediate supervisor and/or Division Director.

If an employee is attending a meeting or conference outside of the West Virginia Higher Education

Policy Commission on a Friday, he or she will be expected to dress in attire appropriate for that meeting or conference. If guests are coming to the West Virginia Higher Education Policy Commission for a meeting on a dress down day, staff involved in such a meeting shall wear regular business attire. Further, the Chancellor or the Executive Vice Chancellor for Administration may determine that regular business attire is necessary on a particular Friday.

Violations

In order to implement casual dress procedures, supervisors must first enforce the standard dress code of "proper business attire" on all work days except those indicated for "dress down". Enforcement and violations must also be treated equitably across all divisions by supervisors. Consideration should be given to how violations on a day-to-day basis will be handled. Violations may warrant disciplinary action in accordance with the disciplinary policy contained in the New Employee and Division Handbook. In addition, if the clothing is unduly distracting or unsafe, the employee may be sent home using annual leave or leave without pay to change clothes.

These procedures are general guidelines to follow for dressing in a manner that will maintain the professionalism of the West Virginia Higher Education Policy Commission on Monday through Thursday and provide for a more relaxed atmosphere on Friday. It is up to every individual employed at the West Virginia Higher Education Policy Commission to adhere to this policy as it is written in order to avoid a loss of morale in the office or a loss of the "dress down day" privilege.

Finalized October 14, 1996
Updated: October 3, 2000
Updated: May 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

DRUG-FREE WORKPLACE POLICY

Background

The United States Drug-Free Workplace Act 1988 (P. L. 100-69, Title V, Subtitle D) requires that all state agencies receiving direct funds from the federal government provide a drug-free workplace.

The agency must provide a drug-awareness program for all employees. All employees must sign the Drug-Free Workplace Statement which indicates that they have seen and will abide by the Drug-Free Workplace Policy. (Form attached)

Purpose

The Drug-Free Workplace Policy will enable the West Virginia Higher Education Policy Commission to maintain a work environment free of controlled substances and alcohol. Also, it will provide a drug-awareness program which will inform employees of the harmful affects of controlled substances and alcohol.

Procedure

Statement of Policy Notification:

The West Virginia Higher Education Policy Commission will continuously work to maintain a drug-free workplace. As required by the Drug-Free Workplace Act of 1988, all employees will be informed of and required to sign the Drug-Free Workplace Policy statement.

Awareness:

An awareness program for West Virginia Higher Education Policy Commission employees will be established by the Committee for a Drug-Free Workplace. The Program will provide information on:

- The dangers of drug abuse in the workplace;
- West Virginia Higher Education Policy Commission's policy regarding a drug-free workplace;
- Consequences of violation of the policy; and,
- Availability of assistance programs.

Prohibitions and Sanctions

The West Virginia Higher Education Policy Commission will take appropriate personnel action in accordance with the disciplinary action policy outlined in the New Employee and Division Handbook. In addition, an employee may be required to participate in a drug or alcohol assistance or rehabilitation program. The disciplinary policy states that "Administrators have the right of dismissal for "just cause". In cases of immediate dismissal, a written statement will be given to the

employee and a copy will be included in the employee's record. Just cause includes but is not limited to the following:

1. Reporting to work under the influence of alcohol or controlled substances or partaking of these substances while at work;
2. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol are prohibited at the workplace; and,
3. No employee shall report for work or any West Virginia Higher Education Policy Commission project, whether on-site or in the field, while under the influence of controlled substances or alcohol.

The employee shall abide by the terms of this policy statement. The employee shall notify her/his supervisor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

Implementation

The West Virginia Higher Education Policy Commission will:

1. Notify employees in writing of the policy and ask for the verification statement signed and forwarded to the Division of Human Resources;
2. Provide a copy of the policy to each new employee at the time of initial employment processing and have a verification statement signed;
3. Provide a copy of the Policy as part of the award package on all grants received by the West Virginia Higher Education Policy Commission; and,
4. Notify the contracting agency within ten (10) days after receiving notice from an employee or otherwise receiving notice of such conviction.

Effective Date: February 1, 1990

Revised: October 2, 2000

Updated: May 17, 2004

Updated: May 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION
DRUG FREE WORKPLACE VERIFICATION STATEMENT

Name: _____ SS#: _____

Title: _____ Telephone: _____

Date of Employment: _____

As an employee of the West Virginia Higher Education Policy Commission, I agree to abide by the Drug-Free Workplace Policy which states that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance and/or alcohol is prohibited in the workplace. The workplace shall be defined as the buildings and vehicles (personal and state-owned) used for conducting the business of the West Virginia Higher Education Policy Commission. As an employee, I shall not report for work on any West Virginia Higher Education Policy Commission project, whether on-site or in the field, while under the influence of a controlled substance and/or alcohol.

If I am convicted for a violation of any criminal drug statute, I must report the conviction to my supervisor and the Division of Human Resources no later than five (5) days after such conviction.

As of the date indicated, I have read and understand the above statement.

Signature of Employee

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

EDUCATIONAL RELEASE TIME PROCEDURES

The West Virginia Higher Education Policy Commission encourages career development and self-improvement. If eligible, an employee may be allowed time-off during scheduled work hours to attend class, provided the employee's absence will not interfere with her/his unit's operation and is approved by the employee's supervisor and the division head. During emergency or overtime situations, the employee must work as assigned.

Definitions

A. Eligible Employee

1. Only full-time regular classified and non-classified employees are eligible for time-off to attend classes for job related purposes or pursuing undergraduate, graduate, or doctoral level studies.
2. Under normal circumstances, an employee must have been employed in her/his current position for at least six calendar months prior to the beginning of the semester during which educational release time is sought.
3. An employee may not be in an adjustment, improvement or probationary period while enrolled in classes for which time is requested.
4. Non-exempt employees who take educational release time will not have leave hours counted towards overtime eligibility but will be paid for the hours of leave actually taken.

B. Eligible Course Work

1. Classes may be taken at any regionally accredited institution of higher education.
2. Classes should be related to a degree, certification or other well defined program. The class should be related to the employee's current position or upward mobility in the Commission Office.
3. Educational release time will only be granted for classes during regular work hours if the class is not available during evening hours or on Saturday. Employees should indicate in writing that the course is unavailable during evening hours or on Saturday and attach this to their request for educational release time. The immediate supervisor, division director or Executive Vice Chancellor for Administration has the right to request a copy of the class schedule. During emergency or overtime situations, the employee will be expected to work as assigned which may include make-up of the educational release time granted for a particular work week.

Requesting Educational Release Time

Twenty-five (25) working days prior to the beginning of the term in which the class is to be taken, the employee is required to provide her/his immediate supervisor a written request for release time. The West Virginia Higher Education Policy Commission shall provide an application form for release time which contains the following information: the course title; location; credit hours; time of the class; and, the total time absent from the office as required to take the course. The supervisor shall make a recommendation for approval or disapproval of the release time and shall provide to the division head a written statement of such recommendation within five (5) working days of receipt of the request. If the request is recommended for disapproval, a written explanation shall be provided with the recommendation.

The division director shall review the information provided by the employee and the recommendation of the immediate supervisor and shall issue to the requesting employee and immediate supervisor a decision for approval or disapproval with five (5) working days of receiving the supervisor's recommendation. If the request is disapproved, a written explanation shall be provided with the decision. A copy of the form signed by the above three parties shall be forwarded to the Executive Vice Chancellor for Administration and the Division of Human Resources.

Should a dispute arise over the awarding of educational release time, the affected employee may file with the division director, a written request for a review within five (5) working days of receipt of the decision. The division director shall provide any and all necessary documentation to the Executive Vice Chancellor for Administration or her/his designee within five (5) working days of receipt of a request from the Executive Vice Chancellor for Administration or her/his designee for any additional documentation which is deemed necessary for review of the decision. The Executive Vice Chancellor for Administration or her/his designee shall review the request and render a decision within ten (10) working days of receipt of the review request and documentation. The Executive Vice Chancellor for Administration's decision shall be in writing to the employee, supervisor, and division director and shall be binding. An application form and review request form are attached.

Recording Educational Release Time

The Commission Office may limit educational release time to one, three-credit hour course per term. This shall not prohibit any employee from taking additional classes after regular working hours. If an employee takes more than three (3) hours during regular working hours, educational release time would not be granted and the employee would be expected to make up the hours missed should work time be necessary for the additional class. The method to be utilized for making up hours missed for educational purposes will be an agreement between the employee and her/his immediate supervisor. A reasonable amount of travel time may be allowed for classes approved for educational release time.

Upon completion of the class, the employee shall provide the division director and the Executive Vice Chancellor for Administration with evidence of satisfactory completion of the class. The division director will forward evidence of course completion to the immediate supervisor. The

Executive Vice Chancellor for Administration will forward evidence of course completion to the Division of Human Resources for inclusion in the employee's personnel file. Failure to satisfactorily complete a course and/or to notify the Executive Vice Chancellor for Administration may result in denial of future requests for educational release time.

Effective: May 1, 1998

Updated: October 3, 2000

Updated: May 2013

Educational Release Time Review Request Form *

Employee: _____

Reason for Review Request:

Signature of Employee

Date

Division Director: _____

Review Request Response: **

Signature of Division Head

Date

Executive Vice Chancellor for Administration's or Designee's Decision:

Executive Vice Chancellor for Administration

Date

*Copy to the employee and Division of Human Resources at each level

**Attach any supporting documentation

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

EMERGENCY CONTACT SHEET

Employee Name: _____

Address: _____

Phone Number: _____

Emergency Contact Person(s)
(Please list in order of notification preference)

1. Name: _____

Address: _____

Phone Number: (work) _____ (home) _____

Relationship: _____

2. Name: _____

Address: _____

Phone Number: (work) _____ (home) _____

Relationship: _____

3. Name: _____

Address: _____

Phone Number: (work) _____ (home) _____

Relationship: _____

Signature

Date

West Virginia Higher Education Policy Commission Employee Benefits		
Provider	Benefit	Services
Public Employees Insurance Agency (PEIA)	Health Insurance	<p>Eligible employees can choose from Preferred Provider Benefit (PPB) Plans A, B or C. The plans offer hospital, surgical, major medical, prescription drug, other medical care benefit coverage, and retiree health benefits. Plan C is a high-deductible health plan which can be paired with a Health Savings Account (HSA) or a Health Reimbursement Arrangement (HRA). Premiums apply and premium discount programs are available.</p> <p>A Health Maintenance Organization (HMO) managed care option is also available to provide a wide range of comprehensive health services for a fixed periodic payment.</p>
Mountaineer Flex Benefits	Extended Health Benefits	Mountaineer Flexible Benefits, offered by PEIA, provides pre-tax optional insurance coverage. Benefit choices available include dental and vision plans.
	Flexible Spending Accounts (FSA)	A pre-tax Medical Expense FSA is used to pay for eligible medical expenses which aren't covered by the other benefit plans. The pre-tax Dependent Care FSA is used to pay for eligible dependent care expenses such as after school care, baby sitting fees, daycare services, nursery and preschool.
Minnesota Life (Administered by PEIA)	Life Insurance	<p>Basic Term Life Insurance is provided to eligible employees by the agency.</p> <p>Schedule of Basic Term Life Insurance: Under age 65 - \$10,000 Age 65 to under 70 - \$6,500 Age 70 or over - \$5,000</p> <p>Accidental Death and Dismemberment, Optional Term Life, and Dependent Life Insurance are also available.</p>
The Standard	Short/Long Term Disability	The plan provides non-taxable income replacement and contribution to the 401(a) retirement annuity should an employee become disabled. Rates are determined by salary and age.
TIAA-CREF	Retirement Option #1	Employee participation in a tax-sheltered retirement program is mandated by WV State Law. Eligible employees must contribute 6% of their gross pay in the qualified 401(a) plan. Agency matches 6% of the employee's contribution. Voluntary tax deferred Supplemental Retirement Plans (SRA) are also available: 403(b), Roth 403(b), and 457(b).
Great-West / Educators Money	Retirement Option #2	Employee participation in a tax-sheltered retirement program is mandated by WV State Law. Eligible employees must contribute 6% of their gross pay in the qualified 401(a) plan. Agency matches 6% of the employee's contribution. Voluntary tax deferred Supplemental Retirement Plans (SRA) are also available: 403(b), and 457(b).
Annual /Sick Leave	Vacation / Sick Leave	Employees are eligible to receive up to twenty-four (24) days annual leave per year calculated at the rate of 2.00 days per month. Employees shall accumulate sick leave at the rate of 1.50 days per month and may be accumulated without limit.
Holidays		The agency observes twelve full holidays per year plus any additional days for any statewide, primary or general election.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

FAMILY AND MEDICAL LEAVE ACT POLICY

Introduction

The West Virginia Higher Education Policy Commission (Commission) will comply with the Family and Medical Leave Act (FMLA) implementing regulations as revised effective February 2013. The Commission posts the mandatory FMLA Notice and upon hire, provides all new employees with notices required by the U.S. Department of Labor (DOL) on Employee Rights and Responsibilities under the Family and Medical Leave Act in various locations within the offices. The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

If you have any questions, concerns, or disputes with this policy, you must contact the Vice Chancellor for Human Resources in writing.

General Provisions

Under this policy, the Commission will grant up to 12 weeks (or up to 26 weeks of military caregiver leave to care for a covered service member with a serious injury or illness) during a 12-month period to eligible employees. The leave may be paid, unpaid or a combination of paid and unpaid leave, depending on the circumstances of the leave and as specified in this policy.

Eligibility

To qualify to take family or medical leave under this policy, the employee must meet all of the following conditions:

1. The employee must have worked for the Commission for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. Separate periods of employment will be counted, provided that the break in service does not exceed seven years. Separate periods of employment will be counted if the break in service exceeds seven years due to National Guard or Reserve military service obligations stating the employer's intention to rehire the employee after the service break. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week.
2. The employee must have worked at least 1,250 hours during the 12-month period immediately before the date when the leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave should not be counted in determining the 1,250 hours eligibility test for an employee under FMLA.

Type of Leave Covered

To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:

1. The birth of a child and in order to care for that child.
2. The placement of a child for adoption or foster care and to care for the newly placed child.
3. To care for a spouse, child or parent with a serious health condition (described below).
4. The serious health condition (described below) of the employee.

An employee may take leave because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

A “serious health condition” is defined as either a condition that requires inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition that requires continuing care by a licensed health care provider.

This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition that would result in a period of three consecutive days of incapacity with the first visit to the health care provider within seven days of the onset of the incapacity and a second visit within 30 days of the incapacity would be considered a serious health condition. For chronic conditions requiring periodic health care visits for treatment, such visits must take place at least twice a year.

Employees with questions about what illnesses are covered under this FMLA policy or under the Commission sick leave policy are encouraged to consult with the Vice Chancellor for Human Resources.

If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid leave as provided under this policy, the Commission may designate all or some portion of related leave taken as leave under this policy, to the extent that the earlier leave meets the necessary qualifications.

5. Qualifying Exigency/Military Caregiver leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered military member is on covered active duty or called to covered active duty. *The conditions applying to FMLA qualifying exigency/military caregiver leave for military personnel and their families are addressed at the end of this policy.*

Amount of Leave

An eligible employee can take up to 12 weeks for the FMLA circumstances (1) through (4) above under this policy during any 12-month period. The Commission will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the Commission will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee can take up to 26 weeks for the FMLA circumstance (5) above (military caregiver leave) during a single 12-month period. For this military caregiver leave, the Commission will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

If a husband and wife both work for the Commission and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the husband and wife may only take a combined total of 12 weeks of leave. If a husband and wife both work for the Commission and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.

Employee Status and Benefits During Leave

While an employee is on leave, the Commission will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. Under current Commission policy, the employee pays a portion of the health care premium. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Finance Division by the 1st day of each month in order for coverage to continue. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The employer will provide 15 days' notification prior to the employee's loss of coverage.

If the employee chooses not to return to work at the conclusion of FMLA leave for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the Commission may require the employee to reimburse the Commission the amount it paid for the employee's health insurance premium during the leave period.

If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the employer may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments,

the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

Employee Status After Leave

An employee who takes leave under this policy may be asked to provide a fitness for duty (FFD) clearance from the health care provider. This requirement will be included in the employer's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The position will be the same or one which is virtually identical in terms of pay, benefits and working conditions. The Commission may choose to exempt certain key employees from this requirement and not return them to the same or similar position.

Use of Paid and Unpaid Leave

An employee who is taking FMLA leave must use all paid annual and sick leave prior to being eligible for unpaid leave. Sick leave may be run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established sick leave policy. FMLA leave will also run concurrent with any unpaid leave for which the employee may be eligible under the West Virginia Parental Leave Act.

An employee who is using military FMLA leave for a qualifying exigency must use all paid annual leave prior to being eligible for unpaid leave. An employee using FMLA military caregiver leave must also use all paid annual or sick leave (as long as the reason for the absence is covered by the company's sick leave policy) prior to being eligible for unpaid leave.

Intermittent Leave or a Reduced Work Schedule

The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced-hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for an injured or ill service member over a 12-month period).

The Commission may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, in instances of when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

For the birth, adoption or foster care of a child, the Commission and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work a reduced-hour schedule. All FMLA leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

If the employee is taking leave for a serious health condition or because of the serious health condition of a family member, the employee should try to reach agreement with the Commission before taking intermittent leave or working a reduced-hour schedule. If this is not possible, then the employee must prove that the use of intermittent or reduced-hour leave is medically necessary.

Certification for the Employee's Serious Health Condition

The Commission will require certification for the employee's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Employee's Serious Health Condition (<http://www.dol.gov/esa/whd/forms/WH-380-E.pdf>).

The Commission may directly contact the employee's health care provider for verification or clarification purposes using a health care professional, an HR professional, leave administrator or management official. The Commission will not use the employee's direct supervisor for this contact. Before the Commission makes this direct contact with the health care provider, the employee will be given an opportunity to resolve any deficiencies in the medical certification. In compliance with HIPAA Medical Privacy Rules, the Commission will obtain the employee's permission for clarification of individually identifiable health information.

The Commission has the right to ask for a second opinion if it has reason to doubt the certification. The Commission will pay for the employee to get a certification from a second doctor, which the Commission will select. The Commission may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second or third opinion. If necessary to resolve a conflict between the original certification and the second opinion, the Commission will require the opinion of a third doctor. The Commission and the employee will mutually select the third doctor, and the Commission will pay for the opinion. This third opinion will be considered final. The employee will be provisionally entitled to leave and benefits under the FMLA pending the second and/or third opinion.

Certification for the Family Member's Serious Health Condition

The Commission will require certification for the family member's serious health condition. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. Medical certification will be provided using the DOL Certification of Health Care Provider for Family Member's Serious Health Condition (<http://www.dol.gov/esa/whd/forms/WH-380-F.pdf>).

The same conditions/requirements that apply to contacting the employee's health care provider, resolving deficiencies in the medical certification, obtaining second and third opinions and the

release of required medical information will apply with equal force and effect to the certification of a family member's serious health condition.

Recertification

The Commission may request recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, or if the employer receives information casting doubt on the reason given for the absence, or if the employee seeks an extension of his or her leave. Otherwise, the Commission may request recertification for the serious health condition of the employee or the employee's family member every six months in connection with an FMLA absence. The Commission may provide the employee's health care provider with the employee's attendance records and ask whether need for leave is consistent with the employee's serious health condition.

Procedure for Requesting FMLA Leave

All employees requesting FMLA leave must provide verbal or written notice of the need for the leave to the Vice Chancellor for Human Resources. Within five business days after the employee has provided this notice, the Vice Chancellor for Human Resources will complete and provide the employee with the DOL Notice of Eligibility and Rights (<http://www.dol.gov/esa/whd/fmla/finalrule/WH381.pdf>).

When the need for the leave is foreseeable, the employee must provide the employer with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day or the next business day. When the need for FMLA leave is not foreseeable, the employee must comply with the Commission's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

Designation of FMLA Leave

Within five business days after the employee has submitted the appropriate certification form, the Vice Chancellor for Human Resources will complete and provide the employee with a written response to the employee's request for FMLA leave using the DOL Designation Notice (<http://www.dol.gov/esa/whd/forms/WH-382.pdf>).

Intent to Return to Work From FMLA Leave

On a basis that does not discriminate against employees on FMLA leave; the Commission may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

FMLA Military Qualifying Exigency/Caregiver Leave

An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

- (1) short-notice deployment,
 - (2) military events and activities,
 - (3) child care and school activities,
 - (4) financial and legal arrangements,
 - (5) counseling,
 - (6) rest and recuperation,
 - (7) post-deployment activities, and;
 - (8) additional activities that arise out of active duty provided that the employer and employee agree, including agreement on timing and duration of the leave.
- (a) Eligible employees are entitled to FMLA leave to care for a current member of the Armed Forces, including a member of the National Guard or Reserves, or a member of the Armed Forces, the National Guard or Reserves who is on the temporary disability retired list, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; or otherwise in outpatient status; or otherwise on the temporary disability retired list. Eligible employees may not take leave under this provision to care for former members of the Armed Forces, former members of the National Guard and Reserves, and members on the permanent disability retired list.
- (b) In order to care for a covered service member, an eligible employee must be the spouse, son, daughter, or parent, or next of kin of a covered service member.
- (1) A "son or daughter of a covered service member" means the covered service member's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood *in loco parentis*, and who is of any age.
 - (2) A "parent of a covered service member" means a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood *in loco parentis* to the covered service member. This term does not include parents "in law."
 - (3) Under the FMLA, a "spouse" means a husband or wife as defined under the law in the state where the employee resides.
 - (4) The "next of kin of a covered service member" is the nearest blood relative, other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood

relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin. For example, if a covered service member has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered service member's next of kin. Alternatively, where a covered service member has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered service member's next of kin. An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered service member.

Covered Active Duty

Covered active duty for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.

Covered active duty for members of the **reserve** components of the Armed Forces (members of the U.S. National Guard and Reserves) means duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in a contingency operation as defined in section 101(a)(13)(B) of title 10, United States Code. (a) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and the leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.

An employee whose son, daughter, parent or next of kin is a covered service member may take up to 26 weeks in a single 12-month period to take care of leave to care for that service member. Next of kin is defined as the closest blood relative of the injured or recovering service member.

Covered Service Member

A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Serious Injury or Illness

In the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

In the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered service member, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.

Outpatient status, with respect to a covered service member, means the status of a member of the Armed Forces assigned to either a military medical treatment facility as an outpatient; or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

Certification of Qualifying Exigency for Military Family Leave

The Commission will require certification of the qualifying exigency for military family leave. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification of Qualifying Exigency for Military Family Leave (<http://www.dol.gov/esa/whd/forms/WH-384.pdf>).

Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave

The Commission will require certification for the serious injury or illness of the covered service member. The employee must respond to such a request within 15 days of the request or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of continuation of leave. This certification will be provided using the DOL Certification for Serious Injury or Illness of Covered Service Member (<http://www.dol.gov/esa/whd/forms/WH-385.pdf>).

Adopted: November 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

GRIEVANCE PROCEDURES

The following procedures are to govern grievances filed by West Virginia Higher Education Policy Commission employees pursuant to W. Va. Code §6C-2-1 et seq.

1. An employee wishing to file a grievance pursuant to the provisions of W. Va. Code §6C-2-1 et seq. shall file, on the form provided by the Grievance Board, their grievance with the Chancellor within 15 days following the event upon which the grievance is based or when the employee became aware of the event. See form and instructions at http://pegboard.state.wv.us/Forms/PEG_Bd_Forms_Download_Page.htm
2. The grievant shall indicate on the form whether the grievant wishes to have a "hearing" or a "conference" or to proceed directly to Level 3 of the grievance process. A grievant may only proceed directly to Level 3 if all parties agree or if the grievant has been discharged, suspended without pay, or demoted or reclassified resulting in a loss of compensation or benefits. The form shall also be filed with the Grievance Board.
3. If a "conference" is requested at Level 1, the Chancellor, or his/her designee, shall hold the conference within 10 days of receiving the grievance. A conference is a private, informal meeting between the grievant and the Chancellor or the Chancellor's designee, to attempt to resolve the grievance. The Chancellor, or his/her designee, may permit other employees and witnesses to attend and participate in a conference.
4. If a "hearing" is requested, the Chancellor or his/her designee, shall hold the hearing within 15 days of receiving the grievance. A Level 1 hearing is a recorded proceeding in which the parties may be heard and present witnesses and evidence.
5. After the conclusion of the conference or hearing, the Chancellor or his/her designee, shall issue a written decision within 15 days.
6. If the grievant is unsatisfied with the decision at Level 1, they may file an appeal with the Grievance Board within 10 days of receiving the adverse decision.
7. In calculating "days" in meeting deadlines, Saturdays, Sundays, and holidays shall not be included.
8. The parties may agree to extensions of time at any stage but these must be in writing and signed by all parties to the grievance. A copy of any agreement must be filed with the Division of Human Resources.

9. A grievant has the right to the assistance and presence of a designated representative at every point in the procedure.
10. Failure of a grievant to follow the statutory time lines of W. Va. Code §6C-2-1 et seq., may result in dismissal of the grievance. Failure of the employer to meet the statutory time lines may result in a default verdict in favor of the grievant.
11. If the Chancellor appoints a designee to conduct a Level 1 conference or hearing, the designee shall render a recommended decision to the Chancellor in ample time for the Chancellor to make a final decision within 15 days of the conclusion of the conference or hearing.
12. Upon request, employees will be further advised about their rights and the procedures under W. Va. Code §6C-2-1 et seq. by the Vice Chancellor for Human Resources. The Division of Human Resources will have the responsibility of attempting to ensure that the time lines are met at all levels of the grievance procedures by all parties involved.

Updated: May 2013

FOR INTERNAL USE ONLY
L2 ALJ:
L3 ALJ:
Topic:

**West Virginia
Public Employees Grievance Board**

Grievance Form for Levels 1, 2, and 3

Do not write above this line.

Grievant's information (Please print. All information is required)

DOCKET number: _____

Grievant's full name	Agency, Institution, Board, Division	Grievant's representative (if applicable)
Grievant's home address	Grievant's work address	Representative's address
City, State and zip code	City, State and zip code	City, State and zip code
Grievant's home phone number	Grievant's work telephone number	Representative's telephone number
Grievant's home email address	Grievant's work e-mail address	Representative's e-mail address
	Grievant's job title or classification	

Statement of Grievance (Please state the event causing this grievance and list the specific statutes, policies, rules, regulations or agreements you claim have been violated, misapplied or misinterpreted. Additional sheets may be attached.):

Relief Sought:

Level One (Choose one)	Level Two (Choose one)	Level Three (Choose one)
<input type="checkbox"/> 1. Hearing <input type="checkbox"/> 2. Conference <input type="checkbox"/> 3. Default <input type="checkbox"/> 4. Proceed directly to Level 3 (See instructions)	<input type="checkbox"/> 1. Mediation by ALJ <input type="checkbox"/> 2. Private Mediation (See instructions) <input type="checkbox"/> 3. Private Arbitration (See instructions)	<input type="checkbox"/> 1. Hearing <input type="checkbox"/> 2. Submit on Level 1 Hearing Record
Date filed	Date filed	Date filed
Grievant's signature	Grievant's signature	Grievant's signature

Please note the following:

- This form is to be used for all levels of the grievance procedure.
- Grievance forms may not be filed by interdepartmental mail. See the Grievance Board's Procedural Rule § 156-1-2.1.4.
- "Days" means working days. See W. Va. Code § 6C-2-2(c).
- The Docket Number will be assigned by the Grievance Board.
- An employee may proceed directly to Level Three only under circumstances listed in the Code:

W. Va. Code § 6C-2-4(a)(4): An employee may proceed directly to level three upon the agreement of the parties or when the grievant has been discharged, suspended without pay or demoted or reclassified resulting in a loss of compensation or benefits. Level one and level two proceedings are waived in these matters. [Emphasis added]

- If all parties agree to proceed directly to level three, a statement verifying this fact, signed by all parties, must be submitted with the Grievance Form.

Level One – W.Va. Code § 6C-2-4(a)

- Grievances must be filed within 15 days of the grievable event.
- Send a copy to the Chief Administrator of your agency; and a copy to the Public Employees Grievance Board, 1596 Kanawha Boulevard, E., Charleston, West Virginia 25311.
- State employees must also send a copy to the Director of the Division of Personnel, Building 6, Room 416, State Capitol Complex, Charleston, West Virginia 25305.
- A hearing will be recorded; a conference will not be recorded.

Level Two – W.Va. Code § 6C-2-4(b)

- Grievant may appeal a Level One decision within 10 days of receiving an adverse written decision.
- Send a copy to the Chief Administrator of your agency; and a copy to the Public Employees Grievance Board, 1596 Kanawha Boulevard, E., Charleston, West Virginia 25311.
- State employees must also send a copy to the Director of the Division of Personnel, Building 6, Room 416, State Capitol Complex, Charleston, West Virginia 25305.
- The grievant may choose mediation by a Board administrative law judge; private mediation; or private arbitration. Grievant must select one of the three options.
- Mediation by a Board administrative law judge is free.
- If private mediation or private arbitration is selected, a Mediation Agreement Form must be filed with the Grievance Form.

Level Three – W. Va. Code § 6C-2-4(c)

- Grievant may file a written appeal within 10 days of receiving a written report stating that the Level Two mediation was unsuccessful.
- Send a copy to the Chief Administrator of your agency; and a copy to the Public Employees Grievance Board, 1596 Kanawha Boulevard, E., Charleston, West Virginia 25311.
- State employees must also send a copy to the Director of the Division of Personnel, Building 6, Room 416, State Capitol Complex, Charleston, West Virginia 25305.

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #5

Do Not Mark In This Box

2008 JUL -4 PM 3:24

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: West Virginia Public Employees Grievance Board TITLE NUMBER: 156

CITE AUTHORITY: 6C-3-4(b)

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: RULES OF PRACTICE AND PROCEDURE OF THE WEST VIRGINIA
PUBLIC EMPLOYEES GRIEVANCE BOARD

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS July 5, 2008


Authorized Signature

Joe Manchin III
Governor

Robert W. Ferguson, Jr.,
Cabinet Secretary
Department of Administration

Robin B. Perdue
Director



Public Employees Grievance Board

Grievance Board
Bob Brown
Chairman
Melissa Lampinen
Secretary-Treasurer
Marc L. Harman
Dr. Charles H. Polk
David W. Roberts

TO: Administrative Law Division
FROM: Robin B. Perdue, Director *RBP*
Public Employees Grievance Board
SUBJECT: 156CSR1
DATE: June 4, 2008

The Public Employees Grievance Board received no comments on the proposed amendments to 156CSR1.

156CSR1

**TITLE 156
PROCEDURAL RULE
WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE BOARD**

2008 JUN -4 PM 3:26
SECRETARY OF STATE

**SERIES 1
RULES OF PRACTICE AND PROCEDURE OF THE WEST VIRGINIA PUBLIC
EMPLOYEES GRIEVANCE BOARD**

§156-1-1. General

1.1. Scope - The following procedural rules set forth the practice and procedure established by the West Virginia Public Employees Grievance Board for carrying out its responsibilities to administer the grievance procedure for education and state employees contained in W. Va. Code §§ 6C-2-1, et seq. and 6C-3-1, et seq. The Board is responsible for administering the grievance procedure and has jurisdiction regarding procedural matters at all levels of the grievance procedure. These rules apply to all grievances pending, and those filed after the effective date.

1.2. Authority - W. Va. Code § 6C-3-4(b)

1.3. Filing Date - June 4, 2008

1.4. Effective Date - July 7, 2008

1.5. Liberal Construction - The provisions of these rules will be liberally construed to permit the Board to discharge its statutory functions and to secure just and expeditious determination of all matters before the Board; therefore, for good cause, the Board may, at any time, suspend the requirements of any of these rules.

1.6. Severability - If any section or subsection of these rules is determined to be invalid, it shall not be construed to invalidate any of the provisions not otherwise affected.

1.7. Availability of Rules - These rules are on file in the Office of the Secretary of State, and are available at each of the Board's offices, and at the Board's web site: pegboard.state.wv.us.

1.8. Delegation of Powers and Duties - Except where contrary to law, the Board may delegate any of its powers and duties to the director, administrative law judges, or other employees or agents of the Board. Pursuant to W. Va. Code §§ 6C-2-1, et seq., and 6C-3-1, et seq., the administrative law judges are authorized to take any other action not inconsistent with the grievance procedure statutes and these rules.

§156-1-2. Definitions

2.1. All terms defined in W. Va. Code §6C-2-2 shall have the meanings therein ascribed to them for the purpose of these rules. All other terms shall have the following meanings.

2.1.1. "Certificate of Service" means a certification by a party that on the stated date, the party has hand-delivered, or placed in the United States Postal Service mail, postage pre-paid, in a properly addressed envelope, a true copy of the document the party is filing with the Board, for the other parties, or their representatives, at their last known address. (See Certificate of Service Form.)

2.1.2. "Conference" is an informal meeting between the grievant and the chief administrator or designee to discuss the issues raised by the grievance, exchange information, and attempt to resolve the grievance. The chief administrator may permit other individuals to attend and participate in the conference, as needed, to reach a resolution.

2.1.3. "Evidence" is any of the means through which an alleged fact is either proven or disproven, and includes testimony given under oath and documents.

2.1.4. "File" or "filing" means to place the grievance form in the United States Postal Service mail, addressed to: (1) the Board's main office at 808 Greenbrier Street, Charleston, West Virginia 25311, and (2) the agency's chief administrator. If applicable, a third copy shall be sent to the Division of Personnel. A grievance may also be filed by hand-delivery or by facsimile transmission to the appropriate office. Date of filing will be determined by United States Postal Service postmark. All grievance forms shall be date stamped when received. Grievance forms may not be filed by interdepartmental mail. The key to assessing whether a grievance is properly filed is substantial compliance with the statute and rules. Within two days of receipt, the Grievance Board will e-mail the grievance docket number to the chief administrator.

2.1.5. "Hearing" is a relatively formal proceeding in which witnesses and parties are entitled to be heard and evidence is submitted through witnesses and documents. A hearing is recorded by mechanical means. (See Level One Hearing Guidelines.)

2.1.6. "Motion" means an oral or written request for a ruling or order by an administrative law judge.

2.1.7. "Service" or "Serve" means personal delivery, facsimile transmission, or delivery by first class United States Postal Service mail, postage prepaid and addressed to the person to be served at the person's last known address. This section does not apply to subpoenas and subpoenas duces tecum. A Certificate of Service by the person making the service is to be attached to every document requiring service under these rules, indicating that copies have been served on all parties to the grievance or their representatives. Every document filed with the Board shall be served on all other parties in the manner described above.

2.1.8. "Subpoena" means an official document, issued by an administrative law judge in accordance with the West Virginia Administrative Procedures Act, W. Va. Code §§ 29A-5-1, et seq., requiring the appearance of an individual at a given time and place.

2.1.9. "Subpoena duces tecum" means an official document requiring that an individual named to appear at a given time and place must bring a specific document or documents.

§156-1-3. Burden of Proof

The grievant bears the burden of proving the grievant's case by a preponderance of the evidence, except in disciplinary matters, where the burden is on the employer to prove that the action taken was justified. Any party asserting the application of an affirmative defense bears the burden of proving that defense by a preponderance of the evidence.

§ 156-1-4. Level One, Forms, and Chief Administrator Authority Generally

4.1. Forms - All employers shall use the grievance form issued by the Grievance Board at all levels of the procedure. The chief administrator must provide a grievance form to an employee on request. (*See* Grievance Form.) Copies of this form can be obtained at the Grievance Board's web site.

4.2. Written Procedures - All employers shall provide a copy of the grievance statute and procedural rules to their employees. All newly-hired employees should be given a copy of these documents on commencement of their employment.

4.3. Chief Administrator's Authority =

4.3.1 Level One Conference - At a level one conference, the chief administrator may permit other individuals to attend and participate, as needed, in order to resolve the grievance.

4.3.2 Level One Hearing - To the extent of the chief administrator's administrative authority, a chief administrator shall require the attendance of witnesses who are necessary for the resolution of the grievance at a level one hearing and may reasonably limit the number of relevant witnesses, motions and other procedural matters .

4.3.3 Authority Generally - Additionally, the chief administrator may consolidate, for hearing or conference, grievances that are substantially similar, waive grievances the chief administrator is without authority to decide to level two or three, such as state compensation and classification grievances, and join parties as needed. If conflicts or questions arise on these issues, any party may submit the matter to the Board's chief administrative law judge for resolution.

4.4. Chief Administrator's Decisions - Level one decisions shall be dated, shall be in writing setting forth the decision or decisions and the reasons therefor, and, unless the time frame is waived by all parties, shall be issued within fifteen days of the conference or hearing to the Board, the parties, and any representative(s) named in the grievance. If the grievant is denied the relief sought, the decision shall inform the grievant that an appeal must be filed with the Board within ten days of receipt, and shall include the name and address of the Board. The chief administrator is required to send the level one decision to the Board, as well as a copy of the Cost Report Form.

4.5. Intervention - On timely request, an employee shall be allowed to intervene and become a party to a grievance at any level, when that employee claims the ruling in a grievance may substantially and adversely affect that employee's rights or property, and when that employee's interest is not adequately represented by the existing parties. Employers are encouraged to give notice to employees who could be substantially and adversely affected by the decision in a pending grievance that such employees may make a written request to intervene. Employees who may be directly affected by a ruling in a particular grievance are encouraged to intervene. An employee who intervenes in a grievance proceeding may make affirmative claims for relief in matters related to the grievance, as well as assert defensive claims, and may appeal to circuit court like any other party. (*See Intervention Form.*)

§156-1-5. Level Two - Mediation or Arbitration

5.1. Filing, Forms and Essential Matters

5.1.1. After receiving a level one decision, the grievant or intervenor may file to level two using the original grievance form, or a copy thereof, to request one of three alternative dispute resolution methods. The party filing shall indicate on the grievance form which method is selected. If basic mediation by an administrative law judge is not selected, the parties are required to submit written documentation noting the agreement of all parties on the alternative selected. (*See Mediation Agreement Form.*) If a specific method is not selected, the parties will automatically be deemed to have agreed to mediation by an administrative law judge.

5.1.2. If mediation by an administrative law judge is selected, the Grievance Board will request dates, and notify the parties of the time and date of the mediation. Within fifteen days of the mediation session, the administrative law judge shall issue an order or report stating whether the mediation was successful; if unsuccessful, the order/report shall notify the parties of the procedure and the address for appeal to the next level.

5.1.3. If private mediation is selected, the mediator shall file a written report of the mediation with the Board within fifteen days of the mediation session. The report shall state the date and location of the mediation session, the names of those in attendance, and whether the parties were able to reach a resolution of the grievance. The report shall be signed and dated by the mediator. If private mediation is unsuccessful, within ten days of receipt of the report, the administrative law

judge shall issue an order notifying the parties of the procedure and the address for appeal to the next level.

5.1.4. If private arbitration is selected, the parties shall file with the Board a written agreement stating their agreement to arbitration; the name and address of the arbitrator; and a statement agreeing to share the cost of the proceeding. Within thirty days of the arbitration, the arbitrator shall render a written decision and shall mail it to all parties and to the Board. In no case shall the written decision be submitted to the Board any later than forty days after the arbitration hearing.

5.2. General Provisions for Mediation

5.2.1 All mediations shall be confidential, and the results of these proceedings shall not be released unless required by law. In the event that mediation is unsuccessful, no documents or records submitted by the parties during level two proceedings will be retained in the grievance file on appeal to level three. The administrative law judge who conducts a level two mediation will not be involved in any subsequent level three proceedings.

5.2.2 All parties shall appear at the mediation, either in person or through a representative, who has the authority to resolve the grievance. If the grievance is settled through mediation, the parties are required to sign a settlement agreement, usually at the mediation session, reflecting the terms of the resolution. The parties may decide to write the settlement agreement after the mediation, but are required to inform the Board as soon as the document is signed and the settlement is finalized so the grievance can be dismissed from the Board's docket.

§156-1-6. Level Three and Administrative Law Judge Authority Generally

6.1. Assignment of Administrative Law Judge - On proper filing of a level three grievance, the employer will be directed to submit the complete record of the lower level proceedings, including the transcript and all exhibits. If a level three hearing is requested, the parties will be directed to provide proposed hearing dates for the grievance hearing. Thereafter, the Board shall assign the matter to an administrative law judge, and all parties will be notified of the assignment. Once the parties are notified of the assignment, all documents and correspondence are to be delivered to the assigned administrative law judge as provided for in Rule 2.1.7.

6.1.1. By agreement, the parties may decide to submit the case on the record developed below. If the administrative law judge assigned to the case agrees, the parties will then be given the option to submit proposed Findings of Fact and Conclusions of Law within a designated time period.

6.2. Authority of Administrative Law Judge - Each administrative law judge has the authority and discretion to control the processing of each grievance assigned such judge and to take any action considered appropriate consistent with the provisions of W. Va. Code §§ 6C-2-1, et seq.

6.3. Prehearing Conferences - As soon as practical after the grievance is assigned, the administrative law judge may conduct a prehearing conference with the parties or their representatives, in person or by telephone, to explore and resolve matters to expedite the grievance proceedings. Any pertinent matters involving the grievance can be discussed at that time. If the grievance has been filed directly to level three, as an expedited grievance, the administrative law judge may encourage the parties to mediate prior to a level three hearing. In the administrative law judge's discretion, such conferences will be recorded by mechanical means. The administrative law judge may issue oral or written orders reflecting the judge's decisions on the above matters and may conduct additional conferences when the need arises.

6.4. Ex Parte Communication - No person shall confer or correspond with any member of the Board, its administrative law judges, staff, or agents, concerning the merits or substance of a pending grievance, unless all parties to the grievance are present.

6.4.1. Any ex parte communication made to an administrative law judge concerning the merits or substance of a grievance shall be promptly disclosed to the other parties and an opportunity for rebuttal allowed.

6.5. Subpoenas and subpoenas duces tecum - Parties who wish to obtain subpoenas to require the attendance and testimony of witnesses, or subpoenas requiring the production of documents, must file a written motion or request for subpoenas with the administrative law judge assigned to the grievance. The written request should be submitted as soon as possible, so that the subpoena can be served at least five days before to the scheduled hearing, as required by W. Va. Code § 29A-5-1(b). Subpoenas and subpoenas duces tecum will be issued in the discretion of the administrative law judge. The written request shall include the full name and address of each person to be subpoenaed (and for subpoenas duces tecum, a complete description of the document or item to be produced), together with a statement accepting responsibility for service, and for witness and mileage fees, if any. Witness and mileage fees shall be the same as are paid witnesses in the courts of this state. Subpoenas and subpoenas duces tecum may be enforced as provided in W. Va. Code § 29A-5-1(b). Administrative law judges shall have the authority to subpoena witnesses and documents for level three hearings in accordance with the provision of W. Va. Code § 29A-5-1(b), on the written request of any party to the grievance.

6.5.1. All parties shall provide the Board and all other parties with a list of the witnesses they intend to call at the level three hearing, whether subpoenaed or not, at least six days prior to the hearing.

6.5.2. On motion made promptly, and in any event at or before the time specified in the subpoena for compliance, an administrative law judge may (1) quash or modify a subpoena or subpoena duces tecum if it is unreasonable and oppressive, or requires disclosure of privileged information or (2) condition denial of the motion on the advance payment of the reasonable cost of

producing the books, papers, documents, or tangible things by the person on whose behalf the subpoena duces tecum is issued.

6.6. Motions - An application to an administrative law judge for an order must be by motion, in writing, unless made during a hearing, and must be filed and served on all parties promptly, as soon as the facts or grounds on which the motion is based become known to the moving party. A motion must be accompanied by a concise statement of its basis, both legal and factual. A motion must be served by the moving party on all other parties at the same time it is presented to the administrative law judge. On receipt of a written motion, all non-moving parties shall be given a reasonable time within which to file a written response. A certificate of service must accompany all motions.

6.6.1. If any party desires a hearing on a motion, the party shall make a request for a hearing at the time of the filing of the motion or response. An administrative law judge may, in the judge's discretion, hold a hearing on a motion if it is determined that a hearing is necessary to the development of a full and complete record on which a proper decision can be made. Such hearing may be conducted via telephone conference call, with all parties or their representatives participating.

6.6.2. If a situation necessitating a motion arises immediately before or during a hearing, an oral motion may be made at the hearing. The moving party is to be prepared to proceed with the hearing if the motion is denied and the granting of the motion would have operated to delay the hearing.

6.7. Continuances - Any party may request a continuance of a hearing or other proceeding related to a grievance. Any party moving for a continuance must first attempt to contact the other parties to obtain an agreement to a continuance and to obtain five agreed dates for scheduling the hearing. Unless the requesting party demonstrates urgent circumstances, the request for a continuance will not be granted until the parties have agreed to a new hearing date. Requests for a continuance of a hearing will be granted on a showing of good cause. Unless time does not permit, a request for a continuance is to be made in writing to the administrative law judge and served on all parties of record. The administrative law judge may, on the judge's own motion, continue hearings or other proceedings.

6.8. Remand and Transfer - Any party may move to remand or transfer (return to a lower level of the grievance procedure) a grievance. Requests for remand or transfer of a grievance will be granted on a showing of good cause. The administrative law judge may, on the judge's own motion, remand or transfer a grievance for good cause.

6.9. Recusal - Any party may move to recuse (disqualify) the administrative law judge assigned to their grievance. Motions for recusal will be considered only in accordance with Rule 6.6 and will be granted only for good cause shown, in the discretion of the administrative law judge. A motion for recusal will not operate to continue automatically a hearing or other action on the

grievance; provided, that any party may make a separate motion for a continuance until such time as a decision is made on the motion for recusal.

6.9.1. The administrative law judge's decision on a motion to recuse may be appealed to the chief administrative law judge, and if the chief administrative law judge is the judge sought to be recused, then the appeal shall be to the Director of the Board. This decision may then be appealed to the Chairperson of the Board by any party to the grievance, in accordance with Rule 6.6. An appeal shall operate to continue automatically any hearing or other action on the grievance. The decision of the Chairperson is final and not subject to further appeal or review prior to the disposition of the grievance.

6.10. Errata Notice - After the administrative law judge issues a final decision in a grievance, the Board retains jurisdiction to amend the decision to correct clerical errors by errata notice during the appeal period.

6.11. Failure to State a Claim - A grievance may be dismissed, in the discretion of the administrative law judge, if no claim on which relief can be granted is stated or a remedy wholly unavailable to the grievant is requested.

6.12. Discovery - The Board strongly encourages parties to participate in informal discovery prior to hearing. All parties must produce, prior to any hearing on the merits, any documents requested in writing by the grievant that are relevant and are not privileged. Further, if a party intends to assert the application of any statute, policy, rule, regulation, or written agreement or submits any written response to the filed grievance at any level, a copy is to be forwarded to the grievant and any representative of the grievant named in the grievance.

6.12.1. The administrative law judge shall have authority to order such additional discovery, by way of deposition, interrogatory, document production, or otherwise, as considered necessary for a fair determination of the issues in dispute, consistent with the expedited nature of the grievance procedure. When a party serves another party with a discovery request, that request need not be filed with the Board.

6.12.2. Parties shall attempt to resolve any discovery disputes among themselves before making a motion requesting an order compelling discovery. Any such motion must state that the parties have attempted to resolve the dispute, as well as the reason why the discovery is needed.

6.13. Joinder - Any party may move to join (or add as a party to the grievance) a person or entity necessary to grant complete relief in the grievance by filing a motion in accordance with Rule 6.6. The administrative law judge may, on the judge's own motion, join a person or entity necessary to grant complete relief in the grievance. The Division of Personnel must be joined and made a party in any state employee grievance involving classification or compensation matters.

6.14. Consolidation - When separate grievances filed by two or more employees contain identical or similar issues, they may be consolidated for hearing or decision by agreement of all parties; on motion of any party; or on the administrative law judge's or chief administrator's own motion.

6.15. Failure to Pursue - Once no action by a party has been taken on a grievance for two months, the Board will send all parties a letter, by certified mail, advising that the case will be dismissed from the docket of the Board twenty calendar days from the date of the letter, unless any party objects and can demonstrate, in writing, why the case should not be dismissed. If no timely written objection is received by the Board, an order of dismissal will be entered. If timely written objection is received by the Board, the grievance will be promptly scheduled for hearing or other action will be taken consistent with the orderly disposition of the grievance.

6.16. Failure to Appear - If neither the grievant nor the grievant's representative, if applicable, appears for a scheduled grievance hearing, the administrative law judge may issue a show cause order, requiring the grievant to show good cause for the grievant's absence, and advising that the failure to respond with a set time limit will result in the dismissal of the grievance for failure to prosecute.

6.17. Hearings in General - Administrative law judges have full and complete authority to preside over and control all aspects of a hearing. If, in the determination of the administrative law judge, an individual present at a hearing is engaging in disruptive conduct, the administrative law judge may, in the judge's discretion, admonish the individual to cease such conduct; exclude the individual from the remainder of the hearing; adjourn the hearing; or take other action consistent with the orderly and timely disposition of the grievance. If, at the close of hearing, the parties wish to submit proposed Findings of Fact and Conclusions of Law, the request shall be granted, but unless there are exigent circumstances, the time frame for submission should be no greater than thirty days.

6.18. Location - All level two and three proceedings will be conducted in the Board's offices; provided that, on written motion in accordance with Rule 6.6 and for good cause shown, the administrative law judge may, in the judge's discretion, conduct the hearing in another location agreeable to the parties. In such cases, the party requesting the change in hearing site shall be responsible, at no expense to the Board, for providing the following: a suitable hearing room; a separate area for witnesses; such other facilities, equipment or personnel as necessary; and a certified copy of the transcript of the hearing and delivery of the same to the administrative law judge within a specific number of days after the hearing. However, the administrative law judge has the discretion to use the Board's recording equipment to record the testimony, at no cost to the parties.

6.19. Final Disposition - Grievances may be disposed of in three ways: by decision on the merits, nonappealable dismissal order, or appealable dismissal order.

6.19.1. Decisions on the merits will result in the granting or denying of a grievance, in whole or in part. All decisions are maintained by the Board and are electronically transmitted,

monthly, to the Office of the Secretary of State, Capitol Complex, Charleston, West Virginia 25305. Decisions on the merits are appealable to the Kanawha County Circuit Court.

6.19.2. Nonappealable dismissal orders may be based on grievances dismissed for the following: settlement; withdrawal; and, in accordance with Rule 6.15, a party's failure to pursue.

6.19.3. Appealable dismissal orders may be issued in grievances dismissed for all other reasons, including, but not limited to, failure to state a claim or a party's failure to abide by an appropriate order of an administrative law judge. Appeals of any cases dismissed pursuant to this provision are to be made in the same manner as appeals of decisions on the merits.

6.20. Appeals to Circuit Court - In every matter appealed to circuit court, the appealing party shall serve a copy of the appeal petition on the Board as required by W. Va. Code § 29A-5-4(b), and will provide the Board with the civil action number so that the certified record can be properly filed with the circuit court. The party prevailing on the appeal shall furnish the Board with a copy of the final decision of the circuit court and any accompanying order within twenty days of its receipt.

6.21. Advisory Opinions - The Board will, under no circumstances, issue an advisory opinion, i.e., an opinion on an issue not directly raised before the Board in a grievance.

6.22. Registration of Employee Organizations - All labor unions or other organizations representing West Virginia education or state employees before the Board shall register at the Board's main office in Charleston. (*See* Employee Organization Registration Form.)

6.23. Interpreter Appointment - In accordance with the requirements of W. Va. Code § 5-14A-5, if a hearing impaired person makes a request for an interpreter, the Board, at its own expense, shall appoint an interpreter to interpret the proceeding to the hearing impaired person or to interpret the hearing impaired person's testimony, or both.

§156-1-7. Claims for Relief by Default

7.1. A grievant seeking to prevail by default must file with the chief administrator a written notice of intent to proceed to the next level or to enforce the default within ten days of the default. If the chief administrator objects to the default, the chief administrator may file a request for a hearing with the Board within five days. On receipt of the chief administrator's objection, the Board will set the matter for hearing. The issues to be decided may include whether a default has occurred, whether the employer has a statutory excuse for not responding within the time required by law, and whether the relief sought is contrary to law or contrary to proper and available remedies. The default proceeding is usually bifurcated into two hearings. Once a grievant files a written claim for relief by default with the Board, or the chief administrator files an objection, all proceedings at the lower levels are automatically stayed until all default matters have been ruled on unless all parties agree

in writing that lower level proceedings can go forward. Mediation services shall continue to be available while default matters are pending.

§156-1-8. Representation - Employees are entitled to representation at any step of the procedure, including meetings held for the purpose of discussing or considering disciplinary action, prior to the filing of a grievance.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

HARASSMENT: NONDISCRIMINATION / ANTI-HARASSMENT POLICY AND COMPLAINT PROCEDURE

The West Virginia Higher Education Policy Commission is committed to providing a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment. Therefore, the West Virginia Higher Education Policy Commission expects that all relationships among persons in the office will be business-like and free of bias, prejudice and harassment.

Equal Employment Opportunity

It is the policy of the West Virginia Higher Education Policy Commission to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, marital status, citizenship, genetic information or any other characteristic protected by law. The West Virginia Higher Education Policy Commission prohibits any such discrimination or harassment.

Retaliation is Prohibited

The West Virginia Higher Education Policy Commission encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of the West Virginia Higher Education Policy Commission to promptly and thoroughly investigate such reports. The West Virginia Higher Education Policy Commission prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports.

Definitions of Harassment

- A. Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example:
1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.

- B. Harassment on the basis of any other legally protected characteristic also is strictly prohibited. Under this policy, harassment is verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, marital status, citizenship, genetic information or any other characteristic protected by law or that of his/her relatives, friends or associates, and that:
1. Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
 2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
 3. Otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group that is placed on walls or elsewhere on the employer's premises or circulated in the workplace, on company time or using company equipment by email, phone (including voice messages), text messages, social networking sites, etc.

Individuals and Conduct Covered

These policies apply to all applicants and employees, whether related to conduct engaged in by fellow employees or by someone not directly connected to the West Virginia Higher Education Policy Commission (e.g., an outside vendor, student, consultant or customer). Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events.

Reporting an Incident of Harassment, Discrimination or Retaliation

The West Virginia Higher Education Policy Commission encourages reporting of all perceived incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe they have been the victim of such conduct should discuss their concerns with their immediate supervisor, any Vice Chancellor, any member of the Human Resources Division or the Chancellor. See the complaint procedure described below.

In addition, the West Virginia Higher Education Policy Commission encourages individuals who believe they are being subjected to such conduct promptly to advise the offender that his or her behavior is unwelcome and request that it be discontinued. Often this action alone will resolve the problem. The West Virginia Higher Education Policy Commission recognizes, however, that an individual may prefer to pursue the matter through more formal complaint procedures and directly advising the perceived harasser is not a prerequisite to pursuing a complaint under this policy.

Complaint Procedure

Individuals who believe they have been the victims of conduct prohibited by this policy statement or believe they have witnessed such conduct are encouraged to discuss their concerns with their immediate supervisor or a member of the Human Resources Division. In the event the conduct involves either the immediate supervisor or a member of the Human Resources Division, concerns may be brought directly to the attention of any Vice Chancellor or the Chancellor for appropriate handling.

The West Virginia Higher Education Policy Commission encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Therefore, while no fixed reporting period has been established, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.

Any reported allegations of harassment, discrimination or retaliation will be investigated promptly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay or termination, as the West Virginia Higher Education Policy Commission believes appropriate under the circumstances. Due to the confidentiality afforded to personnel-related matters, the complaining party may not necessarily be notified what specific corrective measures have been implemented.

False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate disciplinary action.

Conclusion

The West Virginia Higher Education Policy Commission has developed this policy to ensure that all of its employees can work in an environment free from unlawful harassment, discrimination and retaliation. The West Virginia Higher Education Policy Commission will make every reasonable effort to ensure that all concerned are familiar with these policies and aware that any complaint in violation of such policies will be investigated and resolved appropriately.

Any employee who has any questions or concerns about these policies should talk with the Vice Chancellor for Human Resources.

Finally, these policies should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work-related social activities or discussions. In other words, no one should make the mistake of engaging in discrimination or exclusion in order to avoid allegations of harassment. The law and the policies of the West Virginia Higher Education Policy Commission prohibit disparate treatment on the basis of sex or any other protected characteristic, with regard to terms, conditions, privileges and perquisites of employment. The prohibitions against harassment, discrimination and retaliation are intended to complement and further those policies, not to form the basis of an exception to them.

Updated: May 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

LEAVE REPORTING PROCEDURES

Employee's Responsibilities

Each employee is responsible for inputting requests for annual, sick, and compensatory leave at least one week before requested leave is to be taken. Leave is not to be taken without receiving electronic approval from the immediate supervisor. In the event that an employee is ill or unable to work, the employee is required to notify her/his supervisor immediately as stated in Series 38, Section 2.9. The sick leave must be input into the leave system upon return to duty. Sick leave for more than five (5) consecutive days shall not be granted without satisfactory proof of illness or injury as evidenced by a statement of the attending physician as stated in Series 38, Section 5.5. The doctor's statement should be delivered to the immediate supervisor who will forward it to the Division of Human Resources.

Supervisor's/Director's Responsibilities

When possible, leave requests should be approved/denied within one week of request.

It is the responsibility of the immediate supervisor to request a doctor's statement for sick leave of more than five consecutive days. Upon receipt of the statement, the immediate supervisor is to forward the statement to the Division of Human Resources. The doctor's statement will be maintained in the Division of Human Resources for auditing purposes. The immediate supervisor may require evidence from an employee for verification of an illness or other causes for which leave may be granted regardless of the duration of the leave as stated in Series 38, Section 5.6.

A monthly leave report must be printed the first week of each month in order to verify leave taken for each employee for the prior month. This report is to be signed and forwarded to the Division of Human Resources by the second Friday of each month.

It is the responsibility of the supervisor/director to maintain adequate coverage of the division.

General Information

The electronic leave system does not replace the need for communication between supervisor and employee. Requests will be approved or denied based on needs of the division as stated in Series 38, Section 4.2.

Requests are not approved on a first in/first approved basis. Each supervisor must review each request and make a decision based on the number of requests received for the time period.

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WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

OVERTIME WORK ADMINISTRATIVE PROCEDURES

Introduction

Federal and State law govern the positions and conditions under which overtime pay must be provided to certain employees who work more than 40 hours in any one workweek. This policy is intended to explain the application of those laws to overtime situations for employees of the West Virginia Higher Education Policy Commission.

This policy has been developed in accordance with West Virginia Code §18B-7-11 and Section 5 of Title 133, Series 38, Procedural Rule, Employee Leave, of the West Virginia Higher Education Policy Commission.

Covered Employees and Hours

A non-exempt employee is any individual who is covered by the overtime provisions of the Fair Labor Standards Act (FLSA). An exempt employee is any individual excluded from the overtime provisions of the FLSA. The FLSA further defines these employee classifications based on the duties and responsibilities of the position held by an individual.

Employees eligible to receive overtime compensation are those whose positions are considered non-exempt from the provisions of the federal Fair Labor Standards Act. In no circumstances shall exempt employees be eligible to claim or to receive overtime pay compensation. Overtime eligibility for pay at one and one-half times the employee's normal hourly rate does not begin until a non-exempt employee has worked more than 40 hours in any one workweek. Hours worked between the normal schedule of 37.5 hours/week and 40 hours/week shall be compensated at the employee's normal hourly rate (annual base salary divided by 1,950 hours/year). Any hours worked beyond 40 in any one workweek shall be compensated pursuant to the terms of this policy. A "workweek" is defined as that consecutive seven-day period inclusive of the hours from Sunday at 12:01 a.m. to Saturday at 12:00 midnight. The standard workweek is 37.5 hours with a designated, unpaid lunch period of 1 hour per day.

Procedure

If it is determined by a supervisor that a non-exempt employee will be required to work more than 37.5 hours in any one workweek, the extra work must be approved in advance by the supervisor or the director of the division and the Executive Vice Chancellor for Administration. In the event the employee anticipates a need to work overtime in any particular workweek, the employee must notify the supervisor of this expectation as soon as possible and receive specific authorization to work any overtime hours. It is the obligation of the supervisor to keep and to maintain accurate records of all hours worked by non-exempt employees. A form is attached which is to be used to record any extra time worked. This form, with the appropriate verification, is to be maintained in the office of the Executive Vice Chancellor for Administration and filed with the Human Resources Office for the employee's personnel file. In most instances, a non-exempt employee will be compensated for hours worked over 40 in any

one workweek by receiving compensatory time at a rate of one and one-half times the employee's normal hourly rate for each overtime hour worked. Hours not worked but for which an employee is paid (e.g., sick leave) are not included as hours worked in the calculation of overtime eligibility.

Compensatory Time

With the consent of the supervisor, an alternative means of compensating an overtime-eligible employee for overtime hours worked is to afford the employee compensatory time (comp time) at an accrual rate of one and one-half hours for each overtime hour worked. The option to take comp time in lieu of overtime pay requires the employee to execute a Compensatory Time Agreement and obtain all necessary approvals in advance of performing the work for which he/she will receive comp time. No employee may accrue comp time in any amount exceeding two hundred forty (240) hours. All comp time must be used within one year of its accrual date.

All comp time accrued may only be scheduled as time off with the approval of the employee's supervisor in the same manner and using the same considerations as those used to schedule annual leave. Provided, however, that when an overtime-eligible employee is required to work on any scheduled day off, that employee at his/her option may receive regular pay for the holiday in addition to pay at the rate of one and one-half times the normal hourly rate times the actual number of hours worked, or the employee may receive regular pay for the holiday in addition to comp time equal to one and one-half times the number of hours actually worked on that day. Provided, further, that all comp time earned under this paragraph must be used within six (6) months of its accrual date.

When an employee who has accrued comp time leaves his/her employment, that employee will be paid for all unused comp time hours at the higher of the following two rates: the average regular rate received by the employee during the first three years of that employee's employment, or; the final regular rate received by the employee.

Exempt employees are not eligible to receive overtime compensation but may accrue comp time when they are required by an immediate supervisor to work on a scheduled day off. In lieu of any additional pay for working the scheduled day off, the exempt employee will be afforded the number of hours actually worked as comp time to be taken off with supervisor approval within the ensuing year. Comp time afforded to exempt employees is not a vested benefit and will be lost if not taken within the year. Exempt employees may not demand overtime compensation in lieu of accrued comp time.

Approval

The Compensatory Time Agreement and Extra Work Hours Approval form is attached which must be completed by the individuals listed, signed, dated and filed with the office of the Executive Vice Chancellor for Administration and the Division of Human Resources.

Adopted: November 6, 1995
Updated: October 3, 2000
Updated: July 27, 2004
Updated: April 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

**OVERTIME WORK ADMINISTRATIVE PROCEDURES
EXTRA WORK HOURS APPROVAL**

_____ has been approved to work _____ (day and time) for
_____ extra hours.

COMPENSATORY TIME AGREEMENT

I _____ understand and agree to work beyond forty (40) hours in the work week beginning _____ and ending _____ and to accept compensatory time up to a total of 240 hours in lieu of overtime payment.

It is my understanding that any accumulated compensatory time will be scheduled off by the Division Director or Unit Head and in accordance with the duties and responsibilities of the unit within one year of accumulation of said compensatory time.

It is my understanding that I may, at any time, ask for overtime compensation for accumulated compensatory time.

Employee's Signature Date

Immediate Supervisor Date

Division Director Date

Executive Vice Chancellor for Administration Date

* Copy to be filed with Division of Human Resources.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION
PAYROLL PROCEDURE TO ADDRESS INSUFFICIENT LEAVE

Purpose

To manage occurrences where an employee's leave balance falls below zero and necessitates the need to redeposit and reissue a new paycheck due to insufficient leave balances. This procedure will allow the West Virginia Higher Education Policy Commission Office to comply with payroll processing requirements of the State Auditor's Office and to inform employees of the implications of not managing leave balances adequately.

This procedure applies to employees hired prior to July 1, 2002. Employees hired after July 1, 2002 are on a one pay period deferred payroll process at the time of hire unless the employee transferred from another institution of higher education or a state agency. Employees hired prior to July 1, 2002 are normally on a current payroll. This procedure describes the conditions resulting in certain employees being permanently moved to the deferred payroll.

Definitions

Current Payroll: Payroll processed as the work is performed. For example, payment for services for the period of June 1st to June 15th would be received on June 15th.

Deferred Payroll: Payroll processed one pay period after the work is performed. For example, payment for services for the period of June 1st to June 15th would be received on June 30th or one pay period after completion of service.

Procedure

- A.** An employee will be placed on deferred payroll when he/she has insufficient accrual of leave to cover the entire payroll period and requiring the redeposit of her/his paycheck and the issuance of a revised paycheck.
- B.** An employee who is placed on deferred payroll will remain in that status for the duration of employment.
- C.** The Vice Chancellor for Human Resources shall document assignment to a deferred payroll status in writing and share the same with the immediate supervisor and the employee.
- D.** The deferred payroll status shall commence the first pay period following the notification of the employee that her/his pay check has been held or redeposited due to insufficient leave.

- E.** Employees who take a medical or personal leave of absence which reduces the leave accumulation to zero shall be placed on deferred payroll.
- F.** All supervisors shall monitor employees' leave balances closely to alleviate this type of action by assuring sufficient leave time is available before granting leave approval. Supervisors/Division Directors shall immediately notify the Executive Vice Chancellor for Administration and the Vice Chancellor for Human Resources Administrator if an employee's leave balance becomes a concern.
- G.** The electronic leave control system shall be the sole communication mechanism for informing the employee and immediate supervisor regarding leave balances and the implications of inadequate management of leave on payroll status. It is the immediate supervisor's responsibility to determine that adequate leave balances exist prior to approving the request for leave and to inform the Vice Chancellor for Human Resources Administrator of situations that may result in a negative balance in leave.

Effective Date: April 1, 2004

Updated: May 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

PERFORMANCE APPRAISAL PROCEDURES

Purpose

A performance appraisal is a method to assess employee performance in order that each employee may carry out her/his work responsibilities in a successful manner. The purpose of these procedures is to establish a process for managing the performance appraisal system of the West Virginia Higher Education Policy Commission. The process being established provides for the mutual identification of expectations related to the mission of the West Virginia Higher Education Policy Commission.

Definitions

- A. Performance Appraisal System: The ongoing process of defining performance expectations, measuring and appraising performance, providing feedback to the employee about performance, and using the performance appraisal information for administrative decisions such as retention, promotion, demotion, dismissal, salary adjustment, merit pay, and other personnel actions.
- B. Employee Enhancement Plan: Plan developed annually with employees to enable them to enhance performance and/or to advance in the career area. This plan is utilized for all employees with an evaluation of 3, 4, or 5.
- C. Developmental Plan: Plan developed jointly by the immediate supervisor and employee to improve the employee's performance of expected actions and working skills. This plan is utilized for employees who receive a 1 or 2 overall evaluation. Employees who receive a development plan will be evaluated quarterly.
- D. Performance Factors: Provide a mechanism for the overall evaluation level of employees. This is derived from a review of Part IV, Expectations; Part V, Supervisory Skills; and, Part VI, Performance Factors & Evaluation. The following overall evaluation categories apply:
 - 1. **Expectations not fulfilled:** This appraisal category indicates that an employee did not successfully complete the required job functions and expectations of the position. Documentation is required to show expectations not met and why. The employee shall have a development plan for charting progress to obtain satisfactory performance. A level 1 would be assigned to this performance level and may lead to progressive disciplinary action up to, and including, termination.
 - 2. **Expectations of position partially fulfilled, needs improvement:** This category indicates that an employee met some, but not all of the required job functions and expectations. Documentation is required to show expectations not met and why. The employee shall have a development plan for charting progress to obtain satisfactory

performance. A level 2 would be assigned to this performance level and may lead to progressive disciplinary action up to, and including, termination.

3. **Expectations of position fulfilled:** This category indicates that an employee has met all the job functions and expectations as outlined in Part IV of the performance appraisal. An enhancement plan related to increasing job skills and proficiency is required with this level. A level 3 would be assigned to this performance level.
 4. **Expectations of position exceeded:** This category indicates that an employee has met the job functions and expectation as outlined in Part IV and exceeded some expectations as reflected by justification. An enhancement plan related to increasing job skills and proficiency is required with this level. A level 4 would be assigned to this performance level.
 5. **Expectations of position far exceeded:** This category indicates an employee has met all job functions and expectations as outlined in Part IV and exceeded in several areas as reflected by justification. An enhancement plan related to increasing job skills and proficiency is required with this level. A level 5 would be assigned to this performance level.
- E. Evaluations in prior periods are not relevant to this year's performance.
- F. Job Function: Duties and responsibilities and agreed to supplemental items as outlined on the position information questionnaire (PIQ) for the position.
- G. Performance Expectations: The definition of the job-related results that the employee is expected to accomplish during the appraisal period. Performance expectations provide specific, quantifiable results, related to essential job functions of the position. The establishment of performance expectations occurs in a conference between the employee and immediate supervisor.
- H. Performance Expectations Conference: A formal, personal meeting between the employee and the immediate supervisor held at the beginning of the appraisal period to establish job functions and expectations. An employee and immediate supervisor may meet as necessary to review and adjust expectations during the appraisal period. Each such meeting is documented by signing a new Part IV which is to be attached to the original performance appraisal form.
- I. Performance Appraisal Review: Description of expectations accomplished during the appraisal period which requires the assignment of a numeric score.
- J. Employee Remarks: Comments regarding her or his appraisal which are written by the employee on the performance appraisal form and may include a copy of the employee's self-evaluation.

- K. Self-Evaluation: Completed by the employee at the end of the appraisal period to reflect her/his accomplishments. The same appraisal criteria the immediate supervisor will utilize for the appraisal are to be utilized by the employee. Self-evaluation forms are due in the Division of Human Resources by March 15. If the supervisor does not complete the appraisal by April 15, the employee's self-evaluation will be considered the final appraisal.
- L. Immediate Supervisor: The person responsible for planning, assigning, and reviewing the work of subordinate employees and the person who is responsible for conducting performance appraisals.
- M. Reviewing Manager: The manager who is responsible for reviewing and signing the performance appraisal of subordinate supervisors.
- N. Probationary Appraisal Period: This is a period of six (6) months beginning with the first day of employment. The probationary period serves as a test of an employee's performance for the position. New employees will receive a written evaluation at the end of three-months and at the end of six-months. Completed and signed appraisal forms are to be forwarded to the Division of Human Resources immediately after completion.
- O. Appointing Authority: The Executive Vice Chancellor for Administration and/or Chancellor who is authorized by statute to appoint classified and non-classified employees.

Procedures

- A. Completed performance appraisals including the employee enhancement plan or improvement plan will be included in the permanent personnel files located in the Division of Human Resources. A copy of the performance appraisals will be located in the Division Director's files and a copy will be provided to the employee. The Division of Human Resources will be responsible for returning copies to the appropriate individuals.
- B. The performance appraisals will be utilized, along with other documents, for administrative decisions such as retention, promotion, demotion, dismissal, merit pay or other personnel actions.
- C. The performance appraisal process is divided into three phases: Performance expectation development; performance monitoring and coaching; and, completion of the performance appraisal document. The process begins April 15 with setting of expectations between the immediate supervisor and employee and is concluded with the submission of all performance appraisal forms to the Executive Vice Chancellor for Administration and/or Chancellor for review by April 15 of the following calendar year and will be forwarded for filing to the Division of Human Resources by April 30 of each appraisal period.
 - 1. Performance planning and communication of expectations:
 - a. The performance expectations must be established by May 1 for the

upcoming appraisal year.

- b. The expectations are derived from the Position Information Questionnaire (PIQ) and the mission and goals of the unit which are based upon the mission and goals of the West Virginia Higher Education Policy Commission.
- c. The performance expectations must focus on significant results rather than general duties and tasks.
- d. The performance expectations should be specific and measurable; be limited in number; and, define standards of performance in terms of quality, quantity, timeliness and cost management.
- e. During the performance appraisal conference, the employee and supervisor should review Part VI, Performance Behaviors, for mutual understanding. The discussion should also include how performance tracking methods will be utilized during the year such as: customer feedback, progress reports, and observations.
- f. The supervisor prepares Part II, type of performance appraisal; Part III, responsibilities; and, Part IV, job functions and expectations of the performance appraisal form. The supervisor and employee meet to discuss expectations. The employee and supervisor each sign and date the bottom of the form containing the job functions and expectations.
- g. The supervisor forwards the form to the next level of supervision (reviewing manager).
- h. The next level of supervision (reviewing manager) should use the information from all of her/his subordinates to ensure that organizational goals are accomplished and to analyze workload distribution. The reviewer signs the form and forwards it to the Division of Human Resources.
- i. Based on information from the reviewing manager, revisions in the expectations may occur with each individual signing and dating that the revisions have been agreed to by all parties. This should occur in a meeting consisting of all parties concerned and requires the completion of Part IV.
- j. Once the reviewer has signed the form, he/she will forward the form and all attachments to the Division of Human Resources.
- k. The Division of Human Resources will file the original in the employee's personnel file and return a copy to the employee and immediate supervisor.

2. Performance monitoring and coaching:

- a. During the year, supervisors should gather information about performance from a variety of sources such as: monthly reports; customer feedback; supervisors; managers; significant incidents which may be both positive and negative; observations; and, discussions with the employee and others.
 - b. In order to provide feedback to the employee on her/his performance, the supervisor or employee may request that a mid-year conference be held. When a mid-year conference is held, the supervisor should also provide coaching, counseling, and mentoring as appropriate. Supervisors are encouraged to meet with employees on an as needed basis during the appraisal period. Each meeting shall be documented and the documentation shall be forwarded to the Division of Human Resources to be attached to the performance appraisal form. Additional conferences to review expectations or to discuss job performance may be held at any time the immediate supervisor, employee and/or reviewing manager feels appropriate. The procedures for any conferences held during the appraisal period are the same as those for the performance planning conference.
 - c. The supervisor is responsible for documenting the employee's performance and the discussions with the employee.
 - d. The employee's self-appraisal is to be a part of the appraisal conference.
3. Completion of the performance appraisal:
- a. At least two weeks before the appraisal conference, the supervisor shall schedule a meeting with each employee under her/his direct supervision. During this period, the employee completes the self-appraisal form and has it ready to discuss when the appraisal conference occurs.
 - b. The supervisor prepares the appraisal form for the employee using the data gathered and documented during the year. The supervisor asks her/his reviewing manager for input regarding the employee and, if necessary, may discuss the draft appraisal with the reviewing manager.
 - c. The supervisor and the employee meet to discuss performance.
 - 1. The supervisor shall allow at least thirty (30) minutes for the discussion.
 - 2. The discussion shall be conducted in private with no interruptions. Telephone calls and visitors should not interrupt the discussions unless an emergency situation arises.

3. The supervisor will review the appraisal and self-appraisal form with the employee.
 4. After reviewing both documents with the employee, the supervisor may add to the appraisal based on comments/suggestions from the employee and/or the employee's self-appraisal.
 5. The supervisor and employee shall discuss areas for employee enhancement. The supervisor will then prepare the employee enhancement plan and include same as part of the expectation setting for the coming appraisal period.
 6. The supervisor and employee shall sign and date the appraisal form.
- d. The appraisal form with attached documentation is forwarded to the next level of supervision (reviewing manager) by April 16.
 - e. All completed performance appraisal forms are to be received by the Division of Human Resources on or before April 30.

Adopted June 2003
Updated: June 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

PERSONNEL ACTION PROCEDURES

Advertising a Position

When a vacancy occurs or a new position is created which requires a position to be advertised, a “Request to Advertise” form is to be completed. Prior to advertising an existing vacancy, the immediate supervisor and Division Director shall review the current Position Information Questionnaire (PIQ) for accuracy. If changes are necessary, these are to be made and reviewed by the Vice Chancellor for Human Resources prior to development of the advertisement. If the position is new, a PIQ must be developed and reviewed by the Vice Chancellor for Human Resources Administrator and the Job Classification Committee, if necessary, to determine the appropriate classification of the position. The Request to Advertise form will be sent to the Vice Chancellor for Finance who will verify funding sources and available money. Once the funding source information has been verified, the form will be forwarded to the Executive Vice Chancellor for Administration and the Chancellor(s) for approval. The Request to Advertise form must contain all necessary information and signatures before the Division of Human Resources staff may prepare and place an advertisement for the position.

Advertising Sources

All position advertisements will be posted on the West Virginia Higher Education Policy Commission website. In addition, the Division Director will indicate on the Request to Advertise form other posting sources for the position. Sufficient information must be provided so that the Division of Human Resources staff can post the position in a timely manner. The Division of Human Resources can provide estimated pricing for various advertising sources and Division Directors should attempt to restrict the scope of advertising to the most relevant recruitment market(s). The Division of Human Resources may also select other advertisers for affirmative action purposes.

Search Committee

The Division Director shall chair the search committee and shall select other staff members to serve on the committee. Before providing the names on the Request to Advertise form, the Division Director shall contact the individuals to confirm a willingness to be a part of the search process. All search committees shall be comprised of an odd number of members not to exceed five. While not required, it is recommended that a member of the Division of Human Resources staff serve on all search committees for consistency purposes. The Division of Human Resources staff will provide copies of the resumes for candidates who meet the minimum qualifications to committee members. The resumes for those who did not meet the minimum qualifications will be forwarded to the chair of the search committee for review. In addition, the Vice Chancellor for Human Resources will meet with the committee to answer any questions about applicable laws and processes. The search committee will maintain confidentiality throughout the process until an individual has been selected and approved to fill the position.

The Human Resources Representative Senior will work with the chair of the search committee to schedule interviews. Interviewees will be asked to come to the Division of Human Resources the day of the interview to be greeted and escorted to the interview. The interviewee will be introduced to the chair of the search committee who will proceed with the interview process. The Chancellor and Executive Vice Chancellor for Administration are to be afforded the opportunity to meet with the successful candidate once the search committee has made a selection. A decision on the most appropriate candidate for the position is to be made by the Division Director or hiring manager, taking into account the recommendations of the search committee.

Processing the Personnel Action Form

Once the search committee has completed the interviewing process and a selection has been made, a Personnel Action Form (PAF) shall be completed which shall include the correct address, social security number and date of birth and must be signed by the Division Director, the Vice Chancellor for Human Resources, the Vice Chancellor for Finance, the Executive Vice Chancellor for Administration and the Chancellor. The PAF will then be forwarded to the Division of Finance for the preparation of the WV-11. The prepared WV-11 will be sent to the Director of Administrative Services for review and forwarding to the Chancellor or the Executive Vice Chancellor for Administration for signature. The WV-11 will then be submitted to the appropriate state agency for approval and/or further processing. When an approved copy of the WV-11 is received, an appointment letter will be prepared for the Chancellor or the Executive Vice Chancellor for Administration's signature.

Resignations/Terminations

When an employee resigns or is terminated, a Personnel Action Form (PAF) shall be completed indicating whether leave is to be paid out over regular pay periods, in a lump sum, or transferred to a higher education institution or state agency. The original copy of the individual's resignation/termination letter is to be attached to the PAF. The Director of Administrative Services will determine the annual and sick leave balances and print a copy of the web-based leave report on the employee's last day of work. A copy of the report will be attached to the PAF. The Division of Finance staff will process the annual leave balance in accordance with the employee's instructions.

The PAF will be forwarded by the Director of Administrative Services to all necessary parties for signatures and finally to the Division of Finance staff for preparation of the WV-11. Once prepared, the WV-11 will be sent to the Director of Administrative Services for review and forwarding to the Chancellor or the Executive Vice Chancellor for Administration for signature. The WV-11 will then be submitted to the appropriate state agency for approval and/or further processing. Immediately upon receiving notice (verbal or written) of an employee's resignation, the employee's immediate supervisor shall formally (in writing or by e-mail) accept the resignation and forward copies of the resignation and acceptance of resignation to the Chancellor or the Executive Vice Chancellor for Administration for signature.

Leave Without Pay

Leave without pay may occur for personal, medical, family or parental leave purposes. Leave without pay occurs when an employee has exhausted all sick and annual leave in accordance with Series 38, the Commission's rule on employee leave.

Verification that all catastrophic leave, parental leave, accrued sick and annual leave has been exhausted should be verified by the Division of Human Resources staff. A copy of the employee's letter requesting leave without pay shall be attached to the PAF. Once all approving signatures are obtained, the PAF will be forwarded to the Division of Finance for preparation of the WV-11. Once prepared, the WV-11 will be sent to the Director of Administrative Services for review and forwarding to the Chancellor or the Executive Vice Chancellor for Administration for signature. The WV-11 will then be submitted to the appropriate state agency for approval and/or further processing. When the WV-11 has been prepared, a letter outlining the provisions of the leave will be prepared and forwarded to the Chancellor or the Executive Vice Chancellor for Administration for signature.

Creation of a New Position

The creation of a new position will be accomplished by the preparation of the Request to Advertise form as previously described in the procedures for advertising a position. Refer to that section for information related to the preparation of a PIQ.

Reclassification/Promotion

Should a classified employee request reclassification, a revised PIQ must be developed, reviewed and signed by all parties. The Division Director shall forward the signed PIQ to the Vice Chancellor for Human Resources with a request that it be reviewed for possible reclassification/promotion. The Vice Chancellor for Human Resources Administrator will follow the guidelines in Series 53, the Commission's rule on personnel administration, in conducting the review. The results of the PIQ review will be shared with the employee and the Division Director. The appropriate documentation, including a PAF, WV-11, and a letter to the employee, will be prepared.

Name/Address Change

When an employee has a change in name/address, the employee shall send an e-mail to the Division of Human Resources staff. The Human Resources Representative Senior will provide the employee with forms for changing her/his name/address on benefits. The Division of Finance staff will prepare the necessary paperwork to forward to the appropriate state agency.

In the case of a name change, the employee must obtain a new social security card bearing the new name prior to changing their name on the payroll. Failure to obtain the social security card could present future problems with the Social Security Administration. Therefore, a copy of the social security card must be forwarded to the Division of Human Resources prior to the processing of paperwork to change the employee's name.

Contracting for Temporary Employment Services

When the services of a temporary employment agency are needed, the Division Director should forward a memorandum to the Division of Human Resources requesting the services, outlining the duties and qualifications, and how long the services will be needed.

If approval is granted for contracting for such services, the Division Director shall work with the Division of Human Resources staff to finalize the description of duties and qualifications. The Division of Human Resources staff shall forward the requisition, final description of duties and qualifications, to the Purchasing Office. If the service can be provided from the state's or higher education's contracts for temporary employment services, the Purchasing Office will contact the appropriate vendor and issue a purchase order for the service. If requested, two or more persons may be interviewed before the purchase order is processed.

If the service requirements cannot be filled using one of the existing statewide contracts, the Purchasing Office will do the following depending on the circumstances:

1. If the total cost of the services will be \$1,000 or less, an order will be placed with one of the temporary employment agencies.
2. If the total cost of the services will be greater than \$1,000 but not more than \$15,000, the Purchasing Office will use the final description of duties and qualifications to secure quotations from at least three temporary employment service agencies. Unless there is valid reason not to do so, a purchase order will be issued to the vendor offering the best value.
3. If the total cost of the services will exceed \$15,000, the Purchasing Office will use the final description of duties and qualifications to secure competitive sealed bids or proposals from temporary employment service agencies. Unless there is a valid reason not to do so, a purchase order will be issued to the vendor offering the best value.

The Division Director has the option to interview and select the best qualified individual available from the temporary employment agency before a purchase order is processed. The immediate supervisor shall approve the temporary employee's weekly time sheet and forward the "customer copy" to the Division of Human Resources.

The Division of Human Resources shall be notified by the Purchasing Office of the name of the individual selected and the start and end date of the services. Should there be a request for an extension, the Division Director will need to get approval through the Chancellor or the Executive Vice Chancellor for Administration following the same procedures as the original approval.

Adopted: January 4, 1993
Revised: September 29, 1997
Retyped: April 29, 2004

Retyped: May 4, 2009
Revised: May 27, 2009
Revised: June 8, 2009

Updated: May 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION
PERSONNEL ACTION FORM

Name:		Social Security Number:		
		Date of Birth:		
Address:				
Title:		Job Code: Unit Code:		Pay Grade:
Base Salary:		Increment:	Total Salary:	
Fund 1	FY:	ORG:	ACT:	FTE:
Fund 2	FY:	ORG:	ACT:	FTE:
Fund 3	FY:	ORG:	ACT:	FTE:
Fund 4	FY:	ORG:	ACT:	FTE:
Position #:		EPICS #:	Effective Date:	
Justification for Change:				

TYPE OF ACTION (check one)

A. Employment New Hire: <input type="checkbox"/> Hourly: <input type="checkbox"/> Intern: <input type="checkbox"/>	B. Resignation <input type="checkbox"/> C. Termination <input type="checkbox"/> Retirement <input type="checkbox"/> Annual Leave: Sick Leave: Comp Time:
D. Leave without Pay Annual Leave: <input type="checkbox"/> Sick Leave: <input type="checkbox"/>	E. Reclassification <input type="checkbox"/> Promotion <input type="checkbox"/> New Title: New Salary: Increment: New Pay Grade: New Job Code:
F. Name/Address Change (New):	

SIGNATURES

1. _____
 Division Director Date
2. _____
 Vice Chancellor for Finance Date
3. _____
 Vice Chancellor for Human Resources Date
4. _____
 Chancellor/Executive Vice Chancellor for Administration Date

Staff Person	Date
	WV-11 to Budget Office
	Prepare leave system form for IT
	Letter to Employee
	Notify IT regarding e-mail account change

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

TELECOMMUTING POLICY AND GUIDELINES

Policy Statement

The West Virginia Higher Education Policy Commission (Commission) affirms its commitment to develop, maintain and support a comprehensive policy of equal opportunity in employment. To that end, the Commission will actively support telecommuting and flexible work schedules where it is reasonable and practical to do so and where operational needs will not be adversely affected. The duties and responsibilities of the classified or non-classified position must be suitable for a telecommuting arrangement. Telecommuting is a privilege and not an entitlement of any employee and may be terminated at any time.

Definition of Telecommuting

Telecommuting is defined as working at home or at other off-site secure location where employees may maintain a consistent electronic link (via computer, fax, etc.) to the employee's primary work location or principal place of employment. Telecommuting is a cooperative arrangement between the Commission and an employee, based upon the needs of the position, work group, department and the agency. This policy does not apply to situations where a supervisor occasionally allows an employee to work at home on a temporary, irregular basis.

Goals and Objectives

The Commission is committed to equal opportunity for staff. To that end, the Commission may create working arrangements, in accordance with managerial interests, whereby it can widen its recruitment pool of prospective candidates and retain the valuable skills of existing employees.

Eligibility

To be eligible for consideration of a telecommuting arrangement, an employee must have no record of performance problems or disciplinary actions within the preceding two (2) years. In the case of a new hire, the Division of Human Resources will conduct a thorough reference check with past employers to determine whether s/he meets the requirement for the telecommuting arrangement. Annual reauthorization of any telecommuting arrangement is dependent upon a positive performance evaluation of the telecommuting employee. The Executive Vice Chancellor for Administration shall have final approval of all telecommuting arrangements.

Employee Qualities Appropriate for Telecommuting

An employee is considered a good candidate for telecommuting if his/her essential duties and responsibilities can be performed remotely and if s/he meets the following, non-exclusive criteria:

- a. Self-motivated, proven ability or potential to perform and be highly productive;
- b. In good standing (no disciplinary or corrective actions or warnings);
- c. Comprehensive job knowledge;
- d. Ability to establish clear objectives and work assignments;
- e. Ability to work independently;
- f. Flexible;
- g. Dependable; and
- h. Accountable.

Determining Positions Appropriate for Telecommuting

Supervisors, in consultation with the Division of Human Resources, shall determine positions suitable for telecommuting by analyzing the duties and responsibilities and applying the following criteria:

- a. Positions requiring autonomy where work can be performed with equipment that can be kept securely at the alternate work site;
- b. Clearly defined tasks and objectives;
- c. Work or projects requiring little face-to-face communication or service to the public;
- d. Work or projects requiring high level of concentration; or
- e. Situations where the supervisor and employee can establish measurable assignments, tasks, and activities.

Procedure

Employees wishing to telecommute must review the telecommuting policy and work standards, then seek and receive requisite approvals, beginning with the employee's supervisor. Supervisors must review the duties and responsibilities and consult with the Division of Human Resources to ensure that the position is suitable for telecommuting. Prior to approval, the supervisor and employee shall jointly establish tasks, timelines and due dates for work during the telecommuting period. Once approved, the Telecommuting Agreement shall be maintained by the Division of Human Resources.

Approvals

The employee's supervisor and division director must support the telecommuting arrangement and the Executive Vice Chancellor for Administration shall have final approval.

Job Responsibilities

Employee job responsibilities, daily work schedule and the amount of time an employee is expected to work will be mutually agreed upon by the supervisor and the employee in advance, but in no event shall an employee under a telecommuting arrangement devote less than his/her regularly scheduled working hours to work duties during the course of a workweek. Professionalism in terms of job responsibilities, work output, and customer orientation will continue to follow the standards set by the Commission. In the event that business conditions require the employee's presence at a central work location function, meeting, or other event, the employee is expected to report to the central work location, even if such occurs during normally scheduled telecommuting time.

Central Office/Supervisor Contact

Once a telecommuting arrangement has been approved, the employee is responsible for maintaining regular contact with his/her supervisor. The supervisor or designee shall be the employee's primary contact within the central work location. It is expected that the supervisor and the employee will work collaboratively and the supervisor shall stay apprised of events or information obtained during the working day. The employee shall return calls and e-mail within the same business day or no later than 24 hours. Although it is the responsibility of the telecommuting employee to maintain regular contact with his/her supervisor, it is the responsibility of the supervisor to ensure appropriate oversight of the employee's remotely-performed work duties. The degree of appropriate oversight of a telecommuting employee shall be a consideration of the supervisor's performance evaluation.

When working an approved telecommuting arrangement, the employee is considered to have two primary work locations for purposes of travel reimbursement. In no event shall a telecommuting employee be permitted to claim mileage reimbursement for travel between the alternate work location and the central office. Business-related travel to remote locations that would otherwise be reimbursed from the point of the central office shall be reimbursed from the point of the central office or the alternate work location, whichever is closer to the remote location.

Alternate Work Area

As required by State statutes, the Commission may have workers' compensation liability for the employee's job related injuries and illnesses while in the course of employment within the agreed upon location and defined work schedule. The Commission assumes no responsibility for any activity, damages, or injury which is not directly associated or resulting from the official job duties for which the agency has no ability to exercise control. The Commission assumes no responsibility for the employee's personal property.

In addition, the following must be adhered to:

- a. A designated workspace should be maintained by the employee in a clean, professional, and safe condition.
- b. Any change in the approved job assignment, location or defined work schedule must be reviewed and approved by the supervisor in advance. Work schedules must be in compliance with the Fair Labor Standards Act and under no circumstances shall covered employees work or accrue overtime without supervisory approval.
- c. As liability may extend to accidents which could occur in the alternative work location, the Commission retain the right to make on-site inspections of this work area, at a mutually agreed upon time, to ensure that safe work conditions exist.
- d. Employee tax implications related to alternate work locations are the responsibility of the employee.
- e. Employee expenses not specifically covered in this policy will be dealt with on a case-by-case basis between the employee and his/her supervisor.
- f. Employees who work at home will manage dependent care and personal responsibilities in a way that allows them to successfully meet job responsibilities.

Compensation, Benefits and Leave

An employee's compensation and benefits shall not change as a result of the telecommuting arrangement. Telecommuting is not intended to be used as a replacement for sick leave, family medical leave, workers compensation leave or any other type of leave.

Equipment

- a. Any hardware or software purchased by the Commission remains the property of the Commission and will be returned to the agency should the alternative work arrangement be terminated.
- b. Software owned by the Commission may not be duplicated except as formally authorized by policy.
- c. Employees using Commission software must adhere to the manufacturer's licensing agreements.
- d. Restricted access materials (such as payroll, personnel files, financial information or any information deemed by the organization as confidential) may not be taken out of the office, copied, or compromised in any way. Employees working at alternate sites will take all precautions necessary to secure sensitive information and prevent unauthorized access to agency records, documents and information.

- e. Commission equipment located at an alternative work location may not be used for personal activities except as permitted under the terms of other Commission policies.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

TELECOMMUTING REQUEST FORM

Employees who wish to telecommute must complete and submit this form to his/her supervisor for requisite approvals prior to telecommuting. The supervisor agrees to monitor the employee's performance and adhere to established guidelines and work standards.

Employee name (print):	
Position title:	<input type="checkbox"/> Classified / <input type="checkbox"/> Non-classified
Division:	
Primary work physical address:	
Primary work schedule:	
Telecommuting physical address:	<input type="checkbox"/> Home <input type="checkbox"/> Other
Telecommuting days of the week:	Daily schedule (hours):
Proposed begin date:	

Employee Statement. I hereby request approval to telecommute. I understand that telecommuting is a privilege and not an entitlement and that this agreement may be terminated at any time. I have read and understand the requirements for work standards and performance and agree to adhere to policies.

Signed _____ Date _____

Agency Approvals. The agency supports employee participation and the supervisor agrees that the employee and the position are suitable for a telecommuting arrangement.

Supervisor _____ Date _____

Division Director _____ Date _____

Vice Chancellor for Human Resources _____ Date _____

Executive Vice Chancellor for Administration _____ Date _____

Chancellor _____ Date _____

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

TELECOMMUTING WORK STANDARDS/PERFORMANCE

1. Employee's time and attendance will be recorded the same as performing official duties at the primary workplace.
2. Supervisors will maintain a copy of employee's work schedule, and employee's time and attendance will be recorded the same as if performing official duties at the primary workplace.
3. Employee will meet with the supervisor to receive assignments and to review completed tasks as necessary or appropriate.
4. Employee will complete all assigned work according to work procedures mutually agreed upon by the employee and the supervisor, and according to guidelines and expectations stated in the employee's performance plan.
5. Supervisor will evaluate employee's job performance according to the employee's performance plan.
6. Employee agrees to limit performance of his/her officially-assigned duties to the central workplace or agency-approved alternate work location. Failure to comply with this provision may result in loss of telecommuting privileges and/or disciplinary action.

Compensation/Benefits

1. Salary, leave accrual rates, and travel entitlements will remain as if the employee performed all work at the central workplace.
2. Employee will be compensated in accordance with applicable law and West Virginia state code and federal law for overtime work that has been requested by his/her supervisor and approved in advance.
3. Employee understands that overtime work must be approved in advance by the supervisor. By signing this form, employee agrees that failing to obtain proper approval for overtime or compensatory time may result in loss of telecommuting privileges and/or appropriate action.
4. Employee must obtain supervisory approval before taking leave in accordance with established office procedures. By signing this form, employee agrees to follow established procedures for requesting and obtaining approval of leave.

Equipment/Expenses

1. Employee who uses Commission equipment agrees to protect such equipment in accordance with agency guidelines. State-owned equipment will be serviced and maintained by the agency.
2. If the employee provides equipment, s/he is responsible for servicing and maintaining it.
3. The Commission or the State will not be liable for damages to an employee's personal or real property during the course of performance of official duties or while using state equipment in the employee's residence.
4. The agency is not responsible for operating costs, home maintenance, or any other incidental costs (e.g. utilities associated with the use of the employee's residence as an alternate location, unless it is expressly outlined or agreed upon in advance).

Safety

1. Employee is covered by the appropriate provisions of the state of West Virginia workers' compensation programs as outlined in state code if injured while performing official duties at the primary workplace or alternate work location.
2. Employee agrees to certify that the work location is safe and free from hazards.
3. Employee agrees to bring to the immediate attention of his/her supervisor any accident or injury occurring at the alternate work location while working.
4. Supervisor will investigate all accident and injury reports immediately following notification. The employee agrees to afford the supervisor or appropriate Commission employee permission to enter his/her alternate work location for purposes of inspecting the premises during the course of an accident/injury investigation.

Confidentiality/Security

Employee will apply approved safeguards to protect agency or state records from unauthorized disclosure or damage, and will comply with the privacy requirements set forth in the agency's policies and/or state code.

April 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

WORK SCHEDULE PROCEDURES

The West Virginia Higher Education Policy Commission (Commission) will generally honor three (3) work schedules for employees. Division Directors are responsible for ensuring adequate coverage throughout the workday and providing recommendations for division schedules to the Chancellor and/or the Executive Vice Chancellor for Administration.

The following assumptions apply to scheduling of staff:

1. Each division will have employees available to answer the telephone and inquiries from 8:00 a.m. to 5:00 p.m. Monday through Friday. Divisions are defined as: Academic Affairs; Administrative Services; Chancellor's Office, Chancellor's Office, Policy Commission; Finance and Facilities; Health Sciences; Human Resources; Legal; Financial Aid, Policy and Planning; Science and Research; and Student Success and P-20 Initiatives / WV GEAR UP.
2. The core work period will be from 8:00 a.m. to 5:00 p.m.
3. Employees may be considered for schedules which are on either side of the core work period as follows:
 - 7:30 a.m. to 4:00 p.m.
 - 8:00 a.m. to 4:30 p.m.
 - 8:30 a.m. to 5:00 p.m.
4. Employees who wish to adjust their current schedule should provide such request in writing to their immediate supervisor. The immediate supervisor will make recommendations for schedule changes to the Division Director. The Division Director has the authority to approve or change the recommendations of the immediate supervisor. It is the Division Director's responsibility to ensure that the division has appropriate coverage from 8:00 a.m. to 5:00 p.m. Monday through Friday. Special circumstances or projects may justify a deviation(s) from these schedules in appropriate cases. In all cases, however, the work of the West Virginia Higher Education Policy Commission shall take priority over individual employee convenience.
5. Based upon the work requirements of the division and special circumstances, the Division Director may recommend an alternative work schedule for individual employees. Any revision to an employee's work schedule which deviates from the three schedules above, must be approved by the Chancellor or the Executive Vice Chancellor for Administration.
6. All employee schedules will contain 37.5 hours per week between Monday and Friday in addition to the one hour lunch period per day. In order to maintain coverage, Division Directors can schedule alternate lunch hours for staff which should be between the hours of 11:00 a.m. and 2:00 p.m. Nothing in this procedure will prevent employees from providing

Noon to 1:00 p.m. telephone coverage and taking their lunch period from 11:00 a.m. to Noon or 1:00 p.m. to 2:00 p.m. on the day when phone coverage is provided.

7. Should two employees doing basically the same type of work and/or covering the same division request the same schedule, the employee with the most seniority (years of service at the West Virginia Higher Education Policy Commission Office) shall be the first considered for the schedule as requested.
8. Staff will be expected to adhere to their assigned work hours and will be expected to be prepared to begin and end their work day according to their assigned schedule.
9. Alternative work schedules may also be available to qualifying employees seeking accommodations for a disability or for those exercising Family and Medical Leave Act leave.

Revised: May 11, 2009

Revised: April 23, 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

COMPUTER USE POLICY

Computer use has become an integral part of the West Virginia Higher Education Policy Commission workplace. This heavy reliance on information technology places responsibilities on both the West Virginia Higher Education Policy Commission and all individual employees. By accepting these responsibilities, all members of the West Virginia Higher Education Policy Commission staff ensure that the largest possible benefits are realized from the use of computer resources.

- The West Virginia Higher Education Policy Commission has a responsibility to provide its computer users with their fair share of resources with which to do their jobs, to take steps to protect users' privacy, and to protect the integrity of files stored on network drives.
- Individual employees have responsibilities which include becoming knowledgeable about software use in their work, taking precautions regarding their own privacy and that of others, and protecting their own work by adhering to usage policies, maintaining password security, and backing up important files.
- Some forms of computer use are prohibited in order to promote a productive, safe, and legal work environment.

West Virginia Higher Education Policy Commission Responsibilities

Within budget and support limitations, the West Virginia Higher Education Policy Commission will make efforts to determine the information technology needs of divisions and employees, and to provide users with a fair share of resources. Providing a fair share of resources to all may require placing limits on the use of shared equipment and discouraging some forms of computer use on the part of employees.

The West Virginia Higher Education Policy Commission makes no guarantee as to the privacy associated with workplace computer usage. Although measures will be maintained to provide individual users with private and protected e-mail accounts and network drives, all hardware and software employed at this office are considered state property. As such, all computer-related activities are subject to state and federal inquiries, including but not limited to the Freedom of Information Act (except as exempted by law), as well as inspection and review by authorized West Virginia Higher Education Policy Commission personnel in the exercise of their oversight responsibilities.

No one can prevent the periodic failure of computer equipment and software, which can result in the loss or corruption of files. To reduce the harmful consequences of such events, regular backups of shared drives will be conducted. These backup measures include weekly full and daily incremental tape backups, and the volume shadow copy service associated with the Windows server operating system. Because backups are not conducted on the local hard drives of individual workstations, this backup protection only extends to files stored on shared network drives.

Although no method is completely effective, the West Virginia Higher Education Policy Commission employs several levels of virus and spam filtering technologies to prevent malicious and unwanted materials from reaching individual computer accounts.

Employee Responsibilities

All employees are subject to state and federal regulations and guidelines related to the protection of private and sensitive information stored on the office network as well as individual computer drives. This information includes but is not limited to private student information. Employees must take measures to protect this information by never transmitting it via unsecured/unencrypted methods and by employing individual security measures such as maintaining password integrity and logging out from unused computers.

Employees shall not give their network login password to anyone else, and will periodically change their passwords when called upon to do so. Employees shall leave their computers running at all times to ensure all machines receive periodic security and software updates. All employees shall log out of the network at the end of the workday, or when leaving their workstation for an extended period of time.

Proper precautions against viruses must be taken by all employees. Employees are expected to use good judgment in handling unexpected or suspicious e-mail messages. Information Technology staff must be notified of all viruses detected on individual West Virginia Higher Education Policy Commission computers. It is a violation of this policy for any employee to attempt to subvert or deactivate any existing virus protection or spam filters.

Computer files are at constant risk from virus corruption, disk failure, and accidental erasure or overwrites. These risks can be reduced, but never eliminated. All employees have the responsibility to guard against the consequences of file loss by following a regular practice of using shared network drives for all file storage, or performing regular backups of important files stored on the local computer.

Employees should inform the Information Technology staff when new software and hardware are installed on user machines. Software/hardware conflicts are always a possibility when new packages and devices are added, and users must recognize that they take some risks when making these additions. Troubleshooting is made easier if the Information Technology staff is informed about these new installations.

All computer-related resources belong to the West Virginia Higher Education Policy Commission and the State of West Virginia and no employee should have any expectation of privacy in any materials, data or information stored on or routed through these resources. No employee shall ever hide or attempt to hide his/her identity or represent him/herself as someone else through the West Virginia Higher Education Policy Commission computer resources. No employee shall use the West Virginia Higher Education Policy Commission computer resources in any manner that violates any other West Virginia Higher Education Policy Commission policy (e.g., sexual or other harassment, use of public resources for personal gain, etc.).

Prohibited Uses of Computer Resources

- West Virginia Higher Education Policy Commission computer resources shall not be used for personal gain, as in operating a business or performing work related to a second job. This policy does not prohibit *de minimus* personal use of West Virginia Higher Education Policy Commission computer resources provided that such use does not otherwise violate this or any other policy or interfere with the employee's job performance. The West Virginia Higher Education Policy Commission reserves the right in all cases to investigate and to determine whether an employee's personal use of computer resources exceeds this *de minimus* standard.
- Employees are prohibited from accessing the Internet for any unethical purposes, including pornography, violence, gambling, racism, harassment, or any illegal activity. Employees are forbidden from using profanity or vulgarity when posing electronic mail via the Internet or posting to public forums (i.e., newsgroups).
- Employees shall not use unlicensed software.
- Employees shall not distribute West Virginia Higher Education Policy Commission software in ways that violate license agreements.
- Employees shall not invade the privacy of other users except as authorized by this policy and in a manner consistent with West Virginia Higher Education Policy Commission management responsibilities. This includes, but is not limited to, accessing network files through unauthorized use of coworkers' passwords and using coworkers' personal computers without their permission. (This does not include authorized Information Technology staff, who must periodically access computers and resources during the regular performance of their duties).
- Employees shall not generate unwanted electronic mail messages. These include, but are not limited to, solicitations, chain letter, and abusive correspondences.
- Computer use must be in compliance with all existing laws and the West Virginia State Ethics at W.Va. Code §6B-2-1 et seq.
- Only Information Technology staff may install software on network drives.
- Employees may not use computer resources in a manner which is unlawful or which unreasonably interferes with job performance, system performance/operations, or the policies, rules, or mission of the West Virginia Higher Education Policy Commission.

Disciplinary Actions for Breach of Policy

Abuse or misuse of West Virginia Higher Education Policy Commission computing resources as established by this procedure will be processed by the use of the Disciplinary Procedures as set out in the "New Employee and Division Handbook." In addition, abuse or misuse may be a violation of criminal code in which case the West Virginia Higher Education Policy Commission would refer the matter to the appropriate authority.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

**FREEDOM OF INFORMATION
DUPLICATING COST PROCEDURES**

The West Virginia Higher Education Policy Commission is often asked to provide copies of various documents under the Freedom of Information Act, WV Code §29B-1-1. In order to process all Freedom of Information Act (FOIA) requests in an equitable manner, there is hereby established a West Virginia Higher Education Policy Commission procedure related to duplicating costs for these requests.

The following outlines the steps in the procedure:

1. If a FOIA request is for information which has already been shared with someone else without costs related to duplicating materials, the materials are to be forwarded without charge.
2. If the FOIA request is for information which is management in nature and has not been prepared for routine dissemination to the general public, a cost of ten cents (10¢) per page will be charged to cover the costs of the copying process and staff time.
3. FOIA requests which ask for documents totaling less than fifty (50) pages shall be made without regard to duplicating costs.
4. When FOIA requests are received by staff, contact should be made with the Freedom of Information Officer (Executive Vice Chancellor for Administration) and Legal Division staff for assistance in complying with the request in a timely manner and for other legal assistance as may be appropriate.

Updated: April 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

ELECTRONIC MOBILE COMMUNICATIONS DEVICES STIPEND PROCEDURES

Purpose

To provide fair and flexible reimbursement or compensation for West Virginia Higher Education Policy Commission (Commission) staff that are required to use a mobile communications device to perform their assigned duties.

Employee may receive a stipend to offset the cost of using a personal electronic mobile communications device for business purposes. The amount of the stipend is based on minimal state rate plan, approved by the Executive Vice Chancellor for Administration or designee. The stipend is taxable per IRS regulations, but will not impact employee health insurance premium calculations.

New Electronic Mobile Communications Device Authorization

Employees authorized to receive a mobile device after November 16, 2009 will receive a stipend rather than an office-paid plan. The amount of the stipend is based on the minimal state contract rate plan, and shall be approved by the Executive Vice Chancellor for Administration or designee. The stipend amount is taxable under IRS regulations.

Procedures and Responsibilities for Stipends

Any new request for a phone or stipend must be approved by the Executive Vice Chancellor for Administration or designee. This approval will include indication of whether the employee will absorb the cost of equipment or if the Commission will provide reimbursement for new equipment. The form for these one-time allowances is attached to this document.

The employee is responsible for obtaining an electronic mobile communications device and monthly plan that, at a minimum, meets the level of service required by the division. Because this device is owned by the employee, it may be used for personal and business use, but must be available for the performance of responsibilities as dictated by the conditions of their employment.

If employment is terminated for any reason, it is the employee's responsibility to meet the obligations of any service carrier contracts into which they have entered. The Commission is not responsible for paying further stipends, nor is it responsible for reimbursing the employee for any early termination fees.

The Commission may contribute toward the upgrade of a communication device, if such purchase or upgrade is necessary for the performance of the employee's job duties. The Commission may also contribute toward the replacement of aging or non-functioning devices, provided the employee's job responsibilities continue to require the use of a mobile device at the

time of replacement. All such contributions will be at the discretion of the Executive Vice Chancellor for Administration or designee, and reported as taxable wages. Any employee receiving a stipend may choose to purchase a service plan or equipment which exceeds the amount of the stipend for which they have been approved. In this case, the individual is responsible for all additional costs and taxes which are incurred.

The Commission's contribution toward the communication device and plan is not considered an entitlement, is not part of an employee's base salary, and may be changed and/or withdrawn by the Executive Vice Chancellor for Administration or designee, at any time.

This procedure is managed through the office of the Executive Vice Chancellor for Administration.

Rules and Responsibilities for Agency-Issued Electronic Mobile Communications Device

Personal use of an agency issued device should be avoided. However, if the equipment is utilized for personal telephone calls and results in additional charges being assessed beyond the basic service plan, the individual will be responsible for reimbursing the agency for any such costs above and beyond the stated contract plan.

Update: June 2013

**West Virginia Higher Education Policy Commission
Employee Mobile Communications Services Agreement
Employee Owned Mobile Devices Plans
Monthly Allowance**

Name _____

Department _____ Office Phone _____

Mobile Device Telephone Number: _____

The following department contribution toward the monthly recurring charges for a mobile telephone plan is approved.

Total <u>Monthly</u> Approved Contribution : \$	Plan Description (Vendor name, required minutes, text messaging amount, long distance, data plan, etc.) <ul style="list-style-type: none"> • Voice Plan – • Data Plan - • Amortized Equipment Amount (see attached):
--	---

Month/Year Contribution Effective _____

Month/Year Contribution to discontinue (if known): _____

_____ **Check here to discontinue the monthly allowance**

The budget account to charge this amount from current expense is: _____

- I have read the terms of the West Virginia Higher Education Policy Commission Employee Mobile Communication Agreement and Procedures. I understand the employee responsibilities as outlined, including:
- Notifying Commission staff of new phone number and/or any changes in the phone number;
- The contribution of the Commission toward the purchase of a monthly mobile telephone plan is taxable income and is NOT part of my base salary;
- That contract provisions of any communication service plan entered into under this program are my personal responsibility;
- That the communications device will be used in the performance of my job responsibilities as defined by my supervisor; and,
- That I am responsible for the payment of any cost that exceeds the approved Commission contribution.

Employee Signature

Date

APPROVALS:

Supervisor Signature

Date

Chancellor/Designee Signature

Date

**West Virginia Higher Education Policy Commission
Employee Mobile Communications Services Agreement
Employee Owned Mobile Devices and Service Activation Fees
One Time Allowance**

Name _____

Department _____

Office Phone _____

Mobile Device Telephone Number: _____

The following department contribution toward a single allowance for purchase of a communication device is approved. Amount: \$ _____

Description of Device Purchased (make/model, etc): Verizon Droid (Motorola)	
Cost of Equipment	
Less Rebate (if applicable)	(\$)
Service Activation Fees (if applicable)	\$
Total Approved Monthly Contribution (Divide total contribution by 24)	\$

Attach all receipts for reimbursement.

- I have read the terms of the West Virginia Higher Education Policy Commission Employee Mobile Communication Agreement and Procedures. I understand the employee responsibilities as outlined, including:
- Notifying Commission staff of new phone number and/or any changes in the phone number;
- The contribution of the Commission toward the purchase of a monthly mobile telephone plan is taxable income and is NOT part of my base salary;
- That contract provisions of any communication service plan entered into under this program are my personal responsibility;
- That the communications device will be used in the performance of my job responsibilities as defined by my supervisor; and,
- That I am responsible for the payment of any cost that exceeds the approved Commission's contribution.

Employee Signature

Date

APPROVALS:

Supervisor Signature

Date

Chancellor/Designee Signature

Date



West Virginia Higher Education Policy Commission
West Virginia Community and Technical College System



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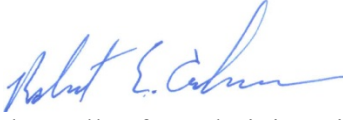
David K. Hendrickson
Chair

Paul L. Hill
Chancellor

Robert L. Brown
Chair

James L. Skidmore
Chancellor

MEMORANDUM

TO: Staff
FROM: Rob Anderson 
Executive Vice Chancellor for Administration
DATE: September 13, 2012
RE: E-mail Signature and Usage

In an attempt to provide consistent and effective communication to all customers, both internal and external, a standard e-mail signature has been developed for all staff to use in their e-mail messaging. The guidelines provided below are effective immediately and shall be implemented by all staff by September 21, 2012.

Signature

All staff shall use an e-mail signature in Microsoft Outlook and on mobile devices. The e-mail signature should be included on all internal and external messages. The e-mail signature shall include the items outlined below.

- Name
- Title
- West Virginia Higher Education Policy Commission *and/or*
- West Virginia Council for Community and Technical College Education
- 1018 Kanawha Boulevard, East
- Suite 700
- Charleston, West Virginia 25301
- 304-558- (Phone Number with Optional Extension)
- 304-558- (Fax Number)
- Cell Number (Optional)
- E-mail Address
- Website (Optional) (Approved websites: www.hepc.wvnet.edu, www.wvctcs.org, www.cfwv.com, www.wvgearup.org, or www.wvresearch.org)

For outreach or other staff working from an off-site location, please adjust the address and phone numbers as appropriate. If needed, you may include a confidentiality notice as part of your e-mail signature.

Font Type, Color, and Graphics

The preferred font types include, but are not limited to, the following:

- Arial in 10 point font
- Arial in 12 point font
- Garamond in 12 point font
- Times New Roman in 12 point font

Guidelines concerning font type are outlined according to web and accessibility requirements. Each computer reads fonts differently, so, for example, if a staff member chooses to use Curlz MT font in an e-mail, that font may appear unreadable on the e-mail recipient's computer. The preferred font types are standard on most computers and digital devices, and thus should not cause any readability issues from computer to computer.

Guidelines regarding font size and color are intended to maintain the accessibility of the Commission and Council's materials. Keep in mind that not all customers or colleagues may be able to read text in a small font size and in a light color, when it is placed in front of textural backgrounds or if the contrast between the background and text is low (example: a white background with light-colored text). Therefore, a black or dark color font shall be used in e-mail messages and signatures. Staff are to refrain from using backgrounds, clip art, or photos in e-mail messages or as part of an e-mail signature.

Please be reminded that your e-mail account is provided to you as part of your official duties and responsibilities. Therefore, it is to be utilized for official state business only. Every e-mail that you send and receive is an official state record and is subject to the Freedom of Information Act (FOIA). Therefore, staff should exercise caution in using e-mail.

If you have questions regarding this matter, please do not hesitate to contact me.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

PROCEDURES REGARDING RECEIPT OF FREEDOM OF INFORMATION REQUESTS

Background

In accordance with the Freedom of Information Act at West Virginia Code §29B-1-1, the West Virginia Higher Education Policy Commission (Commission) frequently receives requests for information under the Act. The law requires that this information be provided within a maximum of five working days of receipt of the request. In order to centralize these requests and to be in compliance with the law, it is necessary to establish procedures for handling them in a timely and appropriate fashion.

West Virginia Higher Education Policy Commission Procedure Statement

It is the policy of the Commission to provide timely, accurate, and consistent agency responses to Freedom of Information Act requests.

Freedom of Information Officer

The Executive Vice Chancellor for Administration, or in her/his absence, the Director of Administrative Services, will serve as the Freedom of Information Officer for the Commission. The Freedom of Information Officer shall be responsible for reviewing any requests for information and for referral to the appropriate staff member for preparing a response.

Process for Handling Requests

All requests, either in hard copy or electronic form, addressed to the "Freedom of Information Officer" shall be immediately hand delivered upon receipt to the Freedom of Information Officer (Office of the Executive Vice Chancellor for Administration). If the person who initially receives the request is the person with the expertise in the area of the request, that individual should begin immediately to prepare a response but must also provide a copy of the request to the Freedom of Information Officer.

The Freedom of Information Officer will, upon receipt of a request, make a referral to the appropriate staff member to prepare a response. The Freedom of Information Officer will determine if it is necessary for the staff member to share a copy of a draft response with the Freedom of Information Officer. The staff member should consult with the Legal Division staff to prepare an appropriate response in accordance with applicable statutory requirements. The staff member preparing the response will be responsible for signing the final response. All responses to Freedom of Information Act requests must be within the five working days statutorily designated response period. The Freedom of Information Officer is to be copied on all final letters of response to Freedom of Information Act requests and, depending on length of attachments, should receive copies

of accompanying materials.

Review of Agency Documents

Under certain circumstances, as determined appropriate by the staff member preparing the response and the Freedom of Information Officer, a time may be arranged for the individual requesting the information to review the documents at the Commission Office in lieu of providing copies of lengthy documents to the individual. Should the volume of documents be more than 50 pages, the person requesting said documents shall be afforded the opportunity to review the documents and make copies as appropriate. The Duplicating Cost Procedures of the West Virginia Higher Education Policy Commission (copy attached) are to be followed if the Freedom of Information Act request includes a request for copies of agency documents. A check to the West Virginia Higher Education Policy Commission shall be presented to the staff member responding to the FOIA request before any copied documents are removed from the premises.

August 21, 2003
Updated: April 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

LUNCHROOM GUIDELINES

Open Monday through Friday, 11:30 a.m. - 2:30 p.m. Room will be used for work projects and perhaps internal meetings during the remaining work hours.

The office-wide no smoking policy applies to the lunchroom area.

It is very important that staff be conscious of noise level since other staff are working in nearby offices and outside visitors may be present at any time.

Perishable food items must be removed from the area on a daily basis. Dirty dishes or eating utensils should not be left in the room. Garbage should be placed in the appropriate cans.

Please help to keep this room clean and neat.

Turn off all lights and equipment when leaving the room.

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

INCLEMENT WEATHER PROCEDURES

Employees of the West Virginia Higher Education Policy Commission (Commission) follow the procedures outlined in Procedural Rule, Series 38, Employee Leave, to cover absences related to inclement weather. Section 13.3 of Series 38 states in part that absences from work due to weather conditions other than during a declared emergency must be charged against accumulated annual leave, accumulated compensatory time, or the employee must be removed from the payroll for the time in question. Sick leave may not be charged for absence due to weather. Time lost from work may be made up in the same work week at the discretion of the employee's supervisor.

The following procedures are to be utilized for absences related to inclement weather:

1. Closure of the Commission offices located in Charleston, West Virginia will be in accordance with any directives issued by the Governor's Office to close other State agency offices located in the Charleston area.
2. The Chancellor may, at his/her discretion, determine that conditions are such that closing the office or reducing to minimal staffing levels is appropriate.
3. Employees are to contact their immediate supervisor within one hour of the start of the work day to report delays or absences related to inclement weather. Examples include hazardous road conditions, power outages, secondary school delays, etc.
4. The declaration of a "State of Emergency" issued by the Governor does not trigger the closure of the offices but rather authorizes overtime for emergency and highway crews and for federal financial assistance for areas damaged due to the weather.
5. If the Governor closes state offices, employees are not required to report for duty. If state offices are closed during the course of the regular business day, employees will be dismissed at the designated time. In such instances, employees will not be required to use annual leave to cover their absence. Announcements from the Governor's Office are made available through various news outlets. Official notification to employees will be distributed via electronic mail from the Chancellor's Office or the Office of the Executive Vice Chancellor for Administration.
6. An employee whose office is located at an institution of higher education is to follow closing declarations by the president of the institution where their office is located. Annual leave, unless previously requested, will not be charged to employees when the institution is closed.
7. Employees of the West Virginia Network for Educational Telecomputing (WVNET) shall follow the inclement weather procedures established by WVNET.

8. If an employee decides to leave work early due to inclement weather, the employee must clear the early departure with their immediate supervisor. The employee is to submit an annual leave request prior to leaving the office.
9. A declaration of inclement weather or other emergency applies only to staff scheduled to work for that day. In the event of closure due to inclement weather or other emergency, annual and sick leave previously requested will not be restored.

December 2010 cla
Updated: May 2013

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

PARKING ASSIGNMENT PROCEDURES

Background

The West Virginia Higher Education Policy Commission (Commission) acquired office space at the present location, Boulevard Towers, in 1989 and is currently assigned six (6) parking lots, two (2) on-site lots adjacent to the building and four (4) off-site lots which are within close proximity to the building. Each parking lot shall be considered a separate and distinct lot for the purpose of filling space vacancies with Lot 1 being the most preferable. A description of each lot follows:

Lot 1 Parking Spaces (referred to as street level spaces adjacent to the building) consists of the spaces located on Leon Sullivan Way and the spaces on the street-level between Leon Sullivan Way and Dunbar Street.

Lot 2 Parking Spaces (referred to as elevated spaces adjacent to the building) consists of the spaces located beside Charleston Catholic High School and Dunbar Street.

Lot 3 Parking Spaces (referred to as off-site spaces) consists of the spaces located at 1112 Virginia Street, East,

Lot 4 Parking Spaces (referred to as off-site spaces) consists of the spaces located at Brooks Street, adjacent to house/office,

Lot 5 Parking Spaces (referred to as off-site spaces) consists of the spaces located at the corner of Brooks and Quarrier Streets, and

Lot 6 Parking Spaces (referred to as off-site spaces) consists of the spaces located at 205 Leon Sullivan Way, between McClain Medical and FiberNet buildings.

Research

These procedures are derived from the following: extensive review of current Commission practices and precedents; examination of other State agency parking procedures; and a thorough study of issues raised by both Classified Staff Council and individual staff members over the years.

The revised parking assignment procedures enhance the process by providing a more definitive description for filling vacated parking spaces while at the same time maintaining a fair and equitable system as well as retaining the use of employee seniority as the determining factor in the assignment of parking spaces. The modifications are designed to both formalize what has

previously been outlined in various documents and verbal communications as well as to clarify a number of outstanding issues.

West Virginia Higher Education Policy Commission Procedural Statement

Since all employees are important to the function of the West Virginia Higher Education Policy Commission, it is the desire of the Commission to develop parking assignment procedures that are fair, equitable and easily understood by all employees. These procedures shall apply to all Charleston-based divisions/units of the Commission and the West Virginia Council for Community and Technical College Education (Council).

Seniority

Except as referenced below regarding **RESERVED SPACES**, all parking spaces shall be assigned on the basis of employee seniority. Seniority shall be defined as total service to the West Virginia Higher Education Policy Commission or West Virginia Council for Community and Technical College Education as a regular, full-time employee beginning on the date of hire. If employees have the same hire date, seniority shall be determined by alphabetical order. Individuals employed by ongoing contract (not including contracts with private employee service agencies) shall have the same seniority rights as full-time Commission or Council employees. An example would be those individuals such as Assistant Attorneys General.

Individuals employed through an employment service agency, such as Manpower, shall not be permitted to count such employment or service time toward seniority. Individuals serving as temporary employees shall not be permitted to count such employment toward seniority. However, these individuals shall be permitted to park on the most distant off-site parking lot.

Employees currently not using a parking space shall remain on the parking assignment list for seniority purposes only. If an individual decides to utilize a parking space, he/she will be assigned a space on the appropriate lot once a space becomes available. Until such space is available, the employee will be permitted to park on the most distant parking lot.

When an employee terminates employment with the West Virginia Higher Education Policy Commission or West Virginia Council for Community and Technical College Education, he/she shall be removed from the parking assignment list. If an individual returns to the Commission or Council for permanent employment within a twelve (12) month period, he/she shall park on the most distant lot and be placed on the bottom of that parking lot list. When a space becomes available on the lot where the employee was assigned a space prior to their initial departure, he/she will be afforded an opportunity to return to that lot.

Filling Space Vacancies

As noted under the section, Seniority, Reserved Spaces shall be provided for the following positions:

Chancellor of the West Virginia Higher Education Policy Commission
Chancellor of the West Virginia Council for Community and Technical College
Education
Executive Vice Chancellor for Administration
Vice Chancellor of Science and Research

In addition, a total of three (3) parking spaces located on Lot 1 are to be reserved for the following:

State Vehicle-one (1) space
Visitor Parking-two (2) spaces

Parking spaces become available by the departure of an employee or by the acquisition of additional parking spaces through the lease agreement. As a space vacancy occurs, the following procedure shall be implemented:

The most senior employee from the next numbered lot to the lot space being vacated shall be given the option of filling the vacated space. Should the employee opt not to move, then the next senior employee from the next numbered lot shall be offered such opportunity to fill the space. The overture will continue until an employee agrees to move. An employee who is granted the opportunity to move to a vacated lot space but declines will retain her/his seniority for the purpose of accepting a future overture to move when future vacancies occur on the lowered numbered lot.

Illustration 1 Vacancy occurs on Lot 1. The following procedure shall take place:

The most senior employee on Lot 2 shall be given the option to fill the vacant space on Lot 1. This begins the domino effect as the most senior employee from Lot 3 shall move to the vacated space on Lot 2, the most senior employee from Lot 4 shall move to the vacated space on Lot 3, the most senior employee from Lot 5 shall move to the vacated space on Lot 4 and finally, the most senior employee from Lot 6 shall move to the vacated space on Lot 5.

Illustration 2 Vacancy occurs on Lot 3. The following procedure shall take place:

The most senior employee from Lot 4 shall be given the option to fill the vacated space on Lot 3, the most senior employee from Lot 5 shall move to the vacated space on Lot 4 and finally, the most senior employee from Lot 6 shall move to the vacated space on Lot 5.

Once the process has been completed as it relates to filling space vacancies, a revised Parking Assignment list shall be produced and distributed to all employees.

Administration/Coordination of Parking Assignments

The oversight of the parking assignments rests with the Executive Vice Chancellor for Administration in consultation with Classified Staff Council. The parking spaces shall be assigned in accordance with the above procedures. The Executive Vice Chancellor for Administration may request descriptive information regarding vehicles such as make, model, year and license plate number for record keeping purposes.

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**WV HIGHER EDUCATION POLICY COMMISSION,
COUNCIL FOR COMMUNITY & TECHNICAL COLLEGE EDUCATION
WV NETWORK FOR EDUCATIONAL TELECOMPUTING
PURCHASING PROCEDURES MANUAL**

TABLE OF CONTENTS

1.1	Purchasing Procedures and Guidelines	2
1.2	Purchase or Acquisition of Materials, Supplies, Equipment, Services and Printing	2
2.1	Purchasing Procedures	6
3.1	Changes to Purchasing Transactions	8
4.1	Contract Filing Procedures	8
5.1	Receiving and Inventory Management	9
6.1	Disposition of Surplus Equipment, Supplies and Materials	12
7.1	Assignment of Property	13
8.1	Purchasing Card Procedures	14
8.2	Travel Expenses and Routine Payments	15
9.1	Purchasing Forms	16

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WV NETWORK FOR EDUCATIONAL TELECOMPUTING
PURCHASING PROCEDURES MANUAL**

1.1 Purchasing Procedures and Guidelines

The purpose of the Purchasing Procedures Guidelines for the WV Higher Education Policy Commission (HEPC), WV Council for Community and Technical College Education (CCTCE) and the West Virginia Network for Educational Telecomputing (WVNET) is to serve as a quick reference guide to assist staff in the acquisition of materials, supplies, equipment, services and printing in an efficient and economical way. These guidelines will also provide guidance to staff in the process of receiving, inventory management and disposal of surplus, obsolete and unusable materials, supplies and equipment. The primary goal of the Purchasing Office is to obtain goods and services for the staff, with the highest quality, lowest cost and within a reasonable timeframe. The Purchasing Office seeks the highest level of professionalism in all related functions.

The Higher Education Purchasing Procedures Manual, the Purchasing Rules of the Commission and Council and state law will be the ultimate guide for HEPC, CCTCE and WVNET purchases, receiving and disposal of surplus property.

1.2 Purchase or Acquisition of Materials, Supplies, Equipment, Services and Printing

1.2.1 Purchases not exceeding \$25,000

1. Purchases in this category usually do not require competitive bids or quotations; however, competition is encouraged and best value purchasing is expected. If it appears to the Purchasing Department that the best value is not being received or a reasonable price is not being paid for the purchase, quotations may be required from at least three qualified vendors before the purchase is authorized or made.
2. Purchases at this level must be placed with the most responsible and responsive vendor.
3. Allowable purchases up to the individual cardholder limit must be charged to the VISA Purchasing Card. Exceptions are as follows:
 - a. The vendor does not accept the VISA Purchasing Card;
 - b. 1099 Tax Reportable Vendors who do not meet the CO, GO, NO criteria (See State Auditor's Office Purchasing Card Policies and Procedures); and
 - c. State Auditor's Office restricted items

4. If the purchase cannot be charged to the Purchasing Card, an approved (signed by the department head) requisition must be submitted to the Purchasing Department for processing prior to commitment to a vendor.
5. Upon approval and availability of funds, a purchase order will be issued to the vendor. A purchase order must be issued prior to the vendor providing the goods or services.
6. For services, an Agreement form must be completed by either the Purchasing Department or the department desiring the service. (See Article 2 for instructions on completing the Agreement Form)
7. Adequate and reasonable records for all purchases in this category must be maintained for auditing purposes.

1.2.2 Purchases greater than \$25,000

1. State law requires that acquisition of equipment, supplies, services and printing greater than \$25,000 be purchased by competitive sealed bids or proposals.
2. Facsimile or electronically transmitted bids or proposals are not acceptable, but modification or withdrawal of bids may be made using either of these methods if the bid price is not revealed.
3. The competitive bid/proposal process will be handled by the HEPC Purchasing Department.
4. The requesting department must submit an approved (signed by department head) requisition to the Purchasing Department containing a complete description of items or services needed, suitable for securing bids or proposals, and the accounting information to which the item or services will be charged. A list of at least three suggested vendors should accompany the requisition.
5. A Request for Bids (RFB) or Request for Proposals (RFP) will be prepared and issued by the Purchasing Department.
6. As required by law, the Purchasing Department will place a legal advertisement for bids/proposals at least once in one or more newspapers of general circulation. Notice of the RFB/RFP may also be placed by other means to secure the greatest participation.
7. The RFB or RFP will be posted on the HEPC purchasing webpage and interested vendors may view the RFB/RFP on the webpage at the following address:

<http://www.hepc.wvnet.edu/resources/purchasing/html>
8. The following process will be followed for bids and proposals:

- a. The Purchasing Department will prepare and issue the RFB or RFP, place the required legal advertisement and post it on the HEPC purchasing webpage. It generally takes several working days for the newspapers to publish legal advertisements after they receive them. The exact number of days depends on the newspaper's processes.
- b. Vendors will be given sufficient time to review the RFB/RFP, ask questions, receive answers, prepare their bids/proposals and deliver them to the HEPC Purchasing Department by the required date and time. Thirty (30) days from the published date of the first legal advertisement is usually considered sufficient time; however, the Chief Procurement Officer (CPO) will make the final determination on the appropriate bidding/proposal time.
- c. All vendor questions concerning RFB's/RFP's shall be referred to the Purchasing Department to answer. If clarification or modification is required, it shall be made in writing in the form of an addendum to the RFB/RFP and issued by the CPO and posted on the HEPC purchasing webpage. Only those responses, clarifications and modifications provided by the Purchasing Department will be considered official and binding on the bidders.
- d. Sealed bids/proposals will be received by the Purchasing Department, date and time stamped, stored in a secure place until the date and time for the opening. At the date and time for the opening, the bids/proposals will be publicly opened by the purchasing staff in the presence of a witness and the results recorded. All bid/proposal openings are open to the public and may be attended by any interested party. It is the vendor's sole responsibility to make sure its bid/proposal is delivered to the HEPC Purchasing Department prior to the time and date for the bid/proposal opening. Late proposals will not be opened and will be returned.
- e. The bids/proposals will be reviewed by the CPO for conformity with the requirements of the bidding instructions and the RFB/RFP. Those that are not in conformance are considered to be not responsive and may be rejected.
- f. Bids will be awarded based on the lowest responsible and responsive bid.
- g. Proposals must be evaluated based on the evaluative criteria set forth in the RFP by a committee of at least three qualified persons appointed by the CPO and the requisitioning department and ranked in order from the most qualified to the least qualified based on the evaluative criteria. The evaluation results will be recorded and kept in the purchasing file. The evaluation and purchasing file are open for public inspection following the award. Negotiations may be required with the best qualified vendor before a final

decision is made. If negotiations are required, they shall be conducted by the CPO. If negotiations are not successful with the highest ranked vendor, then they may be conducted with the second vendor and so on, or the RFP may be reissued for proposals.

- h. Once the bid/proposal review and evaluation is complete, the CPO will make the award and post or otherwise make available the final result (award).
- i. The successful vendor must be a registered vendor with the Department of Administration before being eligible to receive a purchase order or contract. Also, the vendor must not be on the federal debarment list or owe money to the State of West Virginia.
- j. After an award is made, the purchase order/agreement and FIMS P-Document must be prepared and signed, encumbered in the state's accounting system, approved by the State Attorney General's Office (if required), and filed with the State Auditor's Office.
- k. Upon encumbrance (and other approvals as required), the purchase order will be maintained in the procurement file.
- l. The Purchasing Department will mail an approved copy of the purchase order to the successful vendor and the requesting department. The vendor is not authorized to provide goods and services and cannot be paid prior to receiving an approved purchase order or contract.

1.2.3 Vendor Registration

All vendors must be registered with the West Virginia Department of Administration, Purchasing Division prior to receiving a purchase order for competitive products and/or services exceeding \$25,000. An annual vendor registration fee, payable to the State of West Virginia is required from vendors. Only vendors supplying sole source (non-competitive) products or services, and vendors receiving a purchase order in the amount of \$25,000 or less are exempt from paying the vendor registration fee. Also, vendors who appear on the Federal Debarment List and the Bureau of Employment Programs Workers Compensation/Unemployment Compensation (BEP WC/UC) Defaulted Accounts List are not eligible to receive purchase orders, contracts or contract renewals.

2.1 **Purchasing Procedures**

- 2.1.1 Requisition: The Higher Education Requisition Form is used to request commodities, equipment and printing services greater than \$5,000 (See Page 18). Requisitions must be approved by department directors, Vice Chancellor, or Chancellor.

2.1.2 Agreement: The Agreement Form is used when there is a need to purchase consulting, professional and contractual services (See Page 19). Agreements are processed as follows:

1. Agreements for services greater than \$25,000 must go through the competitive procurement process, be encumbered and filed with the State Auditor's Office, and in some cases, may need approval of the Attorney General (see paragraph 1.2.2). The entire process will be handled by the Purchasing Department.
2. For services up to \$25,000, the requesting department may submit either an approved (signed by the department head) requisition or the completed signed agreement to the Purchasing Department for approval by the Chief Procurement Officer prior to the beginning date of service. If a requisition is submitted, the Purchasing Department will negotiate and prepare the agreement form with the vendor. In either case, a purchase order must be issued by the Purchasing Department to the vendor prior to the services being provided. For agreements in this category, best value purchasing applies as defined in Section 1.2 .
3. It is best to include the cost of travel in the basic services fee, but this is optional and travel expenses may be identified as a separate item.
4. If the vendor is a full-time employee of a state agency or institution, the certification statement at the bottom of the Agreement form must be fully completed and signed by the vendor's immediate supervisor.
5. Upon approval by the Purchasing Department and availability of funds, a purchase order will be issued, and if greater than \$25,000, see item 1 above.
6. A copy of the purchase order and Agreement will be mailed to the vendor and the requesting department.

2.2 Contract Purchases

2.2.1 The HEPC, CCTCE and WVNET may utilize open-end, statewide or blanket contracts issued by the State Purchasing Division, HEPC, WVNET, the institutions, the federal government, cooperative buying groups and consortia. These contracts provide convenience, guaranteed pricing and eliminate the bid process. Contracts may also be entered into through the competitive bidding/proposal process.

2.2.2 When ordering from the contracts above, provide the complete contract number, applicable change order number, item number, and page number.

2.3 Sole/Single Source Purchases

2.3.1 A sole source or single source purchase occurs when an item or service is available from only one vendor or source. A purchase order may be processed without competitive bids/proposals, but the requesting department must provide a

letter of justification. A preference for a particular item or vendor, or poor planning by the requesting department, does not justify sole source procurement if there is more than one potential vendor for that item or service.

- 2.3.2 The final determination as to whether a purchase is a sole source or single source purchase will be made by the CPO.

2.4 Hospitality Purchases

- 2.4.1 Hospitality purchases of food, nonalcoholic beverages and related expenses for the reception of guests for a specific event related to conducting State business and the renting of meeting room for these events are permitted if approved in advance as indicated below.

- 2.4.2 Payment for hospitality expenses, within cardholder limits, should be charged to the State VISA Purchasing Card.

- 2.4.3 Hospitality purchases including *both* meeting room (022) and food, nonalcoholic beverages and related expenses (042) require a completed Request for Hospitality Services Form (See Page 21). This form must be approved and dated by the Chancellor or Vice Chancellor for Administration. The form is to be attached to the Cardholder's Purchasing Card Log Sheet with credit card receipts, itemized invoices and other related documentation.

- 2.4.4 The following information is required for hospitality meeting room and food:

- a. Spending Unit – Responsible Department
- b. Contact – Person making arrangements (Cardholder or other person)
- c. Telephone Number – Number of person making arrangements
- d. Function Sponsor – Name of Chancellor, or Director
- e. Location of Function – Name of institution, hotel, restaurant, etc. where the event will be held
- f. Estimated Expenses – Estimated costs for food & beverages, meeting room, equipment rental, lodging for guests, and other expenses
- g. Payable from – Enter Banner codes (Ex: 210001-03FF1-710420)
- h. Account No. – Enter WVFIMS Fund, Year, Org, Act (Ex: 4921 2005 0441 099)
- i. Line item no. – Object code (Ex. 022)
- j. Purpose – The reason for hosting the function
- k. Justification for Expenditure – Explain why this function is a necessary expenditure for the department, agency or institution.
- l. Authority – Signature of the person requesting the function
- m. HEPC Administration Office – Approval or denial, signature and date of the Chancellor or Vice Chancellor for Administration.

- 2.4.5 Hospitality purchases including food (042) *only* require completion of the State Auditor's Hospitality Form located in the Purchasing Card Policies and Procedures Manual. This form is approved and dated by the Vice Chancellor for Administration. The form is to be attached to the Cardholder's Purchasing Card Log Sheet with credit card receipts, itemized invoices and other related documentation.

- 2.4.6 The following information is required for hospitality food *only*:
- a. Name of event – Name of meeting, workshop, conference, etc.
 - b. Date of event – Date the function will take place
 - c. Location of event - Name of institution, hotel, restaurant, etc. where event will be held
 - d. Purpose - The reason for hosting the event
 - e. Attendees - (Staff, Students, Faculty, Boards, etc.)
 - f. Number of Attendees – Total count of those in attendance
 - g. Name of Vendor – Name of caterer, institution, hotel, restaurant, etc. supplying the food
 - h. Itemized receipts for all food and drinks
- 2.4.7 Equipment rental (030) and office supplies (020) may also be used in conjunction with hospitality purchases.
- 2.4.8 Hospitality purchases that exceed the cardholder's limit or \$5,000 require a purchase order or agreement approved by the CPO.
- 2.4.9 Hospitality purchases for retirement parties, award receptions, holiday gatherings, or other inter-office functions for HEPC, CCTCE and WVNET staff will not be approved.

3.1 Changes to Purchase Orders, Contracts and Agreements

- 3.1.1 Cancellation: When a purchase order or unused balance is to be cancelled, the requesting department should submit an approved requisition (signed by department head) to the Purchasing Office requesting that a cancellation be processed.
- 3.1.2 Change Order: When a purchase order, contract or agreement needs to be modified (part number, item description, accounting information, terms and conditions, scope of work or service, dates of service, vendor name/address, etc.), the requesting department must submit a Higher Education Requisition Form (See Page 18) signed by the department head to the Purchasing Office providing detailed information regarding the change required and the reason(s) for the change. This must be done in advance of the vendor providing the commodities or services resulting from the change or modification. Invoices involving the changes or modifications cannot be paid until the proper purchasing documents are completed, approved and issued to the vendor.

4.1 Contract Filing Procedures

- 4.1.1 All purchasing files must be maintained in a complete, secure and auditable condition.
- 4.1.2 Contract Purchase Orders with related documentation must be filed in a general area of the Purchasing Office so that all purchasing and accounts payable staff may have access to them.

- 4.1.3 Request for bids or proposals, legal newspaper advertisements, list of vendors, bidding documents with dated envelope, addenda, bids, proposals, modifications, etc. are related purchasing documents that must be included in the purchasing file.
- 4.1.4 Upon completion of the work or delivery of the goods and/or services, the unused balance on purchase orders and contracts must be deleted by change order before the file is purged and moved to storage.
- 4.1.5 Before filing purchase orders for major office equipment and furniture \$1,000 and above, the inventory tag number of each item and the date tagged must be written on the face of the purchase order.
- 4.1.6 Purchasing files must be kept by HEPC and WVNET for a period of five years.

5.1 Receiving and Inventory Management

5.1.1 Receiving

The receiving function is to assure that the commodities ordered have been received and are in good condition before the invoice is paid. The State Auditor's Office Receiving Report is required for payment of invoices and this report will be used as the internal document by staff to verify that the commodities ordered have been received (See Page 20).

5.1.2 The central receiving point for HEPC and CCTCE is:

Purchasing Office
Higher Education Policy Commission
1018 Kanawha Boulevard, East
Suite 700
Charleston, WV 25301-2827

5.1.3 The central receiving point for WVNET is:

Purchasing Office
WVNET
837 Chestnut Ridge Road
Morgantown, WV 26505

5.1.4 The following information is required on Receiving Reports:

- a. Purchase Card indicator
- b. Vendor name and address
- c. State Org Name (*Agency Name*)
- d. WVFIMS Document ID (*To be completed by Accounts Payable*)
- e. Quantity received
- f. Description of commodities received
- g. Name and Signature of receiver
- h. User ID (*WVFIMS logon ID if applicable*)
- i. Date commodities received

j. Agency Comments *(if applicable)*

5.1.5 Receiving Procedures for P-Card Purchases:

1. Items purchased using the VISA Purchasing Card shall be delivered to Suite 700, but will be opened and inspected by the cardholder.
2. For items purchased and received by the Cardholder, the Cardholder must sign and date the packing list or delivery ticket and enter that date on their Purchasing Card Log Sheet. The packing list/delivery ticket must be attached to the log sheet with other related documentation.
3. For items purchased and received by someone other than the Cardholder, that person must sign and date the packing list or delivery ticket. That person must also complete, sign and date the Receiving Report and forward it to the cardholder. The received date will be entered on the Purchasing Card Log Sheet. The packing list/delivery ticket and Receiving Report must be attached to the log sheet with other related documentation.

5.1.6 Receiving Procedures for PO Purchases:

1. Receiving Reports are required for commodities such as materials, equipment supplies, printing and automated data processing hardware and software that are purchased using a purchase order.
2. Commodities purchased by purchase order for HEPC and CCTCE will be delivered to the address in 5.1.2 above.
3. Receiving Reports must be prepared within twenty-four hours of receiving the commodities and signed by a certified receiver in the Purchasing Office. Certified Receivers are the Chief Procurement Officer, Contract Specialist and Purchasing Assistant.
4. The Receiving Report will be used by Accounts Payable for payment of the invoice.
5. The packing list/delivery ticket must be signed and dated by a certified receiver in the Purchasing Office and attached to the purchase order.

5.2 Inspection

The purpose of inspection in the receiving process is to examine commodities and delivery documents to make certain that vendors furnish the commodities ordered; to ensure that the requirements as set forth in the purchase order are met; to ensure that commodities are received in good condition; and to protect HEPC, CCTCE and WVNET from receiving merchandise, supplies, equipment and printing that are below the specified quality level.

- 5.2.1 The inspection process shall be performed by an individual familiar with the requirements of the purchase order. Technical assistance may be required if the individual is unfamiliar with the equipment ordered.

5.2.2 The inspection function shall include the following:

1. Review the purchase order for delivery and installation instructions.
2. Count the cartons or other shipping units and compare to the count indicated on the freight bill, packing slip and purchase order.
3. Inspect the contents for damage. If damage is found, notify the vendor and shipper immediately.
4. Upon opening the cartons, check off items received against the packing slip. If an item is not received, write "not received" beside that item on the packing slip. Also check the items for conformance to description, model number, etc. ordered. The vendor must be notified immediately of a short shipment.
5. Sign and date the freight bill (if necessary), sign and date the packing slip as received and accepted. The packing slip and completed Receiving Report must be attached to the purchase order to be used by Accounts Payable for payment of the invoice.

5.3 Inventory Management

5.3.1 The Purchasing Department is responsible for inventory control of all property owned by the HEPC, CCTCE and WVNET.

5.3.2 The purpose of inventory management is to ensure that HEPC, CCTCE and WVNET maintain accurate and up-to-date records of assets owned. Inventory Management must track and account for the monies spent for equipment and furnishings so as to protect the fixed assets of the HEPC, CCTCE and WVNET.

5.3.3 The Contract Specialist is responsible for maintaining inventory at HEPC and CCTCE. The Technology Procurement Officer is responsible for maintaining inventory at WVNET.

5.3.4 The Purchasing Office will conduct an annual audit of the HEPC's, Council's and WVNET's assets.

5.3.5 The Purchasing Office will conduct spot audits throughout the year in areas where large amounts of property have been added or where physical changes have taken place. The Division Director shall sign off on the listing certifying that all property is in place.

5.3.6 The following property will be tagged and capitalized by the Purchasing Department for HEPC, CCTCE and WVNET:

1. Property with an original purchase price of \$1,000 or greater.
2. Property that has a normal life expectancy of more than one year.

3. Property that is an add-on to an existing asset which upgrades and increases the value or extends the assets' estimated useful life.
- 5.3.7 The Policy Commission, CCTCE and WVNET will utilize the Banner Fixed Assets System to maintain inventory valued at \$1,000 or greater. The following data must be entered into Banner Fixed Assets for tracking purposes:
- a. A short physical description;
 - b. Date of acquisition;
 - c. Date placed in service;
 - d. Model number
 - e. Serial number;
 - f. Make and manufacturer;
 - g. Cost of acquisition (includes shipping and installation);
 - h. Purchase order number;
 - i. Account number (Banner codes);
 - j. Location of property

6.1 Disposition of Surplus Equipment, Supplies and Materials

- 6.1.1 The Chief Procurement Officer or designee shall identify and inventory the agency's obsolete, surplus and unusable materials, supplies and equipment and shall prepare the necessary documentation for disposal or transfer.
- 6.1.2 Obsolete, surplus and unusable materials, supplies and equipment designated for disposal shall remain within the department or other specified area until they are disposed of in a manner consistent with State law and the rules, regulations and procedures of HEPC and CCTCE.
- 6.1.3 Obsolete, surplus and unusable materials, supplies and equipment may not be sold, transferred or conveyed to employees of HEPC, CCTCE and WVNET, any private person, firm or corporation other than at public auction or by sealed bid or as otherwise provided.
- 6.1.4 Methods of disposal of obsolete, surplus and unusable materials, supplies and equipment:
 1. Utilizing the Surplus Property Division of the Department of Administration;
 2. Transfer to municipal, county, state and federal agencies and institutions;
 3. Trade in on replacement materials, supplies and equipment if the trade in value is advantageous to HEPC, CCTCE or WVNET as determined by the Chief Procurement Officer;
 4. Sale to the general public by sealed bid or at public auction.
 5. Join in with Marshall University or West Virginia University at their surplus auction or sale.

- 6.1.5 A list of surplus property sales must be reported bi-annually on June 30 and December 31 to the Legislative Auditor.
- 6.1.6 When departments need to dispose of unused/obsolete furniture or equipment, a designee shall email all staff to determine interest in the property. If anyone is interested, the designee shall notify the Purchasing Office of the tag number and new location of the property. If there is no interest internally, the property shall be retired to Surplus Property using the following procedures:
1. The department shall complete the Higher Education Policy Commission Transfer/Disposal of Property Form as a request to send a particular item of furniture or equipment to surplus property (See Page 24).
 2. The form must include the following information: name/description of the item, number of items, condition of each item, and the HEPC, CCTCE or WVNET inventory tag number of each item.
 3. The form must be approved by either the department director, Vice Chancellor for Administration, or the Chancellor or their designee as applicable. Submit the completed form to the Purchasing Office.
 4. The Contract Specialist will delete the item(s) from Banner Fixed Assets and contact Surplus Property to request a pick-up.
 5. The Purchasing Assistant will maintain a copy of all disposal forms.
- 6.1.7 When a department wishes to transfer unused/obsolete furniture or equipment to municipal, county, state or federal agencies and institutions, an email notification must be sent to the Purchasing Office. The Purchasing Assistant will maintain a record of all transfers containing the following information:
- a. HEPC, CCTCE and WVNET inventory tag numbers
 - b. Description of the item(s)
 - c. Serial Number
 - d. Model Number
 - e. Current value of the item (*if known*)
 - f. Name and address of transfer agency or institution
 - g. Name of authorized agency or institution contact person
 - h. Approval signatures
- 6.1.8 Transfers of unused/obsolete materials, supplies, furniture or equipment to other agencies or institutions may be temporary or permanent. If the transfer is temporary, HEPC, CCTCE or WVNET will keep the property inventory tag number on their records. If the transfer is permanent, the inventory tag number will be deleted from fixed assets records.

7.1 Assignment of Property

- 7.1.1 Computers, printers, or other office equipment may be assigned to staff working at an offsite location, and to staff for business use at their residence.

- 7.1.2 The following procedures must be used to request assignment of Policy Commission, Council and WVNET property:
1. Complete the Assignment of Property Request Form (See Page 22). Each form must indicate a description, date equipment was assigned, serial number, model number, inventory tag number, condition of equipment and date of return. The form must be signed and dated by the employee making the request, Division Director; Director of Research and Technology (for computer hardware only); Director of Finance and Facilities, and the Chief Procurement Officer.
 2. Upon receipt of the equipment requested, the employee must read and sign the Assignment of Property Agreement Form (See Page 23). All approval signatures must be completed on the agreement form
 3. The property will remain on the HEPC, CCTCE or WVNET Inventory Master Listing.
 4. The equipment must be returned to the Purchasing Office upon termination of employment or reassignment to another employee.
 5. The Chief Procurement Officer or designee shall note the date and time of return and certify that the equipment is returned in the same condition as assigned.
 6. The Purchasing Assistant shall maintain a file of all assignment requests and agreements.

8.1 Purchasing Card Procedures

- 8.1.1 The Purchasing Card is a payment process used for procurement of small dollar items. It offers agencies, boards and commissions an efficient method for streamlining the payment process.
- 8.1.2 For employees working off-site who may need to purchase copies, publications, miscellaneous office supplies and equipment, the purchasing card shall be used for such purchases, thus keeping employee reimbursements to a minimum.
- 8.1.3 For purchases using the VISA Purchasing Card, HEPC, CCTCE and WVNET shall utilize the State Auditor's Office Purchasing Card Policies and Procedures.
- 8.1.4 The procedures manual and periodic updates will be issued to cardholders by the Purchasing Card Coordinator. The procedures manual may also be found on the State Auditor's Office website at www.wvauditor.com.
- 8.1.5 The Purchasing Card Coordinator will conduct spot audits monthly to ensure that cardholders are following the policies and procedures of the State Purchasing Card Program and maintaining the proper documentation for all transactions.
- 8.1.6 An annual audit will be conducted by the State Auditor's Office.

8.2 Travel Expenses and Routine Payments

8.2.1 The state purchasing card may be used as a purchasing and payment method as provided in applicable provisions of WV Code § 12-3-1, and as follows:

1. Employee travel expenses when the travel is required by the employee's job and is for official business of the institution. Prior approval by the Vice Chancellor for Administration is required for out-of-state travel using the Travel Authorization Form (See Page 25). Expenses that may be paid using the purchasing card are as follows and are limited to \$5,000 per transaction or the card limit whichever is less:
 - a. Transportation: Commercial airfare, chartered aircraft service, rail service, commercial rental services, and miscellaneous ground transportation fees such as shuttle service, taxi service and parking.
 - b. Lodging: Room accommodations only. Any extra charges will be the employee's responsibility to pay.
 - c. Fuel: Fuel for commercial rental or fleet vehicles only.
 - d. Meals: Meals for employee travel may not be paid using the purchasing card.
 - e. Reconciliation: Settlement of employee travel expenses shall be made according to the State Auditor's procedures. The following documentation is needed for reconciliation: Travel Authorization Form, credit card receipt, paid invoice showing a zero balance or Visa Credit Card as the payment method.
2. Routine and regularly scheduled payments may be made using the purchasing card and are limited to the card transaction limit. Routine and regularly scheduled payments are payments which have either received Attorney General approval in accordance with statute or do not require such approval and are made on a regular, predictable and routine basis whether weekly, monthly, annually, or on any other regular schedule.
 - a. Routine, regularly scheduled payments shall include but are not limited to the following: association dues; accreditation fees; software licenses and maintenance fees; resale merchandise; maintenance contracts; temporary space rentals; inter-library loan charges; inter/intra-institutional charges; contracts for artists, entertainers, and speakers; open end contracts; license fees of all types; utilities of all types; federal, state and municipal fee and assessments; real property rental fees; postage; books and related items, including those for libraries and bookstores; hospitality expenses; travel expenses; shipping, handling, and freight charges; advertising; subscriptions, periodicals and publications; athletic and academic team related expenses; and necessary job related medical or drug testing and treatment.
 - b. Association dues must be approved in advance by the department head and added to the agency expenditure schedule prior to payment using the purchasing card (See Page 26).

9.1 Purchasing Forms

1. Higher Education Requisition Form
2. Agreement Form
3. Receiving Report
4. Request for Hospitality Services Form
5. Assignment of Property Request Form
6. Assignment Agreement Form
7. Disposal / Transfer of Property Form
8. Travel Authorization Form
9. Questionnaire for Membership in Associations

PURCHASING FORMS

AGREEMENT

I, _____ agree to perform the following service(s)
for _____
(Location)

(Detailed description of services to be performed)

Date(s) of Service: From: _____ To: _____

The rate of pay shall be _____ per _____ not to exceed \$ _____
for the entire term of the contract.

Authorized Travel Expenses: Will not be reimbursed.
 Will be reimbursed upon documentation in accordance
with the travel regulations of the Agency, not to exceed \$ _____

Please check the appropriate box below:

- I am **not** currently a full-time employee of the State of West Virginia;
 I **am** currently a full-time employee of the State of West Virginia
(complete certification below)

It is hereby certified that the service(s) to be performed under this agreement will not interfere with or detract from the full-time duties of the employee and the amount of annual compensation received by:
_____ (above named vendor)

from the State of West Virginia for full-time employment during the current fiscal year will be \$ _____

The vendor serves as _____ with the title of _____
(Position)

certified by _____
(Supervisor's Signature)

APPROVED BY:

Agency _____

Vendor _____

(Authorized Signature of Agency)

(Vendor's Signature)

(Title)

(Social Security or FEIN)

(Date)

(Date)



State Org #
0440
*P-Card
<input type="checkbox"/>

RECEIVING REPORT

Vendor Name:			State Org. Name:		
Vendor Address:			WVFIMS Document ID:		
QTY	Description of Commodities	Printed Name	Authorized Signature	User ID	Date
Agency Comments:					

* Check box for commodities paid for by State of West Virginia Purchasing Card WVSAO RR1 Revised 10/22/02

HIGHER EDUCATION

WV Higher Education Policy Commission
Council for Community and Technical College Education
WV Network for Educational Telecommuting

REQUEST NO. _____

DATE: _____

REQUEST FOR HOSPITALITY SERVICES & TEMPORARY SPACE

SPENDING UNIT _____
CONTACT _____
TELEPHONE NO. _____
FUNCTION SPONSOR _____
LOCATION OF FUNCTION _____
DATE(S) OF FUNCTION _____

ESTIMATED EXPENSES

FOOD & BEVERAGE _____
MEETING ROOM _____
EQUIPMENT RENTAL _____
LODGING _____
OTHER _____
OTHER _____
TOTAL _____

PAYABLE FROM _____
ACCOUNT NO _____
LINE ITEM NO _____
LINE ITEM BALANCE _____
LINE ITEM BALANCE _____
PRIOR TO THIS EXPENDITURE _____

PURPOSE:

JUSTIFICATION FOR EXPENDITURE:

AUTHORITY IS REQUESTED FOR THE ABOVE FUNCTION

BY: _____

BY: _____

FUNCTION REPRESENTATIVE'S SIGNATURE

HEPC ADMINISTRATION OFFICE

APPROVED

DENIED

By: _____

Date: _____

**WV HIGHER EDUCATION POLICY COMMISSION
ASSIGNMENT OF PROPERTY AGREEMENT FORM**

This Agreement outlines the responsibilities I have as an employee in possession of HEPC, CCTCE or WVNET property. My signature indicates that I have read and understand these responsibilities and that I agree to adhere to the Purchasing Procedures Guidelines.

- I understand that this equipment is on temporary loan to me for an unlimited period of time.
- I understand that use of the equipment is for conducting day-to-day business of the HEPC, CCTCE and WVNET. This equipment is not for personal use.
- I understand that's the equipment may not be transferred to any other location for use by any other employee while in my possession.
- I will take proper care of this equipment shielding it from damage caused by debris or moisture.
- I will safeguard this equipment from theft by taking appropriate security measures.
- I understand that I must return this equipment upon completion of use, termination of employment from HEPC, CCTCE or WVNET or upon reassignment of this equipment to another employee.
- I understand that I may be personally responsible for the repair or replacement of this equipment in the event it is not returned to HEPC, CCTCE or WVNET, or it is returned in damaged condition.

Employee Name (*please print*): _____

Employee Signature: _____

Immediate Supervisor: _____

Date Equipment Assigned: _____

Date Equipment Returned: _____

Chief Procurement Officer: _____

**WV HIGHER EDUCATION POLICY COMMISSION
TRANSFER / DISPOSAL OF PROPERTY FORM**

Date _____

Type of Function (*check one*): Transfer Disposal

Dept. Requesting Transfer or Disposal _____

Requested by _____

Transfer Is (*Disposal-Leave Blank*) Permanent Temporary

Effective Date of Transfer: _____

Transfer To (*Name*): _____

Transfer Location (*Institution/Agency*): _____

Inventory Tag Number	No. of Units	Equipment Description	Serial No.	Model No.	Condition

I hereby certify that the information on the above items is correct and that the items are to be transferred to the institution indicated on this form or disposed of through WV Surplus Property.

Department Director, Vice Chancellor, Chancellor

Date _____

Director of Research & Technology (Computer hardware only)

Date _____

Chief Procurement Officer

Date _____

Delivered or Picked-Up by (Institution)

Date _____

HIGHER EDUCATION POLICY COMMISSION

Travel Authorization Form

** To be submitted to the Vice Chancellor for Administration prior to making arrangements for travel. **

TRAVELER'S NAME:

SOURCE OF FUNDS:

Agency Budget/Program _____

3rd Party Pay: _____ No _____ Yes Provider: _____

NAME OF CONFERENCE:

DATES OF TRAVEL:

_____ to _____

ESTIMATED COSTS

- 1- All transportation costs (rental car, airfare, mileage, etc.) \$ _____
- 2- Registration _____
- 3- Lodging _____
- 4- Meals _____ (#) days @ \$_____ per day _____
- 5- Other _____

Total Estimated Costs \$ _____

Traveler's Signature *Date*

Director's Approval *Date*

Vice Chancellor for Administration/Designee Approval *Date*

**Attach any conference materials or other supporting information
which would be helpful in the review process and submit to:
VICE CHANCELLOR FOR ADMINISTRATION**

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON, WV 25305

QUESTIONNAIRE FOR MEMBERSHIP IN ASSOCIATIONS

Date Submitted: _____

Spending Unit: _____

Account No.: _____

Account Name: _____

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. Name of Association _____

2. If this is a **NEW** association, what are the annual dues: _____

3. If an **INCREASE** in dues: Current Annual Dues _____ Increased to _____

4. What factors are used to determine amount of dues? _____

5. Do you anticipate any additional increase in dues for the next three years? _____

6. List other estimated costs (other than dues), such as registration fees, tuition, travel, associations, meetings, conventions, etc. _____

7. What is the purpose of the association? _____

8. What tangible benefits will the HEPC/CCTCE derive from this membership? _____

Signature of Department Head

Signature of Governing Board

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION
WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL
COLLEGE EDUCATION

SAFETY POLICY

October 2013



POLICY STATEMENT	3
DUTIES AND RESPONSIBILITIES	3
RISK ASSESSMENT	4
INSPECTIONS	4
FIRE PREVENTION.....	5
FIRE AND GENERAL EVACUATION PROCEDURES	5
TESTING OF EVACUATION PLAN	6
SHELTER IN PLACE.....	7
FIRST AID PROCEDURES	7
ACTION IN THE EVENT OF A MEDICAL EMERGENCY	7
GENERAL OFFICE SAFETY	8
ELECTRICAL SAFETY	8
UNAUTHORIZED PERSONNEL	9
ELEVATORS	9
SMOKING POLICY.....	9
REPORTING SAFETY HAZARDS/CONCERNS.....	9
DRIVER SAFETY	9
SEAT BELTS.....	10
HEALTH AND SAFETY TRAINING.....	10
APPENDICES.....	11

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SAFETY POLICY

June 2013

Policy Statement

The West Virginia Higher Education Policy Commission (Commission) is committed to assuring that the employees, guests and or visitors to the agency are provided with a safe and healthy working environment. The Commission strives to maintain safe working conditions and to take preventive measures to ensure the ongoing safety and welfare of all individuals conducting business within the agency.

Employees of the Commission are provided a copy of the Safety Policy. Employees are required to review the document and abide by the procedures as part of their expectations as outlined in the annual employee performance appraisal.

A Safety Director will be appointed to oversee the health and safety requirements of the agency. In addition, the Safety Director will serve as the Chair of the Safety Policy Committee and ensure compliance with the safety policy established for the agency. Floor Captains for each floor will be appointed by the Division Directors to assist with policy compliance. Alternate Floor Captains will also be appointed to complete these duties in the absence of a Floor Captain.

The Safety Policy will be reviewed annually by members of the Safety Policy Committee to ensure that it remains up to date.

Duties and Responsibilities

- Safety Director
 - Oversee creation of policies and procedures.
 - Ensure compliance with policies and procedures.
 - Ensure delivery of training.
 - Coordinate floor captains.
 - Oversee expenditures (and budget, if applicable).
 - Serve as Chair of Safety Policy Committee.
 - Maintain records of Safety Policy Committee.
- Floor Captains/Alternate Floor Captains
 - Monitor safety issues and perform inspections on assigned floor.
 - Ensure policies are being followed on assigned floor.
 - Report non-compliance to Safety Director.
 - Route safety complaints to Safety Director.
 - Ensure complete evacuation on assigned floor.
 - Account for all employees assigned to floor during evacuation.
 - Receive CPR training.

- Division Directors
 - Assign Floor Captains and Alternates.
 - Review/certify employees have complied with procedures on performance evaluations.

- Employees
 - Attend training sessions.
 - Comply with safety policies.
 - Certify compliance on annual performance appraisal.
 - Report safety concerns/violations to applicable floor captain.
 - Participate in annual fire drill.

- Safety Policy Committee (see Appendix A)
 - Develop and implement Safety Policy.
 - Serve as review board for all accidents and incidents to assess cause and prevention.
 - Develop safety activities and training.
 - Review annual inspection reports.
 - Follow-up on annual inspection citations.
 - Meet on a regular basis to discuss safety-related matters.
 - Record minutes of regular Safety Policy Committee meetings.

Risk Assessment

All office space occupied by the Commission must be assessed for hazard and evaluated for risk. Any assessments that identify a significant hazard should be documented in writing (see Appendix F). Hazards may include but are not limited to the following:

- (i) blocked doorways,
- (ii) flammable items and debris,
- (iii) electric space or floor heaters,
- (iv) burning candles or other open flames, and
- (v) halogen lamps.

Members of the Safety Policy Committee in conjunction with Floor Captains are responsible for performing risk assessments of each floor.

Inspections

Floor Captains, in conjunction with the Safety Director, will be responsible for arranging inspections on each floor. Safety inspections are to occur on each floor on a semi-annual basis. A formal report (see Appendix D) of each inspection will be made and will include recommendations for corrective action to be taken for any findings. The report will be filed with the Safety Director and will be reviewed by members of the Safety Policy Committee.

A follow-up of each inspection will be undertaken by the Safety Director and/or Floor Captain within one month after the inspection to identify progress in resolving cited actions.

Fire Prevention

Corridors and staircases in the building form the escape routes and must be kept clear of obstructions. They should not contain anything that could itself be the source of fire, or which is flammable. This is especially important in the case of staircases. Doors at staircase landings and across corridors are fitted with self closing devices so that they are able to minimize the spread of smoke and fire. It is therefore important that they are not wedged open.

Open flames in the form of burning candles present risk for an accidental fire and are prohibited. Another risk for accidental fire is the use of electrical space or floor heaters. Special care must be exercised when using a heater to ensure that it is placed away from the walls or other items and that it is not left unattended. Employees are responsible for turning off all electrical space or floor heaters.

Fire and General Evacuation Procedures

If you notice a fire you should immediately activate one of the alarms which are located on each floor on the wall by the stairwell door and on the wall by the fire escape door to the outside of the building. The alarm is a continuous bell which is sounded throughout the building. **THE ALARM DOES NOT AUTOMATICALLY NOTIFY THE FIRE DEPARTMENT.**

The person raising the alarm should ensure that the Fire Department is notified by either reporting to someone in authority (Safety Director or Executive Vice Chancellor for Administration's staff) and asking them to do so, or by dialing **911** from a telephone **remote from** where the alarms are sounding. Multiple callers placing calls to the 911 Emergency Center creates confusion and distracts emergency personnel from properly dispatching the call to the Fire Department.

If you hear the fire alarm, you should immediately leave the building using the **INSIDE** stairwell. The inside stairwell is the primary escape route which is an enclosed structure separate from the main building. In the event the stairwell is blocked, you are to vacate the building using the outside fire escape stairs which is the secondary escape route. **DO NOT USE THE ELEVATOR.**

In the event of a power outage or other circumstance which may cause the fire alarm to malfunction or the internal telephones, cell phones, computer system or other communication devices to be inoperable, the Safety Director will contact the Floor Captains to assist with verbally notifying all employees to evacuate the building.

Employees shall remain calm and quiet during the evacuation in order to hear any emergency instructions that may be announced. You should quickly take all essential personal possessions such as purses, car keys, coats, etc. with you as you will not be allowed to re-enter the building

during the evacuation period. Ladies should remove high-heeled shoes to prevent difficulty in maneuvering the emergency stairs.

The Floor Captain is responsible for closing all office doors and the main door or doors to the floor. The doors should not be locked which will allow immediate access by emergency personnel. The Floor Captain shall check all offices, including restrooms, to see that all employees have vacated the floor.

The Floor Captain will be responsible for determining in advance any employee that may need assistance in vacating the building and for pre-assigning another employee to assist the individual with the evacuation. The employee should wait in the hallway area by the elevators for assistance in vacating the building.

On leaving the building, employees are to assemble at the outside designated area for each floor as determined by the evacuation plan map (see Appendix G). The evacuation plan maps indicate the position of fire alarms, fire extinguishers, exit routes and assembly points for each floor. The Floor Captain will be responsible for accounting for all employees assigned to their floor. This will be accomplished by the Floor Captain checking off the names of employees on an up-to-date list of employees maintained on the Floor Captain Employee Check-off List (see Appendix H). The check-off list will be attached to a clipboard that is to be kept in a central location and taken out of the building by the Floor Captain during an evacuation.

The Floor Captain shall notify the Safety Director or other emergency personnel of any employee that is not accounted for or that needs assistance in vacating the building.

Fire extinguishing equipment is provided on each floor but should only be used:

- (i) by those *trained* in its use,
- (ii) if the fire is *very small*,
- (iii) if by so doing you *do not place yourself in any danger*, and
- (iv) *after raising the alarm* and ensuring that the Fire Department has been called.

Employees may only re-enter the building when the Safety Director has determined that it is safe to do so.

Testing of Evacuation Plan

Various aspects of the evacuation plan may be tested on a deliberate, systematic, and periodic basis. Such testing will familiarize key personnel with their duties and responsibilities and will provide the opportunity for all employees to practice the evacuation plan. Evacuation plan testing may occur without prior notice or announcement, thus, each evacuation should occur as if there is a threat or emergency. Members of the Safety Policy Committee will evaluate the effectiveness and/or any deficiencies of the evacuation.

Shelter in Place

Shelter in Place (SIP) is a technique to protect people from the effects of exposure to accidental or intentional releases of hazardous materials. The basic technology of SIP is to separate cleaner indoor air from potentially contaminated outdoor air.

In many cases, the worst thing you can do in a chemical emergency is to get in your car and try to evacuate. Not all chemicals are visible, and you may drive into a plume with high concentrations of dangerous chemicals. Cars are designed to be well ventilated to circulate air flow, and therefore, are not well-suited for sheltering in place.

If a SIP alert is sounded, employees should move as quickly as possible to the conference rooms on the 9th floor. Make sure all office windows are closed before leaving the floor for the conference room. Employees are to report to their respective Floor Captain upon arriving at the conference room. Floor Captains will be responsible for accounting for all employees assigned to their floor using the check-off list attached to their clip-board (see Appendix H). Once all employees have reached the conference rooms, the rooms will be sealed by trained employees to minimize air infiltration.

No one will be able to leave the area until the “All Clear” message has been received from emergency response officials. Sheltering in place is a short-term protective measure which typically lasts a few hours at most. When the “All Clear” has been received, all employees must evacuate the building until it has been well ventilated. Evacuate and move to the pre-determined meeting location and check in with your Floor Captain. Employees may only re-enter the building when the Safety Director has determined that it is safe to do so.

First Aid Procedures

In the event of an accident causing injury, the Floor Captain should be notified immediately. The Floor Captain will assess the situation and will determine the appropriate treatment or necessary action. First-aid kits are maintained on each floor. The first-aid kits are to be checked on a monthly basis and restocked as appropriate. The names of all Floor Captains and Alternates are posted on each floor and these individuals are to receive entry-level first-aid training.

Following treatment, the accident should be reported to the appropriate supervisor and the Safety Director. Less serious accidents or other incidents that might have caused an injury should also be reported to the Floor Captain. These incidents may require that corrective action be taken to prevent future problems.

Action In The Event of a Medical Emergency

In the event of a medical emergency, **dial 911** to request emergency medical personnel assistance. The Floor Captain should be notified immediately and take appropriate action to assess the situation which includes ensuring that emergency medical personnel have been requested. The Safety Director should be contacted to offer assistance to the Floor Captain if necessary.

If emergency medical personnel have been requested, the Floor Captain shall assign someone to meet them at the elevator to direct them to the sick or injured person.

Following the initial assessment, a determination will be made with the employee, if possible, on whether or not family members or others listed on the employee's emergency contact sheet should be notified. The Division of Human Resources and the Office of the Executive Vice Chancellor for Administration have a complete listing of employees and their emergency contact information.

Employees are required to complete an Accident/Medical Emergency Report Form (see Appendix F) for all work-related accidents and medical emergencies that occur while an employee is on duty.

General Office Safety

Offices and work areas should be kept neat and orderly. Each employee is responsible for ensuring their work area is free of obstructions and hazards. Falls are the most common cause of injury in offices, accounting for almost half of all office accidents. The next most significant causes of injury include the handling and lifting of goods, materials and equipment, followed by stepping on, or striking against things; falling objects; machinery; transport; and the use of hand tools. Maintenance of high standards of general housekeeping in offices goes a long way toward preventing accidents. Care should be given to the general layout and storage of items to minimize possible hazards. Particular attention should be given to the condition of floors and floor coverings; trailing electrical leads or computer cabling; storage of items, particularly heavy ones, on shelves above shoulder height; and safe methods of reaching up. A checklist for office safety is attached to this policy (see Appendix C). Employees should use this to check the safety of their own office accommodation. Problems identified should be reported to the Floor Captain or to the Safety Director.

Electrical Safety

Only electrical equipment that is properly installed and maintained shall be used. This shall apply to all electrical equipment in use, including personal items. Use of multiple extension cords, adapters, or other electrical supply devices must be avoided. All equipment should be regularly inspected and, where necessary, subject to electrical test. Employees should routinely check that their electrical equipment and/or appliances are not damaged and that there are no obvious signs of misuse such as discolored plug tops and worn cables. Any item that becomes faulty should be taken out of service.

Equipment and furniture should be arranged so as to avoid the need for wires and cords to trail across floors. Where these cannot be avoided, rubber strips should be used to reduce the risk of tripping.

Unauthorized Personnel

An unauthorized person is someone who does not have authority, expressed or implied by appointment or position, to be in the area in question. Unauthorized persons are not allowed access to offices or work areas and may not use any office equipment wherever situated in the department. Visitors to the agency should be instructed to report to the appropriate division or departmental office.

All unauthorized individuals are to be asked to leave the building. In the event there is resistance, contact your supervisor, Floor Captain, or Safety Director to request assistance in having the individual removed from the building. Report all instances of this nature to the Floor Captain and/or Safety Director.

Elevators

If an elevator fails to respond to a call or is reported to be operating improperly, please notify the building maintenance personnel. If you become entrapped in an elevator, press the elevator telephone button. Upon pressing the telephone button, Thyssen Krupp Elevator Company's 24-hour maintenance service line will be called. A Thyssen Krupp Elevator representative will come on the speaker and ask you questions to determine if there is entrapment or malfunction. Thyssen Krupp Elevator will then page a maintenance technician, if necessary, for repair. **DO NOT ATTEMPT TO EXIT THE ELEVATOR IF ELEVATOR IS BETWEEN FLOORS.**

Smoking Policy

Smoking is prohibited in all offices, conference rooms, corridors, workrooms, storage areas, and restrooms of the Commission. Signs are posted in conference rooms, restrooms and on floors occupied solely by the Commission staff indicating that smoking is prohibited.

Employees who desire to smoke may do so during any authorized break period provided they do so in an area exterior to the Boulevard Tower Building.

Reporting Safety Hazards/Concerns

An employee noticing a health or safety problem that they are not able to correct themselves should immediately tell their supervisor, Floor Captain, or the Safety Director. The Hazardous Concern Report form (see Appendix F) should be completed and submitted to the Safety Director.

Driver Safety

All employees who drive their personal vehicle or the agency vehicle for business purposes on a regular and reoccurring basis are required to successfully complete the West Virginia Board of Risk and Insurance Management online driver training program.

Seat Belts

All employees who drive their personal vehicle or the agency vehicle for business purposes must use the seat belt restraint in accordance with West Virginia State Law. In addition, the driver is responsible for assuring that all passengers are also using seat belts before the vehicle is in motion.

Health and Safety Training

Employees will receive training and instruction in routine health and safety matters. All employees will be informed about the proper procedures regarding:

- (i) action in the event of fire or emergency evacuation, or shelter in place,
- (ii) action in the event of an accident or medical emergency,
- (iii) their responsibility for following safety procedures, including the responsibility for reporting health and safety problems and how this should be done, and for cooperating with colleagues, and
- (iv) any specific responsibilities they have in relation to health and safety.

The need for specialist training should be identified by supervisors and Division Directors and all requests for such training should be directed to the Safety Director.

APPENDICES

- Appendix A -- Safety Policy Committee
- Appendix B -- Floor Captains
- Appendix C -- General Office Safety Checklist
- Appendix D -- Inspection Checklist
- Appendix E -- Accident/Medical Emergency Report Form
- Appendix F -- Hazardous Concern Report Form
- Appendix G --Evacuation Plan Maps
- Appendix H --Floor Captain's Employee Check-off List

Appendix A

**Safety Policy Committee
October 2009**

- Cindy Anderson, Safety Director
- Shelia Hunt
- Karen Martin
- Jan Taylor
- Vacancy
- Vacancy
- Vacancy

Appendix B

Floor Captains and Alternates

October 2013

Eleventh (11th) Floor

Floor Captain – Jan Taylor

Alternate –

Tenth (10th) Floor

Floor Captain – Cindy Anderson

Alternate - Jessica Tice

Ninth (9th) Floor (includes Presidents' Conference Room and Large Conference Room)

Floor Captain – Staff member conducting meeting will be responsible party.

Ninth (9th) Floor (Division of Academic Affairs)

Floor Captain – Mark Stotler

Alternate – Jelayne Crosier

Eighth (8th) Floor

Floor Captain – Jeannie Reed

Alternate - Bruce Walker

Seventh (7th) Floor

Floor Captain – Celia Wallace

Alternate -

Sixth (6th) Floor

Floor Captain – Renee Harvey

Alternate - Teresa Smith

Fifth (5th) Floor

Floor Captain – Judy Kee Smith

Alternate - Karen Martin

Fourth (4th) Floor

Floor Captain – Scott McDonie

Alternate - Brandon Hughes

Second (2nd) Floor

Floor Captain – Vickie Hairston

Alternate - Trish Clay

Appendix C

General Office Safety Checklist

It's every employee's responsibility to be aware of possible safety hazards. If you observe one of the conditions on the following list or any other possible hazardous situation, report it to your supervisor or Floor Captain immediately.

- Slippery floors and walkways
- Tripping hazards, such as miscellaneous items improperly placed on the floor
- Missing (or inoperative) entrance and exit signs and lighting
- Poorly lighted stairs
- Loose handrails
- Loose, open or broken windows
- Dangerously piled supplies or equipment
- Unlocked doors
- Electrical equipment, including small appliances such as coffee pots, left operating
- Evidence of any equipment running hot or overheating
- Open doors on electrical panels
- Blocked hallways or aisles
- Blocked fire extinguishers or sprinklers
- Blocked fire doors or fire escape exits
- Evidence of smoking in non-smoking areas

Appendix D

Inspection Checklist

Floor captains should periodically (semi-annually) inspect the area for which he or she has responsibility for safety hazards. At a minimum, check the following items. If you cannot check the item, note needed action or action taken in the space below.

Common areas

- No articles are obstructing passage through the hallway or stairwell.

- No articles obstruct doorways including the inside stairwell and the fire escape.

- Excessive amounts of flammable materials are not collected.

- The fire extinguishers in the stairwell landing and in the corridor leading to the outside fire escape are fully charged.

Offices

- No articles are obstructing doors or other passageways used for evacuation.

- Excessive amounts of flammable materials are not present.

- Electrical cords/receptacles are in good shape, not frayed or showing bare wires.

- Extension cords are properly sized and do not present a tripping hazard.

First aid kit is present and fully stocked.

Individual employee work spaces are free from fire and tripping hazards.

Up-to-date list of employees for your floor/department/area.

Floor Captain _____

Floor _____

Date Inspected _____

Appendix E

Accident/Medical Emergency Report Form

This report form is intended for use in recording an accident or medical emergency of an employee while performing on the job.

Date of Accident or Medical Emergency _____

Location of Accident or Medical Emergency _____

Description of Accident or Medical Emergency _____

List hazards that caused accident _____

Names of employees involved or witnesses _____

Action taken _____

Signature _____

Employee

Date _____

COMPLETED FORM TO BE SUBMITTED TO SAFETY DIRECTOR

Signature _____

Safety Director

Date Rec'd _____

Signature _____

Executive Vice Chancellor for Administration

Date Rec'd _____

Appendix F

Hazardous Concern Report Form

This report form is intended for use in recording hazards identified during inspection and for tracking and recording follow up actions.

Name _____ Date _____

Date safety hazard observed _____

Location of safety hazard _____

Description of safety hazard _____

Recommended corrective action to be taken _____

Corrective action taken to remove hazard _____

Date corrective action completed _____

Hazards found during safety inspection _____

Comments _____

COMPLETED FORM TO BE SUBMITTED TO SAFETY DIRECTOR

Signature _____

Safety Director

Date Rec'd _____

Signature _____

Executive Vice Chancellor for Administration

Date Rec'd _____

Appendix G

Evacuation Plan Maps

MAP POSTED ON EACH FLOOR BY THE ELEVATOR

Appendix H

Floor Captain's Employee Check-off List

___ Floor _____ Date

Names of Employees (including all temporary employees)

Total number of employees / visitors evacuated: _____

Total number of employees missing: _____

Report names of missing personnel to emergency personnel or to the Safety Director:

Emergency/Important Contact Telephone Numbers

911 – Emergency/Police/Fire/Ambulance

Building Personnel

Martin Riggs, Building Owner Cell Phone -- Office Telephone --
 Gary Smith, Building Maintenance Cell Phone --
 Doug Smith, Building Maintenance Cell Phone --

West Virginia Higher Education Policy Commission Personnel

Cindy Anderson Safety Director / Director of Administrative Services
 Office Telephone -- (304) 558-4016 Cell Phone --



West Virginia Higher Education Policy Commission

1018 Kanawha Boulevard, East, Suite 700

Charleston, West Virginia 25301

www.hepc.wvnet.edu

MEMORANDUM

DATE:

TO:

FROM: CINDY L. ANDERSON

SUBJECT: BUILDING SECURITY SYSTEM

Enclosed for your personal use is a security card for the Boulevard Tower security system. Security cards are assigned based upon a numerical system. You are responsible for your card and care should be taken not to misplace the card. There will be a \$10.00 fee assessed by the building owner for any replacement cards.

The back doors of the building will be open at 7:00 a.m. each morning and locked at 6:30 p.m. each evening. The building will be locked at all times during the weekends and holidays. In addition to a key for the back door, a security card is required to gain entrance into the building through the second glass door. The security card is not needed to exit the building when the security system is activated (nights and weekends). Also, the card must be used to operate the elevators during these times. There will be no access to the building through the front door (Kanawha Boulevard entrance).

In the event that the fire alarm is set off or power outages occur, the security system will be disengaged.

If you have any questions regarding the use of the security card, please contact me.

cla
Enclosure

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SMOKING GUIDELINES

Purpose

The purpose of these guidelines is to establish procedures to ensure that right to a healthful, smoke-free environment for each employee of the West Virginia Higher Education Policy Commission and the public as they transact business. Recent studies on the effects of passive smoke inhalation by non-smokers conclude that exposure to secondhand smoke can be harmful to one's health. The work environment should present no unnecessary risk of physical harm or discomfort from environmental tobacco smoke. Furthermore, residents of State facilities, applicants, clients, and visitors should not be exposed to cigarette or any other environmental tobacco smoke. Therefore, there is a need to implement guidelines relating to smoking restrictions in all workplaces of the West Virginia Higher Education Policy Commission. In the application of these guidelines, anytime there is a conflict between the rights of smokers and non-smokers, the rights of non-smokers shall prevail.

Definitions

- A. Cigarette. Any lighted tobacco product.
- B. ETS. Environmental Tobacco Smoke: secondhand or side-stream smoke.
- C. Proper Ventilation. Smoke exhausted to the outside. The system used to expel the smoke shall not diminish the working conditions of the employees' environment: for example, the method may not affect the building's heating and cooling system.
- D. Workplace/Worksite. Any office, facility, building, etc., which is operated by the State, including State owned/leased vehicles which are part of the West Virginia Higher Education Policy Commission.

Guidelines

- A. Smoking is prohibited in all offices, conference rooms, corridors, workrooms, storage areas, vehicles and restrooms of the West Virginia Higher Education Policy Commission.
- B. Signs will be posted in conference rooms, restrooms and on floors occupied solely by the West Virginia Higher Education Policy Commission staff indicating that smoking is prohibited.
- C. Employees who desire to smoke may do so during any authorized break period provided they do so in an area exterior to the Boulevard Towers Building.
- D. The administration will accommodate smokers, as is feasible, in the attendance of smoking cessation programs.

Related Policies

These guidelines do not supersede any local ordinances or State statutes that are more restrictive and applicable to the workplace, nor does it permit discrimination against smokers who apply for positions.

Effective Date

These guidelines are effective July 1, 1991, in order to provide smokers an opportunity to adjust to these guidelines. There will be no sanctions related to these guidelines until July 1, 1991.

Sanctions

Failure to comply with these guidelines will be handled in accordance with the disciplinary policy as contained in the “New Employee and Division Handbook”.

Effective: July 1, 1991
Updated: May 19, 2004
Updated: May 2, 2013



TELEPHONE TRAINING TIPS AND TRICKS

October 17, 2007



West Virginia
Higher Education
Policy Commission¹

Official Telephone Greetings

Thank you for calling the Higher Education Policy Commission, this is (name), how may I help you?

Thank you for calling the WV Council for Community and Technical College Education, this is (name), how may I help you?



Definitions and Abbreviations

ABR	Auto Busy Redial	LCD	Liquid Crystal Display
ACB	Automatic Callback	Msg	Message
DND	Do Not Disturb	Mute	Microphone

Call Forward Codes:

CF-AC	Call Forward-All Calls	Intercom # 601 + Ext. Number + Speaker
CF-Busy	Call Forward-Busy	Intercom # 602 + Ext. Number + Speaker
CF-NA	Call Forward-No Answer	Intercom #603 + Ext. Number + Speed Dial 12 + Redial + Speaker
CF-B/NA	Call Forward-Busy/No Answer	Intercom #604 + Ext. Number + Speed Dial 12 + Redial + Speaker
CF-Fixed	Call Forward-Fixed	Button must be programmed on telephone set by technician



Soft Key Features on Liquid Crystal Display (LCD)

	Mode	Page	Scroll
TRNS	Transfer		
CONF	Conference		
PGE	Page		
RING	Make a called station ring rather than open mike to speak		
TALK	Make a voice announcement to a called station that is ringing		
MESG	To set a message waiting button		
OVRD	To override a station that is busy or in the Do Not Disturb mode		
BUSY	Send a call-waiting tone to a busy station		
EXEC	To break into the conversation of a busy station		
ACB	Activate Automatic Callback after reaching a busy station		
ABR	Activate Automatic Busy Redial after dialing a busy outside telephone number		
RLS	Disconnect a call and to return to idle state		
RTRN	Terminate a feature operation and to return to a previously displayed state		



Soft Key Features on Liquid Crystal Display (LCD)

- LINE Add a line to an existing call while in the Conference mode.
- STA Add a station to an existing call while in the Conference mode.
- JOIN While on a conference call, join all parties to a conference
- EXIT Exit from a conference call and to leave the remaining parties connected.

To **activate Soft Keys** at your Telephone

- 1) Make sure your telephone is idle. Do not lift the handset.
- 2) Press the Mode key below the LCD.
- 3) Dial 71.

To **deactivate Soft Keys** at your Telephone

- 1) Make sure your telephone is idle. Do not lift the handset.
- 2) Press the Mode key below the LCD.
- 3) Dial 70.

To Add Name to LCD

- 1) Press the **Intercom button**, dial **#621**
- 2) Using the dial pad, enter name using the alpha characters, for example:
If you press 3, a “D” will be displayed.
- 3) Press 0 to choose which alpha character you need on any button
By pressing 0, the “D” is changed to “E”.
By pressing 0 again, the “E” is changed to “F”.
By pressing 0 again, the “F” is changed to “D”.
- 4) When all information has been entered, Press the **Spkr** button.

The **1** button moves cursor to the right, also used to access special characters and to enter “blanks” in the alpha mode (to enter a space, press 1).

The ***** button moves the cursor to the left.

The **#** button alternates between alpha and numeric characters.

To Clear Name / Extension Number:

- 1) Press the **Intercom** button, dial **#620** and press the **Spkr** button.


To Transfer a Call

While on a call, press **Cnf/Trn** button or **TRNS** on LCD Soft Key feature, dial telephone number or extension number. When individual answers, announce call and hang up. If number or extension is busy, hang up, this returns you to the call.

If **FLASH** feature is activated / available on your phone, if you wish to transfer a call to another telephone number in the 558 exchange only – While on call, press **FLASH**, 8, and last four digits of telephone number. Hang up. Call will automatically transfer.

To Place A Call on Hold

To place a call on hold, press the **HOLD** button, the line or button will flash a slow red. To return to call placed on hold, press the line or button that is flashing.

To place call on Exclusive hold to prevent someone else from picking up the call, place the **HOLD** button twice, the line or button will flash a fast red. 

To Place a Conference Call

Dial first telephone number.

On LCD soft keys, touch the **CONF** option.

Select second outside line, dial second telephone number.

Touch **JOIN** on LCD soft key.



Call Pick Up

To answer another ringing extension or intercom, touch **Intercom** button, **# 5**, and dial the extension or intercom number that is ringing.



Speed Dial

If the Speed Dial feature is activated / available on your telephone, you may program free buttons to automatically dial an extension / intercom number or an external telephone number.

To program Speed Dial for an Extension / Intercom Number:

Press **Redial** button, **Speed Dial** button, touch button to be programmed, dial intercom number, and Press Redial button.

To program Speed Dial for an External Telephone Number:

Press **Redial** button, **Speed Dial** button, touch button to be programmed, touch outside line, dial 9 plus telephone number, press **Redial** button. To use this speed dial feature, you must first access available outside line and then touch the button that has the telephone number programmed on it.

To Set Up Voice Mail

- 1) Hit Intercom button.
- 2) Dial 299. The main voice mail greeting comes on.
- 3) Dial 5.
- 4) Enter your telephone intercom extension number.
- 5) Enter your password. For now, it is your intercom / extension number. You can change the password later.
- 6) You should reach the voice mail message which says, “Welcome to Quick Setup”. Listen and follow automated instructions:
 - 1) Name
 - 2) Password
 - 3) Message
- 7) Spell your last name using the numeric keypad, when finished; it will repeat the last name in numerals which correspond to your alpha entry.

To Activate Voice Mail

You **must call forward** your telephone to the voice mail system:

Hit Intercom, # (pound key), 604, Speed Dial Button (or *#* if you do not have a speed dial button), 12, redial button, speaker button.

The above option allows the phone to ring three times before going to voice mail, and it allows the call to go directly to voice mail if you are on the line.

Voice Mail Main Menu

1 Message Management

You can listen to your messages, send a new message to another User (or a list of Users), forward a message, and erase messages. You also can review or erase a message that you sent to another user before it is listened to.

2 Call Management

Enables you to record your personal greeting, select an alternate personal greeting and change the Call Blocking or Call Screening setting of your message box.

3 List Management

Helps you define and manage up to ten private distribution lists. A distribution list is a list of other Users to whom you can easily send messages.

4 Notify Management

You can enable or disable notification of new messages.

5 User Setup

You can change your password, record your name, change the order in which your messages are played, and define your name spelling with Directory Assistance.

7 Quick Setup

Quick Setup allows you to go back through the new User setup tutorial. Quick Setup walks you through changing your password, recording your name and personal greeting and listing yourself in Directory Assistance.

8 System Date And Time

Plays the current system date and time.

9 or 0 Log Out

These options log you out of User mode and return you to the main system greeting.

Voice Mail Personal Greetings

To record or change personal greeting:

- Choose option 2, Call Management
- Choose option 1 to hear current personal greeting
- Choose option 4 to select next personal greeting
- Choose option 5 to record current personal greeting
- Choose option 6 to delete a personal greeting
- Choose option 7 to choose personal greeting
- Choose option 8 to record any personal greeting

To Retrieve Voice Mail Messages

- 1) If message light button (Msg) is flashing, hit message light button.
- 2) Enter Password.
- 3) Listen to new messages.

To Retrieve Voice Mail Messages from a Telephone not in HEPC System

During normal work hours, 8:00 – 5:00 p.m.:

- 1) Call regular telephone line for your division. Ask to be transferred to extension 299.
- 2) When automated message begins, immediately hit the pound key (#), 5, to by pass the message.
- 3) The automated attendant will ask for the User ID and Password. This will take you directly to your voice mailbox to listen to new messages.

After normal work hours or if no one answers the phone:

- 1) Dial regular telephone number, the automated message should begin.
- 2) When automated message begins, immediately hit the pound key (#), 5, to by pass the message.
- 3) The automated attendant will ask for the User ID and password. This will take you directly to your voice mailbox to listen to new messages.

Voice Mail Tips

Logging into the System:

When logging into the system, it is normally not necessary to wait for each prompt before entering the information requested by that prompt.

Logging out of User Mode:

From almost anywhere in User Mode, you may press 0 to log out of User Mode and return to the main greeting.

Returning to the Previous Menu:

From any level, you may press 9 and return to the previous menu level. If you are in the Main Menu, pressing 9 logs you out of User Mode and takes you back to the main greeting.

Replaying a Menu:

From any menu, you may press * to replay the menu.

Skipping Ahead to the Next Step:

Pressing # also signals to the system that you want to skip ahead to the next step. For example, if you are listening to the prefix of a message that was forwarded to you, pressing # skips directly to the forwarded message itself.

Recording Messages and Greetings:

If you are calling from a quiet environment, you may simply stop talking when you have finished recording a message. The silence marks the end of your message and will be trimmed from the final recording. If you are recording from a noisy environment, you should press # when you have finished. These rules apply to any recording, including your name file and personal greeting.

It is good practice to change your personal greeting to indicate that you are out of the office. Personal greetings may be pre-recorded to handle different situations.

Directory Assistance:

If you do not know someone's User ID, you may enter the directory assistance code (usually 411). You will be prompted to spell out their name instead.

More Voice Mail Tips

To transfer a voice mail message to another extension:

After listening to message, listen to the options from the auto attendant, then:

Choose 5 to forward message

Choose 7 to choose extension



Questions???

Contact:

Cindy Anderson

558-4016, ext. 203

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

**CLASSIFIED STAFF COUNCIL
TUITION FEE WAIVER GUIDELINES**

The West Virginia Higher Education Policy Commission (Commission) encourages career development and self-improvement. Tuition waivers may be granted to employees based on eligibility under these guidelines and availability of waivers.

Definitions

A. Eligible Employee

1. Only full-time regular employees are eligible for tuition waivers for classes related to purposes of pursuing an undergraduate degree.
2. An employee shall be employed in her/his current position for at least six calendar months prior to the deadline for applications of the semester in which a waiver is being requested.
3. An employee may not be in an adjustment, improvement or probationary period at the time a waiver is being requested.

B. Eligible Course Work

1. Classes requested should be related to a degree, certification or other well defined program.
2. The classes should be related to the employee's current position or upward mobility in the Commission office.

Application Process

The Classified Staff Council Chairperson will distribute notices including application forms and information for tuition fee waivers to employees at least twice a year via interdepartmental mail or through electronic mail messaging.

Deadline for Applications:

- | | |
|---------------|--|
| By July 1 | Fall Semester |
| By November 1 | Spring Semester |
| By May 1 | Summer Sessions (if waivers are available) |

Tuition Fee Waiver Approval Process

- A. The designated tuition fee waiver for employees will be available for the fall and spring semesters. Requests for waivers for summer classes will be considered provided that the full complement of hours has not been utilized during the spring semester. Employees will initially be restricted to a maximum of one three-hour course per semester. Approval for additional hours per semester will only be considered on an available basis. Consideration will be given to employees requesting additional hours who are at or near graduation or receipt of certification.
- B. Final review and approval of all applications shall be the responsibility of the Classified Staff Council based on the following point system:
 - I. Reason for Enrollment:
 - A. Degree or work related 4 points
 - B. General interest 2 points
 - II. Seniority:
 - A. Based on the most recent continuous service with the Commission office.
 - 1. Six months to one year of service 1 point
 - 2. Over one year to five years of service 2 points
 - 3. Over five years to ten years of service 3 points
 - 4. Over ten years of service 4 points
 - III. Classification:
 - A. New applicant – an employee who has never been selected as a tuition waiver recipient. 2 points
 - B. Renewal applicant – an employee who has received a tuition waiver. 4 points

The recipient is responsible for all other fees and charges in excess of the tuition waiver.

Declining of Tuition Waiver

Employees who for one reason or another cannot utilize their waiver, during the allowable add/drop time period will be expected to notify the Classified Staff Council in writing so that their waiver may be given to another potential recipient. Employees who have previously declined waivers and who reapply will be considered on a case-by-case basis.

Notification of Tuition Fee Waiver Recipient

It is the responsibility of the Classified Staff Council Chairperson to notify the Financial Aid Director at the institution where the tuition fee waiver has been granted who is eligible for the tuition fee waiver for the given semester by giving the person's name, address, social security number and hours awarded.

March 23, 1999

Updated: March 23, 2005

Updated: June 2013

WV Higher Education Policy Commission
1018 Kanawha Boulevard, East
Charleston, WV 25301

REVIEWED BY: Classified Staff Council
Date: _____
Total Credit Hours Earned: _____
Total Earned Towards Major: _____

Application Tuition and Fee Waiver	
Name: _____	Address: _____
SS#: _____	_____
	Office Phone: _____
Current Classification: _____	
Division: _____	
Number of Continuous Years _____ Months _____ with West Virginia Higher Education Policy Commission	
Date of Employment with WVHEPC: _____	
Have You Ever Received a Tuition Waiver? (Yes or No) _____	
If So, How Many? _____ When Was Most Recent Waiver ? _____	
Proposed Course of Study ?	Course No. _____ Course Name _____ Hours _____
	Course No. _____ Course Name _____ Hours _____
Towards a Degree ? (Yes or No) _____	
Relevant to Your Position ? (Yes or No)	

If Relevant, Explain	

Major _____	
This application is made in full compliance with the guidelines set forth by the Classified Staff Council for employees of the West Virginia Higher Education Policy Commission. I agree to all guidelines as set forth for the designated tuition and fee waiver.	
Signed: _____ Date: _____	
Supervisor	
This application has been reviewed by me and I fully support this employee's application for a WVHEPC tuition and fee waiver and his/her ambition to further his/her knowledge and course of study.	
Signed: _____ Date: _____	
Title: _____ Division: _____	
Return Completed Application to Your Staff Council Representative	

March 2005 Updated: June 2013

**TITLE 133
PROCEDURAL RULE
HIGHER EDUCATION POLICY COMMISSION
SERIES 8**

TITLE: PERSONNEL ADMINISTRATION

SECTION 1.GENERAL

- 1.1 Scope - This rule establishes policy in a number of areas regarding personnel administration for the Higher Education Policy Commission employees.
- 1.2 Authority - West Virginia Code §18B-1-6, §18B-1-8, §18B-9-4.
- 1.3 Filing Date - October 22, 2001
- 1.4 Effective Date - November 22, 2001

SECTION 2.DEFINITIONS

- 2.1 This subsection defines the different types of employment that institutions may use and the status under the classification program and for benefits.
 - 2.1.1 Full-Time Regular Employee (FTR). Any employee in a classified position created to last a minimum of nine months of a twelve month period and in which such employee is expected to work no less than 1,040 hours during said period. The full-time equivalent (FTE) of such a position must be reported at no less than .53 FTE. Such an employee is covered under the classification program set out by this rule and is eligible for all applicable benefits of a full-time regular classified employee, subject to the qualifying conditions of each benefit. Such benefits shall be prorated in relation to a 1.00 FTE. Length of service as a full-time regular employee with the State of West Virginia shall be credited toward initial placement on the salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.
 - 2.1.2 Part-Time Regular Employee (PTR). An employee in a position created to last less than 1,040 hours during a twelve-month period. An

employee in a PTR position is not eligible for benefits, but is covered under the classification program.

- 2.1.3 Temporary Employee. An employee hired into a position expected to last fewer than nine months of a twelve month period regardless of hours worked per week. A temporary employee is not eligible for benefits, but is covered by the classification program.
- 2.1.4 Casual Employee. A casual employee position is a position created to meet specific operational needs at an institution for no more than 225 hours in a 12-month period. Individuals in a casual employee position are not eligible for benefits and are not covered by the classification program.
- 2.1.5 Student Employee. An employee enrolled at the institution as a student and whose primary purpose for being at the institution is to obtain an education. A student employee is not eligible for benefits and is not covered by the classification program.
- 2.1.6 Full-Time Faculty - Employment as a faculty member for a full academic year (at least a nine-month contract basis) for at least six (6) semester credit hours teaching per semester or the equivalent in teaching, research, public service, and/or administrative responsibilities. Faculty are not considered classified employees or subject to the classification program.
- 2.1.7 Non-Classified Employee. An employee, designated by the president, who is responsible for policy formation at the department or institutional level or reports directly to the president of the institution, or is in a position considered critical to the institution by the president. Non-classified employees are not subject to the classification program but are eligible for benefits. Non-classified shall not exceed ten percent of the total number of employees at the institution who are eligible for membership in any state retirement system and shall serve at the will and pleasure of the president. An additional ten percent of the total number of employees of that institution may be placed in this category if they are in a position considered critical to the institution by the president.

- 2.1.8 Change In Status. The president or his/her designee will review and make a final determination as to the status or change in status of any employee under this subsection. When the president or his/her designee determines that a part-time regular employee becomes a full-time regular employee, he/she shall credit that employee's previous service toward any calculation of length of service for purposes of this rule and benefit eligibility based upon a prorated comparison against a 1.00 FTE. Previous length of service as temporary, casual, and student employees shall not be credited toward seniority calculations under other sections of this rule or statute.
- 2.2 Position. A set of duties and responsibilities performed by a specific employee at a particular institution.
- 2.3 Job. A collection of duties and responsibilities performed by one or more employees at one or more institutions whose work is substantially of the same nature and which requires the same skill and responsibility level. For jobs occupied by only one employee, the terms "position" and "job" shall be considered the same.
- 2.4 Job Title. The label that uniquely identifies and generally describes a job. The same descriptive job title shall be given to a group of jobs, regardless of institutional location, which are substantially the same in duties and responsibilities, and which require substantially the same knowledge, skills and abilities performed under similar working conditions.
- 2.5 Position description form. The document which describes the set of essential and non-essential functions of a position at a particular institution.
- 2.6 Generic Job description. A summary of the essential functions of a job, including the general nature of the work performed, a characteristic listing of duties and responsibilities, and the specifications necessary to perform the work. Generic job descriptions shall be prepared for systems-wide and institution-specific titles occupied by more than one employee. For a job occupied by only one employee, the position description becomes the job description.
- 2.7 Pay Grade. A range of compensation values for a job defined by a series of step values. Positions which occupy the same job title shall be assigned to the same pay grade. Job titles having similar factor levels, shall be classified within the same pay grade.
- 2.8 Promotion. Movement from a position requiring a certain level of skill, effort

and authority to a vacant or newly created position assigned to a different job title and higher pay grade requiring a greater degree of skill, effort, and authority.

- 2.9 **Interim Responsibilities.** A significant change in duties and responsibilities of an employee on a temporary basis justifying an interim promotion or upgrade for salary purposes. Such a temporary reassignment shall normally be for no less than four (4) consecutive weeks and no more than twelve (12) consecutive months and shall only occur when the responsibilities being undertaken by the employee are those of another position that is vacant because of the incumbent's illness or resignation or because of temporary sufficient change in the duties and responsibilities of a filled position. If the temporary reassignment of responsibilities meets the test for a temporary upgrade or promotion under Sections 13 and 14 of this rule, the affected employee shall have his/her base salary adjusted upwards consistent with a promotion or upgrade under this rule. At the end of the temporary reassignment, the affected employee shall have his/her salary reduced to its original level including any salary increase which the employee would have received in his/her regular position.
- 2.10 **Upgrade.** An advancement of the employee's current position to a higher pay grade as a result of a significant change in the position's existing duties and responsibilities. When a position is upgraded, the employee does not move to a different position in a higher pay grade. Rather, it is the employee's position that is moved to a higher pay grade because of a significant increase in the position's existing responsibilities, as determined by job evaluation. When an upgrade occurs to an employee occupying a title held by more than one individual, the position's current title shall be changed to a different title in the higher pay grade. When an upgrade occurs to an employee occupying a title exclusively assigned to that position, the current title may or may not be revised depending upon how relevantly the current title describes the position.
- 2.11 **Demotion.** Movement from a position requiring a certain level of skill, effort and responsibility to a vacant or newly created position assigned to a different job title and lower pay grade requiring a significantly lesser degree of skill, effort and responsibility.
- 2.12 **Downgrade.** A reassignment of the employee's current position to a job title assigned to a lower pay grade as a result of a significant reduction in the existing position's duties and responsibilities. When a position is downgraded, the employee does not move to a different position in a lower pay grade. Rather, it is the employee's position that is moved to a lower pay grade because of a significant decrease in the position's existing responsibilities as

determined by job evaluation. When a downgrade occurs to an employee occupying a title held by more than one individual, the position's current title will be changed to a different title in the lower pay grade. When a downgrade occurs to an employee occupying a title exclusively assigned to that position, the current title may or may not be revised depending upon how relevantly the current title describes the position.

- 2.13 Transfer. Movement from one position or job title to another position or job title requiring the same degree of skill, effort and authority. Both positions are in the same pay grade.
- 2.14 Base salary. The amount of salary paid annually to an employee, excluding any annual increment earned pursuant to W.Va. Code §18B-9-5 or §5-5-2. Total salary is base salary plus any increment earned.
- 2.15 Base salary adjustment. The amount that a base salary increases within the pay grade to reward performance, to rectify inequities, or to accommodate competitive market conditions.
- 2.16 Longevity. The total number of years employed at state institutions of higher education and other agencies of state government in West Virginia for purposes of determining placement on any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards at time of implementation of the classification program authorized by this rule.
- 2.17 Institution. The following are each considered separate institutions for the purpose of this rule only - West Virginia University, Potomac State College of West Virginia University, West Virginia University at Parkersburg, Marshall University, West Virginia School of Osteopathic Medicine, Bluefield State College, Concord College, Eastern West Virginia Community and Technical College, Fairmont State College, Glenville State College, Shepherd College, West Liberty State College, West Virginia University Institute of Technology, West Virginia State College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, the Office of the Higher Education Policy Commission, and the West Virginia Network for Educational Telecomputing.
- 2.18 President. In addition to the sixteen (16) college and university presidents, this term shall be used in this rule to refer to the Chancellor for the office of the Higher Education Policy Commission and the director of the West Virginia network for educational telecomputing.
- 2.19 Chancellors. The chancellor of the Higher Education Policy Commission.

- 2.20 Salary schedule. A schedule consisting of a series of pay grades, which may be subsequently enacted by the Legislature or adopted by the governing boards.
- 2.21 Recall. An employee terminated under the provisions of §18B-7-1 and recalled to work at his/her previous institution under the same provisions. Salary for a recalled employee will be consistent with the entry rates described in Section 12 of this rule.
- 2.22 Rehire. An employee who leaves the service of an institution by resignation and later applies for and accepts a position at the same institution. Salary for a rehired employee will be consistent with the entry rates described in Section 12 of this rule.
- 2.23 FTE. Full time equivalency is the percentage of time for which a position is established, with a full-time position working 1950 hours per year being 1.00 FTE.
- 2.24 Classified Employee. An employee who is covered by the provisions of the classification program outlined in this rule.
- 2.25 Exempt. Employees not covered by the Fair Labor Standards Act (FLSA) for overtime purposes.
- 2.26 Non-Exempt. An employee who is entitled to overtime benefits as outlined in federal and state law.
- 2.27 Factor. One of the thirteen (13) items used to evaluate jobs. The items are knowledge, experience, complexity and problem solving, freedom of action, breadth of responsibility, scope and effect, intrasystems contacts, external contacts, direct supervision exercised, indirect supervision exercised, working conditions, physical coordination, and physical demands.
- 2.28 Point factor methodology: The instrument used to assign weights to the factors. The total of the weights determines the pay grade to which a job title is assigned.
- 2.29 Job Family. A series of job titles in an occupational area or group.

SECTION 3. COMPENSATION REVIEW COMMITTEE

- 3.1 The compensation review committee shall be responsible for annually reviewing the salary schedule and recommending revisions based on existing economic, budgetary, and financial conditions to the chancellors, who will make a final proposal to the governing boards. The composition of the compensation review committee shall consist of the central office human resources director, the central office finance director, the chair or chair's designee from each state-wide advisory council of classified employees, four human resource administrators from the previous University System (which shall be deemed to include West Virginia network for educational telecomputing), three human resource administrators from the previous State College System, and a president from each of the two systems. The human resource administrators and presidents shall be appointed by the appropriate chancellor and shall serve staggered terms of two years. In addition, the chancellors may appoint, to the committee, as they deem appropriate, representatives of major groups which represent classified employees.
- 3.2 Recommendations of the compensation review committee approved by the governing boards are subject to the availability of funds and shall only be implemented when new funds are specifically appropriated by the Legislature for funding of the salary schedule.

SECTION 4. COMPENSATION; PAY CALCULATIONS

- 4.1 Base salary is calculated on a thirty-seven and one-half (37 1/2) hour workweek.
- 4.2 When base salary increases are calculated and rounding is involved, the policy is to round up to the nearest even dollar amount.
- 4.3 Overtime pay for nonexempt employees is calculated at the rate of one and one-half (1 1/2) times the regular hourly rate, which is the total base salary, plus any incremental pay, divided by 1,950 hours. Overtime does not commence until forty (40) hours have actually been worked within one (1) workweek. Regular hourly pay, also known as "straight time," is paid for work time between thirty-seven and one-half (37 1/2) hours and forty (40) hours in a work week.
- 4.4 Only actual hours worked are included in calculating overtime. Pay which is received for holidays, annual leave, sick leave, or work release time, as

authorized by Series 35, is not counted as working hours for purposes of overtime.

- 4.5 Annual leave, sick leave and longevity do not accumulate in any part of a month for which an employee is off the payroll on a leave without pay or during a terminal leave period. A terminal leave period is that time between the employee's last day of work and his/her last day on the payroll.

SECTION 5. COMPENSATORY AND HOLIDAY PREMIUM TIME OFF

- 5.1 Compensatory time off shall be allowed only to the extent authorized by federal and state law.
- 5.2 When a full-time or part-time classified non-exempt employee is required to work on any designated board or institution holiday, that employee at his/her option shall receive regular pay for that holiday plus substitute time off or additional pay at the rate of one and one-half (1 1/2) times the number of hours actually worked. The time off must be used within a six-month period following the holiday.
- 5.3 When an exempt employee is required to work on any designated board or institution holiday, that employee shall be given substitute time off on an hour-for-hour worked basis.

SECTION 6. WORKWEEK

- 6.1 The workweek is a regularly recurring period of one hundred sixty-eight (168) hours in the form of seven (7) consecutive twenty-four (24) hour periods. It begins at 12:01 a.m. on Sunday and ends at 12 midnight the following Saturday. The institutional president or the president's designee may establish a workweek different from this provided that record keeping requirements are met as set forth in relevant law. A work schedule of thirty-seven and one-half (37 1/2) hours will be established within a workweek.

SECTION 7. APPOINTMENT

- 7.1 A classified employee appointment letter shall be completed for each classified employee at the time of initial employment.

SECTION 8.ACCESS TO PERSONNEL FILE

- 8.1 An employee may have access to his/her personnel file when the employing institution is normally open for business. An employee may examine his/her own file and the contents therein with the following exception:
 - 8.1.1 Materials which were gathered with the employee's prior agreement to forfeit his/her right of access, such as some references.
- 8.2 A representative of the custodian of records shall be present with the employee during the review. The date, time and location of each review shall be recorded in the personnel file.
- 8.3 A copy of any material in the personnel file, except as noted above, shall be provided to an employee upon request. A small copy fee may be charged. Positive identification of the employee must be established prior to providing access to the personnel file. Documents may not be removed from a personnel file by the employee. An employee may petition at any time for either the removal or addition of documents to his/her own personnel file. The employer may require that employees schedule an appointment to see the personnel file.

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

- 9.1 It is the exclusive responsibility of each employee to notify all appropriate persons, agencies and parties when record changes occur, including emergency information. This must be done in writing and a copy of such notification will be placed in the employee's personnel file as a permanent record that he/she notified appropriate persons, agencies and parties.

SECTION 10 CLASSIFICATION REVIEW REQUEST

- 10.1 When significant changes occur in the principal duties and responsibilities of a classified position, it is the responsibility of the supervisor to recommend through established procedures that the position be reviewed. Requests for position reviews also may be initiated by an employee after discussion with the immediate supervisor. Within thirty (30) days from the date of request for review of a job, the department of human resources shall report to the requestor, in writing, whether the reclassification has been denied or approved. The immediate supervisor must prepare a complete and accurate position description form of the duties of the position, but the description may be

written by the employee at the supervisor's request. The responsibility for assigning tasks and duties to a position belongs to the supervisor. It is the supervisor's responsibility to document and submit the position description form for classification review when significant changes occur in the principal duties and responsibilities of a position. It is also the responsibility of a supervisor to ensure completion of required forms. The institutional president or the president's designee may also initiate action to review positions. The institutional president or the president's designee has authority on the campus to make classification determinations for institution-specific titles or the slotting of employees under existing systems-wide titles. The president may delegate authority to the human resource administrator for day to day management of the classification program. Management of the program requires adherence to written rules which ensure a uniform system of personnel classification. All classified positions shall be placed on any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.

- 10.2 A position description form shall exist for every classified position. It shall be reviewed by the supervisor and/or the president or the president's designee on a formal basis at least every three years as part of the position audit procedures established by each institution. The date of each review shall be recorded on the description.

SECTION 11. JOB EVALUATION PROCESS

- 11.1 The review of individual positions occupying systems-wide titles shall be carried out by the institution's president or president's designee provided that the action involves the reclassification or the reslotting of the employee into an existing systems-wide title.
- 11.2 The review of institution-specific job titles, as well as the reslotting of employees into an existing institution-specific title, shall be carried out by the president or the president's designee of each respective institution.
- 11.3 If an institution initiates an action to establish a job which exists exclusively at another institution the institution's president or the president's designee shall submit a request for the use of the title to the chancellors or the chancellors' designee. A review shall then be conducted, a determination made, and notification given to the institution's president or the president's designee as to whether the request is approved or denied. If a request is denied, reasons for the denial will be provided to the president or president's designee. Once two or more institutions utilize a job title, that title shall automatically become a

systems-wide title.

- 11.4 All actions taken by a president or president's designee under this section are subject to audits and reviews by the job evaluation committee.
- 11.5 On-going responsibility for overseeing and administering the job evaluation program and ensuring that it is administered equitably and uniformly across the institutions rests with the chancellors or the chancellors' designee. The evaluation of all systems-wide job titles and the review of classification decisions across the system shall be under the purview of the job evaluation committee. The composition of the job evaluation committee shall consist of nine human resource representatives and two classified staff representatives. Of the nine human resource representatives, one shall be from the central office and shall serve as chair, four shall be from the previous University System (which shall be deemed to include West Virginia network for educational telecomputing), and four shall be from the previous State College System. The nine human resource representatives shall be appointed by the appropriate chancellors to staggered terms of no more than two years. The classified staff representatives shall consist of one from each state-wide advisory council of classified employees and shall be appointed by the appropriate chair of the state-wide advisory council of classified employees to staggered terms of no more than two years. In addition, the chancellors may appoint, to the committee, as they deem appropriate, representatives of major groups which represent classified employees.
- 11.6 The job evaluation committee shall be convened by its chair at least quarterly, or more often if deemed necessary, to review classification decisions made or those being proposed by the institutions. To ensure the integrity of the program, random and/or complete reviews of classification decisions made or proposed by the institutions shall be conducted by the committee. Each institution shall be responsible, however, for submitting to the central office on a monthly basis, a computer diskette of any classification decisions actualized, along with appropriate documentation where requested by the committee. The chancellors or the chancellors' designee shall review the classification actions of each institution for appropriateness and consistency of application. Pending this review, the job evaluation committee shall be convened as needed to review those actions regarded as potentially out of conformance with the compensation and classification program. The committee shall subsequently provide a report to the appropriate governing board concerning its findings relative to each institutional review. In those cases where the committee finds an institutional classification decision to be in error, the committee shall recommend to the chancellor or chancellor's designee whether the pay grade assignment should be changed to the appropriate level.

11.6.1 Salary reversals shall be made in accordance with the procedures for upgrades and downgrades specified in this rule. During the course of its reviews, should the job evaluation committee discover the systematic misapplication of the program by an institution or institutions, it shall notify the chancellors, who will take the appropriate action warranted. Whenever the chancellors or their designee find that employees have been misclassified at the institutional level, they shall order that these classifications and salaries be immediately adjusted to the proper level. Absent fraud on the behalf of the employee, any overpayment to the employee because of an erroneous classification decision by an institution shall not be collected from the employee. However, any erroneous overpayment to such an employee, once corrected, shall not be deemed as evidence in claims by other employees that the classification and compensation program is not equitable or uniform.

SECTION 12. ENTRY RATES

12.1 The entry rate for any classified employee appointed after the effective date of this rule shall not be below the established minimum set out below for the pay grade assigned. The entry rate for any classified employee appointed on or after July 1, 2005 shall not be below the entry (zero) step set out in W.Va. Code §18B-9-3 for the pay grade assigned.

12.2

**CLASSIFIED STAFF MINIMUM EQUITY STEP
AND ENTRY RATES
EFFECTIVE JULY 1, 1994**

Pay Grade	Minimum Equity Step
1	10,092
2	10,392
3	10,716
4	11,040
5	11,376
6	11,736
7	12,396
8	13,116
9	13,884
10	14,712
11	15,612
12	16,596
13	17,640
14	18,780
15	20,004
16	21,348
17	22,800
18	24,372
19	26,088
20	27,948
21	29,964
22	32,172
23	34,584
24	37,212
25	40,080

SECTION 13. PROMOTION

- 13.1 Promotions result from an employee moving from his/her current position to a vacant or newly created position assigned to a different job title and higher pay grade and which requires a significantly greater degree of skill, effort and responsibility than that of the employee's current position.
- 13.2 Upon promotion from a position in one pay grade to a different position in a higher pay grade, the employee will receive an increase of five percent (5%) per pay grade rounded to the next highest step in the new pay grade based upon the employee's base salary, or the entry rate of the new pay grade described in Section 12 of this rule, whichever is greater. However, under adverse recruiting conditions in which an institution experiences great difficulty in filling a position, an increase which brings the employee up to a point no greater than the maximum of the grade may be given. Promotional increases which exceed the standard formula must meet the same criteria which appears in the section on entry rates of this rule and must be approved in accordance with the process outlined in that section. The new base salary may not exceed the maximum of the new pay grade.

SECTION 14. UPGRADE

- 14.1 Upgrades result from the process of job evaluation where a determination is made that a significantly higher level of skill, effort, and responsibility exists in the employee's current position. A new pay grade value shall then be established based on the application of the job evaluation plan and the calculation of a revised total point value for the position. Upon determination of the pay grade, job descriptions shall be reviewed of other titles having the same pay grade and whose duties, responsibilities and requirements closely match the work of the position as it is now described. The position shall then be slotted into the classification whose grade is consistent with the point value calculated and whose duties and requirements most appropriately characterize the position. For unique and specialized positions where no current job title exists at the needed grade, the creation of a new title shall be established so that the position is properly classified and graded within the system. This work must be done by the human resource administrator or the human resource administrator's designee.
- 14.2 When an employee occupies a position at the time that a position upgrade is to be placed into effect, the method of calculating the employee's base salary increase is the same as that specified for a promotion. In the absence of funds to support an upgrade, work at the higher level shall not be performed.

SECTION 15. DEMOTION

- 15.1 Demotions result from an employee moving from his/her current position to a vacant or newly created position assigned to a different job title and lower pay grade, and which requires a significantly lesser degree of skill, effort and responsibility than that of the employee's current position.
- 15.2 Upon demotion, the employee's base salary is decreased five percent (5%) per pay grade rounded to the nearest step in the new pay grade.

SECTION 16. DOWNGRADE

- 16.1 Downgrades result from the process of job evaluation where a determination is made that a significantly lower level of skill, effort and responsibility exists in the employee's current position. A new pay grade shall then be established based on the application of the job evaluation plan and the calculation of a revised total point value for the position. Upon determination of the pay grade, job descriptions shall be reviewed of the other titles having the same pay grade and whose duties, responsibilities and requirements closely match the work of the position as it is now described. The position shall then be slotted into the classification whose grade is consistent with the point value calculated and whose duties and requirements most appropriately characterize the position. For unique and specialized positions where no current titles exist at the needed grade, the creation of a new title shall be established so that the position can be properly classified and graded within the system. This work must be done by the human resource administrator or the human resource administrator's designee.
- 16.2 The method of calculating the employee's new base salary after a downgrade is the same as that specified for a demotion.

SECTION 17. TRANSFER

- 17.1 No change of base salary as a function of a transfer may occur.

SECTION 18. REVIEWS AND APPEALS

- 18.1 An employee may seek a review of his/her initial classification under the new program implemented pursuant to this rule and may appeal such initial classification through the procedures of W.Va. Code §18-29 after completing such review. Such review or appeal shall be governed by the provisions of this rule and to the extent these provisions are inconsistent with W.Va. Code §18B-9-7 or W.Va. Code §18B-9-4, those code provisions are deemed null and void pursuant to the authorization contained in W.Va Code §18B-9-4 (c). If an employee does not first seek a review of his/her initial classification through the internal procedures set out herein, they shall be prohibited from grieving that classification under W.Va Code §18-29.
- 18.2 An employee may seek a review of his/her initial classification, job title or pay grade by filing a request for review form after formal notification of his/her title and pay grade under the new program, but no later than January 31, 1994. Request for review forms shall be available at each institution and shall be in a form prescribed by the governing boards.
- 18.3 The request for review form shall be filed with the president or president's designee for this purpose, and that individual shall forward copies to the employee's immediate supervisor and appropriate dean, department head or director for comment.
- 18.4 The president or president's designee shall make a recommendation to the job evaluation committee regarding the request for review by March 31, 1994, and shall notify the employee of such recommendation.
- 18.5 Upon receipt of the institutional recommendation, the employee may file supplemental information with the job evaluation committee within ten (10) days. The job evaluation committee shall make a final determination regarding the request for review based solely upon the documentation provided above and any other material or information it may seek from the institution or employee. Such final determinations by the job evaluation committee shall be completed on or before June 30, 1994, and communicated simultaneously to all affected employees. If not made or communicated by June 30, 1994, an employee may immediately proceed through the grievance procedure of W.Va. Code §18-29 within thirty (30) work days of July 1, 1994, under the procedures set out in this rule.
- 18.6 Each institution shall make available for examination to all employees the

position description forms, job descriptions, and other materials used in making the initial classifications under this program.

- 18.7 If an employee is dissatisfied with the determination of the job evaluation committee the employee may grieve his/her initial classification under this program, including the job or position description and assignment to pay grade or salary schedule, within thirty (30) work days from receipt of the notification set out in Section 18.5 of this rule, by filing a grievance pursuant to the procedures of W.Va. Code §18-29. Any employee not filing a grievance under the provisions of this rule within those thirty (30) work days, or not seeking a review timely pursuant to this rule, shall be deemed to be equitably and uniformly classified and compensated for the purposes of Article 9, Chapter 18B of the state code and shall also be deemed to have expressly waived his/her right to grieve such initial classification, absent intervening and countervailing circumstances that effect that initial classification.
- 18.8 An immediate supervisor or president of an institution does not have the authority to change the initial classification of an employee under the new program and does not have the authority to grant any such relief requested in a grievance relating to such initial classification. The governing boards are hereby designated as the lowest level at which such relief may be granted and employees seeking to appeal their initial classification under the provisions of W.Va. Code §18B-9 shall file any such grievance at that level. When filing such a grievance with the appropriate governing board, an employee shall expressly state whether or not he/she agrees to an extension of the statutory period for a hearing before the governing board.

SECTION 19. SALARY SCHEDULE AND IMPLEMENTATION STRATEGY

- 19.1 The new compensation and classification program and accompanying pay structure will be implemented on January 1, 1994.
- 19.2 Any classified employee whose current base salary is below the equity step for his/her pay grade on January 1, 1994, will be increased to at least the equity step set out in this rule.
- 19.3 For those employees whose salaries as of January 1, 1994 are below the step in any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards that equates to their appropriate years of state service, the difference in salary shall be phased in over a three-year period if sufficient additional state funds are

appropriated from the Legislature.

- 19.3.1 Nothing in this rule shall be interpreted as prohibiting the governing boards from allocating funds in any fiscal year for across-the-board raises for all classified employees, unrelated to equity or market issues, if the Legislature specifically appropriates funds for such purpose.

- 19.4 Any classified employee who is slotted into the appropriate pay grade for his/her job title and whose base salary is at least the equity step for that pay grade, shall be deemed to be equitably and uniformly compensated in relation to other classified employees within the pay grade for the purposes of Article 9, Chapter 18B of the state code.

- 19.5 After full implementation of the classification program, pay increases may occur in one of the following ways:
 - 19.5.1 Upon recommendation of the Compensation Review Committee and approval by the governing boards, the salary schedule may be adjusted upward by the Legislature to reflect cost of living or market increase. Any new additional state funds appropriated for classified staff salaries would be applied to any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.

 - 19.5.2 Should additional new funds be appropriated by the Legislature, application of such new funds shall be determined by the governing boards and may result in movement of employees to the next step in any salary schedule which may be subsequently enacted by the Legislature or adopted by the governing boards.

TITLE 133

PROCEDURAL RULE

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 14

TITLE: HOLIDAYS

SECTION 1. GENERAL

- 1.1 Scope – Rule regarding holidays in the state system of higher education
- 1.2 Authority - *West Virginia Code* § 18B-1-6
- 1.3 Filing Date – March 19, 2002
- 1.4 Effective Date – April 19, 2002
- 1.5 Repeals and replaces Title 128, Series 26 and Title 131, Series 26

SECTION 2. GRANTING POWER

- 2.1 The Policy Commission 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.

SECTION 3. NUMBER OF FULL HOLIDAYS

- 3.1 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.
- 3.2 Proclamation of additional legal holidays by the president of the United States, governor, or other duly constituted authority may be observed by employees as determined and communicated by the president of the institution. The president of the institution may determine that any such additional legal holidays shall be observed

at a future date, if operational needs of the institution require the holiday not be observed on the date proclaimed.

SECTION 4. HALF HOLIDAYS

- 4.1 As specified in the regulations of the division of personnel for agencies of the executive branch of state government, one-half day preceding Christmas or New Year's Day shall be a holiday when Christmas or New Year's Day falls on Tuesday, Wednesday, Thursday, or Friday.

SECTION 5. SCHEDULES

- 5.1 Holiday schedules are to be established and used on a fiscal year basis.
- 5.2 The president of each institution shall submit for information purposes to the Chancellor by June 30 of each year a list of the holidays to be observed at that institution for the upcoming fiscal year and shall assure that the list is posted in appropriate locations on campus. The Policy Commission will publish a consolidated calendar outlining campus closure dates and holidays, as well as other significant events or deadlines.

SECTION 6. POLICY COMMISSION AND WEST VIRGINIA NETWORK FOR EDUCATIONAL TELECOMPUTING

- 6.1 The Chancellor shall determine the holiday schedule for the staff of the Policy Commission and WVNET.

**TITLE 133
PROCEDURAL RULE
HIGHER EDUCATION POLICY COMMISSION**

**SERIES 29
TRAVEL**

SECTION 1. GENERAL

1.1 Scope:

1.1.1 This rule implements the guidelines and procedures concerning management of in-state, out-of-state and international travel, hereinafter referred to as "travel," and for reimbursement of expenses to members of the institutional Boards of Governors, hereinafter referred to as the "Governing Boards" and/or "Board," members of the West Virginia Higher Education Policy Commission, hereinafter referred to as "Commission," the employees of the Governing Boards and Commission , and other non-employees traveling on behalf of the Governing Boards or the Commission.

1.1.2 Consultants and contractors are not required to use these rules and regulations, at the Governing Board's or Commission's option.

1.1.3 Reimbursement of travel expenses paid from federal, state and private grants shall be governed by the terms and conditions of the grant if they differ from those contained in this rule; otherwise, this rule shall govern such reimbursement.

1.1.4 As used in this rule, all terms have the same meaning as provided in West Virginia Code §18B-1-2. For the purposes of this rule, the Commission Office and West Virginia Network for Educational Telecomputing (WVNET) shall be considered institutions.

1.1.5 Each Governing Board shall promulgate travel rules, policies and procedures for managing travel at its institution(s) consistent with this rule, state and federal laws, and Internal Revenue Service (IRS) regulations.

1.2 Authority: West Virginia Code §12-3-11

1.3 Filing Date: July 2, 2002

1.4 Effective Date: August 1, 2002

- 1.5 Repeal of Former Rules: Title 131, Procedural Rule of the State College System of West Virginia, Series 47, and Title 128, Procedural Rule of the University System of West Virginia, Series 47.
- 1.6 According to the West Virginia Code, it shall be unlawful for the Auditor to issue a warrant in payment of any claim for travel expenses incurred by an employee, Board or Commission member, or other non-employee unless such claim meets all the requirements of this rule.

SECTION 2. PROVISIONS APPLICABLE ONLY TO THE COMMISSION AND THE GOVERNING BOARDS

- 2.1 The Commission and the Governing Boards may authorize payment for the traveling expenses incurred by any person, and her or his spouse when appropriate, who is invited to visit the campus of any institution of higher education, or any other facility under the control of the Commission or Governing Board, to be interviewed concerning her or his possible employment by the Commission or Governing Board or agent thereof. Authorization for such payment shall be given by the Commission and/or Chancellor, or the Governing Board and/or institutional president, or other administrative head of an institution.
- 2.2 Payment may be authorized for: (1) all or part of the reasonable expenses incurred by a person newly employed by the Commission or Governing Board in moving such employee's household furniture, effects and immediate family to the employee's place of employment; and (2) all or part of the reasonable expenses incurred by an employee in moving her or his household furniture, effects and immediate family as the result of reassignment of the employee which is considered desirable, advantageous to and in the best interest of the Commission or Governing Board; provided, that no part of the moving expenses of an employee shall be paid more frequently than once in twelve months. Authorization for such payment shall be given by the Commission and/or Chancellor, or the Governing Board and/or institutional president or other administrative head of an institution.

SECTION 3. DELEGATION OF AUTHORITY AND RESPONSIBILITIES

- 3.1 Authority to manage, approve or disapprove travel and travel related expenses is delegated to the Chancellor for and on behalf of the Commission, and to the Governing Boards for and on behalf of their respective institution(s). A Governing Board may delegate authority to the president and/or other administrative head of an institution, hereinafter called the "Chief Executive Officer" to manage, approve or disapprove travel and travel related expenses at their institution. Such delegated authority shall be made by resolution of the Board and may also be revoked or modified by the Board.

- 3.2 The Chancellor or Chief Executive Officer may also delegate authority to others within her or his respective institution(s) to act as her or his designee(s) for authorizing and approving travel and travel related expenses. All such authorizations and approvals shall be made in accordance with the provisions of this rule.
- 3.3 Travel may be authorized only for official business and only if the institution has the financial resources to reimburse the traveler for travel expenses.
- 3.4 The Chancellor and Chief Executive Officer shall develop policies and procedures for her or his institution, consistent with this rule, to provide additional guidance to employees and others traveling on behalf of the institution.
- 3.5 The responsibility to audit a traveler's expense account settlement lies with the institution. Approval of a traveler's expense account settlement by the institution means that the expense settlement meets all criteria established for reimbursement. The institution shall audit and submit an accurate expense account settlement for reimbursement to the State Auditor's Office within a reasonable amount of time after receiving such settlement from the traveler.

SECTION 4. TRAVEL REGULATIONS APPLICABLE TO EMPLOYEES, COMMISSION AND GOVERNING BOARD MEMBERS, AND NON-EMPLOYEES

- 4.1 Employees
 - 4.1.1 Approval to travel shall be secured in advance by the employee in accordance with this rule and the policies and procedures of the institution.
 - 4.1.2 Employees are responsible for submitting a travel expense account settlement form, with all required receipts and attachments, to her or his institution within a reasonable amount of time after the last day of travel, as defined by the institution, in order to qualify for reimbursement of expenses or for payment.
- 4.2 Members of the Commission and Governing Board
 - 4.2.1 This rule shall govern reimbursement of travel expenses to members of the Commission and Governing Boards when a Commission or Board member requests reimbursement for travel expenses.
- 4.3 Non-Employees

- 4.3.1 When non-employees are eligible to receive reimbursement of travel expenses, reimbursement shall be made in accordance with this rule and the policies and procedures of the institution.

SECTION 5. TRANSPORTATION

5.1 Air Transportation

5.1.1 Commercial Airlines

5.1.1.1 Reimbursement for commercial airline travel shall include the actual expense or cost of the least expensive logical fare via the most direct route, or a reasonable alternative route if it results in lower fare. Travelers may not specify a particular airline in order to accumulate mileage or promotional plans, such as frequent flyer programs, if it results in a higher airfare.

5.1.1.2 Travelers are expected to make advance bookings through a contracted travel service vendor or as otherwise approved by the institution to secure the least expensive airfare possible. Reimbursement may be made to the traveler in advance for airfare purchased up to 180 days before the trip begins.

5.1.1.3 In order to receive reimbursement, the traveler must submit the "passenger coupon" or certified copy of the commercial airline ticket. Refundable or unused airline tickets shall be returned immediately.

5.1.1.4 Commercial airline tickets may be direct billed to the institution and paid in advance of the travel if allowed by the institution's policies and procedures.

5.1.2 Use of Aircraft Owned and Managed by the Department of Administration and Other State Agencies, Chartered Aircraft Service, and Privately Owned Aircraft.

5.1.2.1 For use of aircraft owned and managed by the Department of Administration and other agencies, the traveler shall follow the rules and regulations of such agencies in scheduling, making reservations, utilizing, and making payment to these agencies for use of their aircraft.

5.1.2.2 If authorized by the Chancellor or Chief Executive Officer or designee(s), chartered aircraft service and privately owned aircraft may be used by the traveler if it will result in the lowest airfare, and if it is approved in advance by

the appropriate institutional officer. Direct billing may be used to pay for such service and aircraft use, if allowed by the institution's administrative policies and procedures.

5.2 Ground Transportation

5.2.1 A traveler may use a state owned vehicle, privately owned vehicle, a commercial rental vehicle, or rail service for ground transportation when traveling on official business of the institution. Receipts and documentation are not required unless otherwise indicated below or required by the institution:

5.2.1.1 State Owned Vehicles: The availability and use of a state owned vehicle will be determined by the institution's policies and procedures.

5.2.1.2 Privately Owned Vehicles: Privately owned and courtesy vehicles may be used. Reimbursement will be made in accordance with the institution's policies and procedures and shall not exceed the prevailing rate per mile established by the Internal Revenue Service.

5.2.1.3 Commercial Rental Vehicles: Commercial rental vehicles may be used. Reimbursement will be made at actual cost for the daily rental fee for a mid-size or smaller vehicle, plus insurance, mileage fees and fuel costs in accordance with the institution's policies and procedures. Receipts/documentation is required for reimbursement.

5.2.1.3 Rail Service: May be used for ground transportation in accordance with the institution's guidelines and procedures. Travelers are expected to make advanced bookings and use the least expensive logical fare via the most direct route, or other reasonable route that results in a lower fare. Receipts/documentation is required for reimbursement.

5.2.1.4 Miscellaneous Ground Transportation: Miscellaneous ground transportation may be reimbursed in accordance with the institution's guidelines and procedures.

5.2.2 The operator (traveler) of a vehicle must possess a valid operator's license. The operator is personally responsible for any fines and/or penalties resulting from citations, charges, or warrants attributable to operator negligence. Such fines and/or penalties shall not be a reimbursable expense.

5.2.3 In cases where a traveler chooses to drive rather than fly while on business, reimbursement will be based on actual in-transit expenses (mileage, hotel, meals, etc.), not to exceed the lowest

available commercial airfare plus local transportation to and from the airport.

- 5.2.4 Roadside assistance services for fleet, rental and personal vehicles, if needed, may be reimbursed at actual cost if deemed appropriate and reasonable by an institutional officer authorized to approve travel expenses.

SECTION 6. LODGING

- 6.1 Reimbursement for lodging shall include actual expenses for overnight accommodations, use of a room during daytime, and all applicable taxes and surcharges. Reservations for lodging shall be made according to the institution's policies and procedures. Lodging receipts are required for reimbursement.
- 6.2 Lodging may be direct billed if allowed by the institution's policies and procedures; however, the traveler must attach a copy of the lodging invoice or other proof of lodging to the traveler's final expense account settlement.

SECTION 7. MEALS

- 7.1 Meal expense reimbursement shall be made in accordance with the institution's policies and procedures and is limited to actual expenses for food, service and gratuities up to the applicable maximum daily rate authorized by the Commission or Governing Board. Specifically excluded are alcoholic beverages and entertainment expenses.
- 7.2 Receipts are not required for meal reimbursement.

SECTION 8. REGISTRATION FEES

- 8.1 Fees or charges for attendance at conferences, meetings, seminars, and/or workshops, as well as event related materials, are reimbursable expenses to the traveler and shall be made according to the institution's policies and procedures. Registration fees may also be direct billed to the institution when feasible.
- 8.2 Receipts are required for reimbursement. The receipt/documentation provided by the event sponsor shall be sufficient for reimbursement.
- 8.3 The traveler shall not receive an allowance or reimbursement for lodging or food that is included in registration fees.

SECTION 9. OTHER EXPENSES

- 9.1 Travelers may incur other business related expenses for which reimbursement may be made if appropriate. Receipts are not required unless reimbursement is in excess of current Internal Revenue Service limits for miscellaneous expenses, or unless otherwise required by the institution. Such expenses and reimbursement may include, but are not limited to:
- a. Baggage handling and gratuities when using public transportation or conveniences (i.e., taxi, limousine, air porter services, or airport/rail curbside check-in), or when using a lodging facility that has portering (i.e., "bell person") services rather than a facility where the traveler is expected to carry her or his own luggage;
 - b. Baggage storage between appointments, and between hotels and meeting places;
 - c. Tolls, garage and parking fees, including gratuities;
 - d. Communication expenses such as: (1) local calls which may include a surcharge; (2) long distance calls which may include toll charges and surcharges; (3) surcharges for long distance calls when the toll charges are direct billed; (4) cellular telephone charges; and (5) facsimiles, cablegrams, or telegrams which may include toll charges, surcharges, or delivery charges.
 - e. Currency conversion;
 - f. Guides, interpreters, and visa fees; and
 - g. Trips involving multiple days of travel or for single day travel where the traveler is unexpectedly delayed for business reasons, the traveler may be reimbursed for one personal telephone call home per day. Reimbursement shall be made at actual cost, not to exceed the maximum amount established by the Governing board, provided the call is not charged to the telecommunications card issued by the state or the Governing board.
- 9.2 Non-reimbursable travel related expenses include the cost of passports (not as a travel expense, but may be considered as a direct charge to the institution), interest on late payment of individually held credit cards, laundry fees, and personal flight or baggage insurance. Exceptions may be approved by the Chancellor, Chief Executive Officer or designee.
- 9.3 Persons traveling in foreign countries should report their expenditures in United States dollars. The total expenditure in foreign currency must be converted into United States dollars at the rate or rates at which the foreign money was obtained. The rates of conversion and the commissions charged must be shown.

SECTION 10. FORM OF PAYMENT FOR BUSINESS TRAVEL

- 10.1 Corporate Charge Card or Credit Card: Travelers should use the corporate charge card issued by the State of West Virginia for business related travel expenses, or a higher education corporate charge card if available.
- 10.2 Cash Advances from the State Auditor's Office: Cash advances for official travel may be requested from the State Auditor's Office according to the procedures established by the Auditor for employee and student travel, and for group travel such as bands, athletic teams and organized student groups. The Governing Boards shall establish policies and procedures for requesting and settling cash advances with the Auditor.
- 10.3 Cash Advances from an Automatic Teller Machine (ATM) using the State Corporate Credit Card:
 - 10.3.1 Employees may secure a cash advance for business travel expenses only. Cash advances are not permitted for personal purposes.
 - 10.3.2 A cash advance for either in-state or out-of-state travel is permissible when an employee travels a minimum of two (2) consecutive days on official business. The preferred method of obtaining a cash advance is to use the state corporate credit card at an ATM. Cash advances and ATM transaction fee reimbursements are limited to the amount and number authorized by the Commission. Receipt(s) from the ATM are required for reimbursement of the ATM transaction fee.
 - 10.3.3 For employees ineligible to receive a state corporate credit card or those who have applied and have not yet received their card, the cash advance procedure in Paragraph 10.2 shall apply.
 - 10.3.4 Each institution shall adopt and actively pursue policies and procedures to manage and minimize credit losses by employees using the corporate charge card.
- 10.4 Direct Billing: Direct billing may be authorized by the appropriate institutional representative in accordance with the institution's policies and procedures. The traveler is responsible for attaching to her/his final expense account settlement copies of receipts, invoices, documentation, etc. for any direct billed fee.

SECTION 11. REIMBURSEMENT FORMS

- 11.1 The form(s) used for reimbursement of travel expenses shall be those promulgated by the Chancellor.

SECTION 12. OTHER PROVISIONS

- 12.1 According to the West Virginia Ethics Commission, frequent flier miles, hotel bonus points or other travel incentives resulting from official business travel may be used only for future official travel.

**TITLE 133
PROCEDURAL RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 30
PURCHASING**

§133-30-1. GENERAL

- 1.1 Scope: This joint rule establishes rules and policies governing and controlling purchase, acquisition and inventory management of materials, supplies, equipment, services, construction, and printing, and disposal of obsolete and surplus materials, supplies, and equipment by the West Virginia Higher Education Policy Commission, created pursuant to West Virginia Code §18B-1B-1 and hereinafter referred to as the "Commission", the West Virginia Council for Community and Technical College Education, created pursuant to West Virginia Code §18B-2B-3 and hereinafter referred to as the "Council" and the institutional boards of governors, created pursuant to West Virginia Code §18B-2A-1 and hereinafter referred to as the "Governing Boards."
- 1.2 Authority: West Virginia Code §18B-5-4 through §18B-5-9.
- 1.3 Filing Date: December 21, 2004
- 1.4 Effective Date: January 21, 2005
- 1.5 Modification of Existing Rule: Title133, Series 30, Procedural Rule of the West Virginia Higher Education Policy Commission dated August 1, 2002.

§133-30-2. DEFINITIONS

- 2.1 As used in this rule, all terms have the same meaning as provided in West Virginia Code §18B-1-2, and as follows:
 - 2.1.1 "Buyer" means an individual designated by a chief procurement officer to perform designated purchasing and acquisition functions as authorized by the chief procurement officer.
 - 2.1.2 "Chancellor for higher education" means the chief executive officer of the Commission employed pursuant to West Virginia Code §18B-1B-5.
 - 2.1.3 "Chancellor for community and technical college education" means the chief executive officer of the Council employed pursuant to West Virginia Code §18B-2B-3.

- 2.1.4 "Commission Office" means the office that houses the Vice Chancellor for Administration and such professional, administrative, clerical and other employees as may be necessary to assist the Vice Chancellor for Administration perform his or her functions, tasks and duties.
- 2.1.5 "Chief procurement officer" means the individual designated by a president of a state institution of higher education to manage, oversee and direct the purchasing, acquisition and inventory management of materials, supplies, equipment, services, and printing, and disposal of obsolete and surplus materials, supplies, and equipment for that institution. For the Commission Office and West Virginia Network for Educational Telecomputing, the chief procurement officer is the person designated by the Vice Chancellor for Administration.
- 2.1.6 "Commodity" means an article which is useful or serviceable, particularly an article of merchandise movable in trade; a good, or service of any kind, including construction; an article of trade or commerce; things that are bought and sold.
- 2.1.7 "Essential service" means something basic; a commodity that is necessary, indispensable, or unavoidable and is purchased in a routine, repetitive, and noncompetitive manner.
- 2.1.8 "Institution(s)" means any public West Virginia university, college, and community and technical college, individually or collectively, created pursuant to West Virginia Code §18B-1-2. For the purposes of this rule, the Commission Office and West Virginia Network for Educational Telecomputing shall also be considered institutions.
- 2.1.9 "F.O.B. destination" and "free on board destination" mean the seller or vendor must transport or pay for the transportation of the materials, supplies, equipment, services and printing, to the point of destination specified in the contract.
- 2.1.10 "Governing Boards" or "Boards" means the institutional boards of governors created pursuant to West Virginia Code §18B-2A-1.
- 2.1.11 "Higher education institution" means an institution as defined by Sections 401(f), (g) and (h) of the federal Higher Education Facilities Act of 1963, as amended.

- 2.1.12 "President" means the chief executive officer of a higher education institution.
- 2.1.13 "Sole source" means only one vendor can supply the desired product or service.
- 2.1.14 "Single source" means that the desired product or service is available from only one supplier because of the uniqueness and characteristics of the product or service offered.
- 2.1.15 "Responsible bidder" and "responsible vendor" mean a person and/or vendor who have the capability in all respects to perform contract requirements, and the integrity and reliability which will assure good faith performance.
- 2.1.16 "Responsive bidder" and "responsive vendor" mean a person and/or vendor who has submitted a bid which conforms in all material respects to the invitation to bid.
- 2.1.17 "Vendor" means a seller of goods and services.
- 2.1.18 "West Virginia Council for Community and Technical College Education" or "Council" means the council created pursuant to West Virginia Code §18B-2B-1.
- 2.1.19 "West Virginia Higher Education Policy Commission" or "Commission" means the commission created pursuant to West Virginia Code §18B-1B-1.
- 2.1.20 "Vice Chancellor for Administration" means that person employed by the Commission with the advice and consent of the Council in accordance with West Virginia Code §18B-4-2. The Vice Chancellor for Administration shall assume all powers and duties that were assigned to the Senior Administrator.

§133-30-3. APPLICABILITY

- 3.1 This procedural rule applies to all institutions as defined in Section 2 of this rule.

§133-30-4. AUTHORITY OF THE COMMISSION AND COUNCIL

- 4.1 Pursuant to West Virginia Code §18B-5-4, the Commission and Council shall jointly adopt rules governing and controlling acquisitions, purchases and inventory management of materials, supplies, equipment, services,

construction, and printing, and the disposal of obsolete and surplus materials, supplies, and equipment.

§133-30-5. AUTHORITY AND DUTIES OF THE VICE CHANCELLOR FOR ADMINISTRATION

- 5.1 The Vice Chancellor for Administration shall, in the name of the Commission and Council, have the authority and duty to:
 - 5.1.1 Administer and oversee the purchasing system of the Commission, Council and Governing Boards;
 - 5.1.2 Recommend to the Commission and Council additional rules or modifications to this rule as may be required for efficient and cost effective management of purchases, inventorying of materials, supplies, and equipment and disposal of obsolete and surplus materials, supplies, and equipment;
 - 5.1.3 Develop administrative manuals, guidelines, procedures, and forms which shall be followed by the institutions for purchase, acquisition and inventory management, and disposal of obsolete and surplus materials, supplies, and equipment.
 - 5.1.4 Provide for a periodic audit of the institutions for compliance with the rules and policies that have been adopted by the Commission and Council and the administrative manuals, guidelines, procedures and forms developed by the Vice Chancellor for Administration;
 - 5.1.5 If requested, provide assistance to one or more institutions in the purchase, acquisition and inventory management of materials, supplies, equipment, services, construction, and printing, and in disposal of obsolete or surplus materials, supplies and equipment; and
 - 5.1.6 Compile the Commission's and Council's annual Report Card on West Virginia businesses from reports provided by the institutions for submission to the finance committees of the House of Delegates and the Senate by the fifteenth day of January of each year.

§133-30-6. DELEGATION OF PURCHASING AUTHORITY AND RESPONSIBILITIES

- 6.1 The Commission, Council and each Governing Board, through the Vice Chancellor of Administration, or as may be delegated by him or her, shall purchase or acquire materials, supplies, equipment, services, construction,

and printing as required by that Governing Board or the Commission and Council, as appropriate, and the institution(s) under their jurisdiction. Each Governing Board shall have fiduciary responsibility to ensure that purchases and acquisitions are made within the limits of available appropriations and funds in accordance with applicable provisions of West Virginia Code §5A-2-1 et seq., and for the inventory of materials, supplies and equipment and for disposal of obsolete or surplus materials, supplies and equipment as required by the institution(s) under their jurisdiction.

- 6.2 In order to assist the Governing Board in carrying out its duties, obligations and responsibilities under this rule, the Board may, by resolution of the Board, delegate authority to the institution's president who shall have overall control and management of the institution's purchases, inventory, and disposal of obsolete or surplus materials, supplies and equipment as required by that institution. The president shall appoint a chief procurement officer to assist the president in carrying out the duties, obligations and remedies imposed by the Governing Board and this rule. This appointment shall be made in writing and filed with the Vice Chancellor for Administration, the State Auditor and the Attorney General.
- 6.3 Unless otherwise stated in writing by the president, the chief procurement officer shall have full authority to act as the designee of the president for purchase, acquisition, receipt of and inventory management of all materials, supplies, equipment, services, construction, and printing, and for disposal of obsolete or surplus materials, supplies, and equipment as may be required by the institution.

§133-30-7. AUTHORITY, DUTIES AND REMEDIES OF THE CHIEF PROCUREMENT OFFICER

- 7.1 The chief procurement officer shall, unless otherwise stated in writing, have full authority to act in matters of institutional purchasing, inventory management and disposal of surplus and obsolete property as the designee of the president, or of the Vice Chancellor for Administration in the case of the Commission and Council Offices and West Virginia Network for Educational Telecomputing, and shall serve as the central procurement officer for the institution. This individual may also fulfill other institutional functions.
- 7.2 The chief procurement officer may appoint buyers and delegate authority to them as designees, or to any department within the institution. Delegation of authority by the chief procurement officer, and any limits thereupon, shall be in writing and filed with the Vice Chancellor for Administration, the State Auditor and the Attorney General. Responsibility for ensuring institutional compliance with the West Virginia Code and this rule shall rest with and be the responsibility of the chief procurement officer.

- 7.3 As required by law and this rule, and consistent with administrative manuals, guidelines and procedures developed by the Vice Chancellor for Administration, the chief procurement officer shall have the duty and/or authority to:
- 7.3.1 Purchase and contract for the materials, supplies, equipment, services, construction and printing required by the institution;
 - 7.3.2 Establish institutional guidelines and procedures for purchases not exceeding \$25,000;
 - 7.3.3 Establish institutional guidelines and procedures for receiving, inventorying and distributing materials, supplies, equipment, services and printing;
 - 7.3.4 Review specifications and descriptions before soliciting bids or proposals to ensure that they are competitive and fair and do not unfairly favor or discriminate against a particular brand or vendor;
 - 7.3.5 Advertise for bids on all purchases exceeding \$25,000, and post or otherwise make available notices of all purchases for which competitive bids or proposals are being solicited by the institution's purchasing office;
 - 7.3.6 Maintain the institution's purchasing files;
 - 7.3.7 Accept or reject any and all bids in whole or in part;
 - 7.3.8 Waive minor irregularities in bids, bidding documents and/or specifications;
 - 7.3.9 Apply and enforce standard specifications;
 - 7.3.10 Manage the institution's inventory of materials, supplies and equipment, authorize transfers to or between institutions, and sell surplus, obsolete or unused materials, supplies, and equipment;
 - 7.3.11 Prescribe the amount of deposit or bond to be submitted with any bid or contract;
 - 7.3.12 Prescribe contract provisions for liquidated damages, remedies and/or other damages provisions in the event of vendor default;
 - 7.3.13 Exempt from competitive bidding purchases of materials, supplies, equipment, services and printing purchased from within state government, from West Virginia sheltered workshops, from

cooperative buying groups and consortia, and from the federal government or federal government contracts when price, availability and quality are comparable to those on the open market;

- 7.3.14 Perform chemical and physical tests on samples submitted with bids and samples of deliveries to determine compliance with specifications, if deemed necessary and prudent;
 - 7.3.15 Hear and render opinions on vendor complaints and protests;
 - 7.3.16 Register vendors with the Purchasing Division of the Department of Administration in accordance with the West Virginia Code;
 - 7.3.17 Apply the preference for resident vendors required by the West Virginia Code;
 - 7.3.18 File contracts and purchase orders that exceed the dollar limit required for competitive sealed bidding with the State Auditor;
 - 7.3.19 Submit contracts and purchase orders to the Attorney General for approval or as may be required by law, administrative procedures and guidelines;
 - 7.3.20 Ensure that purchases exceeding the dollar amount for competitive sealed bidding are encumbered and entered into the State's accounting system as required by West Virginia Code §18B-5-4(g) and §5A-2-1 et. seq.
 - 7.3.21 Apply and enforce other applicable provisions of state and federal laws pertaining to purchases, inventory management and disposal of surplus and obsolete materials, supplies, and equipment.
- 7.4 Remedies that are available to the chief procurement officer when appropriate circumstances arise include:
- 7.4.1 In the event that a vendor fails to honor any contractual term or condition, the chief procurement officer may cancel the contract and re-award the contract to the next lowest responsible and responsive bidder;
 - 7.4.2 Vendors failing to honor contractual obligations may be held responsible for all differences in cost;
 - 7.4.3 Declare a vendor or bid nonresponsible or nonresponsive and refuse to award a purchase order. All such instances shall be

substantiated in writing giving the reason(s) thereof, and such documentation shall be considered a public document available for inspection at all reasonable times; and

- 7.4.4 Suspend, for a period not to exceed one (1) year, the right of a vendor to bid on purchases when there is reason to believe that such vendor has violated any of the provisions of the terms and conditions of a contract, this rule and/or state law.

§133-30-8. PURCHASE OR ACQUISITION OF MATERIALS, SUPPLIES, EQUIPMENT, SERVICES, CONSTRUCTION AND PRINTING

- 8.1 Unless otherwise authorized by law, all purchases or acquisitions of materials, supplies, equipment, services, construction and printing shall be awarded by competitive bidding, except as provided in the following paragraphs of this rule:
- (a) Purchases not exceeding \$25,000;
 - (b) Competitive sealed proposals;
 - (c) Competitive selection procedures for professional services;
 - (d) Sole source and single source procurement;
 - (e) Emergency procurement;
 - (f) Open end and federal contracts; and
 - (g) Essential services.
- 8.2 Specifications shall be written to maximize and encourage competition. In certain cases, a "brand name or equal" may be used as a specification.
- 8.3 All purchases and acquisitions shall be made in consideration of and within limits of available appropriations and funds and in accordance with applicable provisions of West Virginia Code §5A-2, relating to expenditure schedules and quarterly allotments of funds.
- 8.4 Award shall be made to the lowest responsible and responsive vendor. In determining the lowest responsible and responsive vendor, consideration will be given to such factors as quality (meeting specifications), price, time of delivery, cost of delivery, and other terms and conditions considered prudent. Unit prices shall prevail in all cases when there is a conflict between the unit price and extended price. In some cases multiple and/or split awards may be made when determined to be in the best interest of the institution. Occasionally, purchase orders may be issued which impose no obligation to take delivery of a product and/or service and as such, these purchase orders shall be issued as blanket purchase orders or price agreements. In situations where vendors are competing to provide a service that will generate income for an institution, the award shall be made to the highest responsible and responsive bidder, taking into consideration the above factors.

- 8.5 The chief procurement officer may accept or reject, in whole or in part, any bid or proposal when the chief procurement officer believes it to be in the best interest of the institution. If any bid or proposal is rejected, a written explanation shall be placed in the purchasing file.
- 8.6 When tie bids or proposals are received, the tie shall be broken and an award made by allowing the tied vendors to make a "last and final offer." If a tie bid is not broken by a "last and final offer," then the tie may be broken by a flip of a coin, draw of the cards or any other impartial method deemed prudent by the chief procurement officer.
- 8.7 Except for exemptions granted in the West Virginia Code, all material, supplies, equipment, services and printing made upon competitive bids or proposals shall be subject to any resident vendor preference set forth in the West Virginia Code.
- 8.8 The chief procurement officer shall determine the applicability and amounts of bonds and/or deposits required of a vendor at any time, if, in his or her judgment, such security is necessary to safeguard the institution from undue risk. The chief procurement officer may require the vendor to submit a certified check, certificate of deposit, performance bond, or any other security acceptable to the chief procurement officer, payable to the institution. Personal checks and/or company checks are not acceptable. When a contract has been satisfactorily completed on which a surety bond or other deposit has been previously submitted, the spending unit shall certify the completion in writing to the chief procurement officer. The chief procurement officer, upon receipt of the notification, shall return the check or deposit to the vendor.
- 8.9 Purchases not exceeding \$25,000
- 8.9.1 The chief procurement officer shall establish institutional guidelines and procedures for purchases not exceeding \$25,000. These guidelines and procedures shall provide for obtaining adequate and reasonable records to properly account for funds and to facilitate auditing. They shall be approved by the president, filed with the Vice Chancellor for Administration and be on file in the institution's purchasing office and made available to the public upon request.
- 8.9.2 Purchases in this category do not require competitive bids or quotations.
- 8.10 Purchasing Card

8.10.1 The state purchasing card may be used as a purchasing and payment method as provided in applicable provisions of West Virginia Code §12-3-1 et seq., and as follows:

(a) Employee travel expenses when the travel is required by the employee's job and is for official business of the institution. Expenses that may be paid using the purchasing card are as follows and are limited to \$5,000 per transaction or the card limit whichever is less:

1. Transportation: Commercial air fare, chartered aircraft service, rail service, commercial rental vehicles, and miscellaneous ground transportation and fees such as shuttle service, taxi service and parking.
2. Lodging: Room accommodations only. Any extra charges will be the employee's responsibility to pay.
3. Fuel: Fuel for commercial rental or fleet vehicles only.
4. Meals: Meals for employee travel may not be paid using the purchasing card.
5. Reconciliation and settlement of employee travel expenses paid by the purchasing card shall be made according to the State Auditor's procedures, provided the procedures are consistent with the intent of applicable provisions of West Virginia Code §18B-5-4.

(b) Routine and regularly scheduled payments may be made using the purchasing card and are limited to the transaction limit of the card. Routine and regularly scheduled payments mean all payments that have either received Attorney General approval in accordance with statute or do not require such approval, and are made on a regular, predictable and routine basis whether weekly, monthly, annually, or on any other regular schedule.

1. Routine, regularly scheduled payments are limited to the following: association dues; accreditation fees; software licenses and maintenance fees; resale merchandise; maintenance contracts; temporary space rentals; inter-library loan charges; inter/intra-institutional charges; contracts for artists, entertainers, and speakers; open end contracts; license fees of all types; utilities of all types; federal, state and municipal fees and assessments; real property rental fees; postage; books and related items, including those for libraries and bookstores; hospitality expenses; travel expenses; shipping, handling, and freight charges; advertising; subscriptions; periodicals, and

publications; athletic and academic team related expenses; and necessary job related medical or drug testing and treatment.

2. The Council, Commission and each institution annually by June 30 shall provide a list of goods and services for which payment was made pursuant to this provision to the State Purchasing Division.

(c) In order to provide sufficient accounting and auditing procedures for all purchasing card transactions, each institution shall adopt and effectively use the reconciliation, reporting and payment software for the purchasing card program approved by the State Auditor and the Vice Chancellor for Administration.

(d) The Commission and Council may expand the use of the purchasing card for travel and routine and regularly scheduled payments for any institution it determines has the capacity, internal controls and record of effective management to handle the expanded responsibilities.

8.10.2 The Commission and each institution shall maintain a purchasing card that may be used for emergencies declared by the President of an institution and approved by the Chancellor up the transaction limit of the card as provided in subparagraph 8.16.2.

8.11 Purchases Greater than \$25,000

8.11.1 Competitive sealed bidding is the preferred method for purchase and acquisition of materials, supplies, equipment, services, construction and printing greater than \$25,000.

8.11.2 The chief procurement officer shall advertise for bids on all purchases exceeding \$25,000. The advertisement shall appear no less than 14 calendar days prior to the date bids are due.

8.11.3 The chief procurement officer shall, in addition to advertising, post or otherwise make available notice of all acquisitions and purchases for which competitive bids are being solicited in the purchasing office of the institution involved in the purchase no less than 14 calendar days prior to making such purchase and shall ensure that the notice is available to the public during business hours.

- 8.11.4 Bids shall be delivered to the specified location for receipt of bids by the bidder prior to the date and time of the bid opening according to the instruction contained in the request for bids and any addenda or modifications officially issued.
- 8.11.5 Bids not properly delivered or received after the required time and date shall not be opened and shall be returned to the bidder.
- 8.11.6 The bid shall be signed by an authorized agent of the bidder. A corporate signature without an individual's name and signature shall not be construed as an acceptable signature.
- 8.11.7 Facsimile and electronically transmitted bids are not acceptable for bids over \$25,000.
- 8.11.8 A bidder may make a written modification to a sealed bid prior to the bid opening, provided modifications are made by the bidder in such a manner that the bid price is not revealed or known until the bid is opened. Written modifications must be received by the chief procurement officer prior to the date and time of the bid opening. Facsimile and electronically transmitted modifications are acceptable if the bid price is not revealed.
- 8.11.9 Originals or copies of bids shall be available for public inspection after the bid opening. Vendors may designate in writing with the bid submission information contained within the bid constituting trade secrets, pursuant to West Virginia Code §29B-1-4(1), which shall be exempt from disclosure. The purchasing files shall be open for public inspection after the award has been made, except for information qualifying for the exemption set out above.
- 8.11.10 The chief procurement officer may reject an erroneous bid after the bid opening upon request of the bidder if all of the following conditions exist: (a) an error was made; (b) the error materially affected the bid or proposal; (c) rejection of the bid or proposal would not cause a hardship on the institution other than losing an opportunity to receive materials, supplies, equipment, services, construction and/or printing at a reduced cost; and (d) enforcement of the part of the bid or proposal in error would be unconscionable. In order to reject a bid or proposal, the purchasing file must contain documented evidence that all of the above conditions exist.
- 8.11.11 Price and other adjustments shall be allowed on any purchase order if specific provisions for adjustments have been incorporated in the prescribed forms and the purchase order. All such requests for adjustments shall be made in accordance with the specific

terms and conditions of the individual purchase order. In the event no provision for adjustments has been made, discretion to grant adjustments shall rest with the chief procurement officer.

8.11.12 Every person, firm or corporation selling or offering to sell to the Commission, Council, a Governing Board and its institutions, materials, supplies, equipment, services, construction and printing, upon competitive bid or otherwise, in excess of \$25,000 per order, shall be registered with the West Virginia Department of Administration, Purchasing Division, pursuant to West Virginia Code §18B-5-5 and §5A-3-12. Purchase orders in excess of \$25,000 may not be issued to any vendor not properly registered with the West Virginia Department of Administration, Purchasing Division.

8.11.13 Contracts, purchase orders and associated documents such as performance and labor/material payment bonds and certificates of insurance are not required to be approved by the Attorney General provided standard terms and conditions or standardized forms previously approved by the Attorney General are used.

8.11.14 Contracts and purchase orders that exceed the amount set forth in West Virginia Code §18B-5-4 for sealed competitive bidding shall be filed with the State Auditor.

8.12 Vendor's Rights and Duties

8.12.1 Each vendor is solely responsible for delivery of its bid or proposal to the designated location for receipt of bids or proposals prior to the specified date and time of the bid or proposal opening.

8.12.2 If there is a conflict between the extension price and the unit price, the unit price shall prevail.

8.12.3 Any changes made by the vendor in the specifications listed in the bid request must be clearly stated. If changes are not stated, it will be assumed that items offered meet the specifications in all respects.

8.12.4 Vendors are responsible for the accuracy of the information in their bid or proposal and on the bid or proposal envelope.

8.12.5 All sales to the Commission, Council and the Governing Boards are exempt from West Virginia consumer sales tax or excise tax by blanket state exemption and blanket federal exemption.

8.12.6 It is the vendor's exclusive duty and obligation to file protests and requests for reconsideration according to the requirements of Section 9, and for reconsideration of suspension, in accordance with the requirements of Section 10 of this rule; otherwise, they shall be waived.

8.13 Competitive Sealed Proposals

8.13.1 For purchases above \$25,000, competitive sealed bids are the preferred method of procurement; however, if it is either not practicable or advantageous, a contract may be entered into by a request for proposals. The words "practicable" and "advantageous" are to be given ordinary dictionary meanings. The term "practicable" denotes what may be accomplished or put into practical application. "Advantageous" connotes a judgmental assessment of what is in the institution's best interest. The key element in determining advantageousness will be the need for flexibility.

8.13.2 The request for proposal method of purchasing is used to obtain goods and services when sufficient knowledge or expertise does not exist to adequately specify the details of the desired result. The desired result is written into the request for proposals. The vendor responds to the request for proposals with a proposal identifying its intended approach to meet the desired result along with a proposed price or fee. Terms and conditions of the contract shall be included in a request for proposals, along with a pre-established award criteria based on value or points. Whenever desirable, interviews may be conducted with interested parties for clarification and/or determination of qualifications and experience prior to award. Requests for proposals go beyond price alone. They also look at the vendor's ability and resources to furnish the desired service to get the desired result. Quality of service and performance are important considerations. Requests for proposals are primarily used for large dollar projects requiring a high level of expertise on the part of the vendor.

8.14 Competitive Selection Procedures for Professional Services

8.14.1 The competitive selection procedure for professional services is similar to the process used for competitive sealed proposals; however, greater weight is given to the ability to perform the service as reflected by technical training, education and experience, and in some cases, artistic and aesthetic values and capabilities. In these cases, price may be a secondary consideration.

8.14.2 The competitive selection process for hiring architects and engineers is set forth in Chapter 5G of the West Virginia Code.

8.15 Sole Source and Single Source Procurement

8.15.1 The chief procurement officer may approve the purchase of materials, supplies, equipment, services, construction and/or printing directly from a vendor without competitive bid or proposals, if any of the following conditions exist: (a) the item cannot be obtained through ordinary purchasing procedures; (b) the item is of unique nature and not available from any other source; or (c) the item is available from a state spending unit or other institution with preference under the West Virginia Code, provided the price, availability and quality are comparable to those in the open market.

8.16 Emergency Procurement

8.16.1 Emergency purchases exceeding \$25,000 must receive the prior written approval of the chief procurement officer unless made according to subparagraph 8.16.2. An emergency situation requiring purchase of materials, supplies, equipment, services, construction or printing must be the result of unforeseen events or circumstances, including delays by contractors, delays in transportation, or an unanticipated volume of work. Emergency purchases shall not be used for hardship resulting from neglect, poor planning or lack of organization by the spending unit. Competitive bids must be obtained if possible.

8.16.2 The Commission and each institution shall maintain a purchasing card for use in and for situations declared an emergency by the president of an institution and approved by the Chancellor. Such emergencies may include but are not limited to partial or total destruction of a campus facility; loss of a critical component of utility infrastructure; heating ventilating, or air conditioning failure in an essential academic building; loss of campus road, parking lot or campus entrance; or a local, regional, or national emergency situation that has a direct impact on the campus.

8.16.3 In the event of an emergency declared by the president of the institution and approved by the Chancellor, the president or his or her designee may authorize the use of an emergency purchasing card by a designated representative in accordance with the procedures set forth in the State Auditor's Legislative Rule for the purchasing card program.

8.17 Open End Contracts and Federal Contracts

8.17.1 The Commission, Council or a Governing Board and its institution(s) may enter into open end contracts for materials, supplies, equipment, services, construction and/or printing to supply their respective needs in the form of statewide contracts, blanket orders or price agreements. Once issued, purchases and acquisitions may be made from these contracts without securing any other bids or quotations. These contracts may be made available to other institutions, the Commission and Council for their use.

8.17.2 The Commission, Council, a Governing Board and its institution(s) may, without securing any other bids or quotations, make purchases from cooperative buying groups, consortia, the federal government and from federal government contracts if the materials, supplies, equipment, services, and printing to be purchased are available from these groups, consortia, or the federal government and its contracts, and if this is the most financially advantageous manner of making the purchase.

8.18 Essential Services

8.18.1 Essential services may be purchased and paid for by the Commission, Council, a Governing Board and its institution(s) without securing competitive bids or proposals or issuing purchase orders. Commodities in this category may include but are not limited to utilities of all kinds; postage; items for resale; municipal, county, state, and federal fees; student awards, stipends, loans and grants; shipping and freight charges; tuition and registration fees and refunds thereof; professional dues; etc. The Vice Chancellor for Administration shall issue guidelines for the purchase of and payment for essential services.

8.19 Motor Vehicle Purchase

8.19.1 The purchase and leasing of motor vehicles shall be consistent with this rule, and guidelines and procedures adopted by the Commission, Council, a Governing Board and the Vice Chancellor for Administration.

8.20 Procurement File

8.20.1 The chief procurement officer shall maintain a purchasing file for each procurement or acquisition. This file shall contain all relevant information pertaining to such purchase or acquisition, including

but not limited to: (a) bids, proposals or quotations received in response to a request for sealed bids or proposals; however, an unopened bid or proposal shall not be considered a public document or record; (b) identification and certification of the successful bid; (c) why any bid or proposal is rejected in whole or in part; (d) justification for award to other than the lowest vendor; and (e) vendor protests or complaints. The purchasing file shall be a public record open to inspection during normal business hours. No records in the purchasing file shall be destroyed without the written consent of the Legislative Auditor, except as set forth in subparagraph 8.20.2.

8.20.2 Those files in which the original documentation has been held for at least one year and in which the original documents have been reproduced and archived on microfilm or other equivalent method of duplication may be destroyed without written consent of the Legislative Auditor. All files, no matter the storage method, shall be open for inspection by the Legislative Auditor upon request.

8.21 Report Card on West Virginia Businesses

8.21.1 Each institution shall prepare an annual report in the format prescribed by the Vice Chancellor for Administration, which shall include, but not be limited to, information regarding the number of out-of-state entities with which the institution contracted, the number of in-state firms with which the institution contracted, the dollar amount of each contract, the equipment, commodity or service for which the contract was let, and the institution's recommendations, if any, on the manner in which purchasing procedures can be improved. This report shall be submitted to the Vice Chancellor for Administration by the first day of October for the preceding fiscal year.

8.21.2 The Vice Chancellor for Administration shall compile the reports submitted by each institution and consolidate the data into the Commission's and Council's annual Report Card, which is to be submitted to the finance committees of the House of Delegates and the Senate annually by the fifteenth day of January.

8.22 Approval of Lease-Purchase Arrangements for the Governing Boards

8.22.1 After the Commission or Council has granted approval for lease-purchase arrangements by a Governing Board, the Governing Board may enter into lease-purchase arrangements for capital improvements, including equipment. Any lease-purchase

agreement exceeding one million dollars in total must have prior approval of the Commission or Council.

8.22.2 Proposals for any lease-purchase arrangements shall be made in accordance with West Virginia Code §18B-5-4(q). The Vice Chancellor for Administration may establish guidelines and a format for receiving, considering and approving such proposals.

8.22.3 Lease-purchase agreements exceeding one hundred thousand dollars must be approved as to form by the Attorney General.

8.23 Lease Agreements for Grounds, Buildings, Office Space or Other Space

8.23.1 The Commission, Council and Governing Boards have the authority to enter into lease agreements for grounds, buildings, office space or other space in the name of the State for more than one fiscal year but not exceeding forty years under the following conditions:

- (a) The Commission, Council and institutions shall be responsible for all rent and other necessary payments in connection with the contract of lease; and
- (b) Satisfactory grounds, buildings, office or other space is not available on grounds and in buildings currently owned or leased.

8.23.2 Before executing any rental contract or lease, the Commission, Council or a Governing Board, as appropriate, shall do the following:

- (a) Determine the fair rental value of the grounds, building, office space or other space to be leased in the condition in which they exist, and shall contract for or lease the premises at a price not to exceed the fair market value;
- (b) Leases shall contain, in substance, all of the following provisions:
 - 1. That the Commission, Council or Governing Board, as lessee, has the right to cancel the lease without further obligation on the part of the lessee upon giving thirty days' written notice to the lessor at least thirty days prior to the last day of the succeeding month;
 - 2. That the lease shall be considered canceled without further obligation on the part of the lessee if the Legislature

or the federal government fails to appropriate sufficient funds for the lease or otherwise acts to impair the lease or causes it to be canceled; and

3. That the lease shall be considered renewed for each ensuing fiscal year during the term of the lease unless it is canceled by the Commission, Council or the Governing Board before the end of the then-current fiscal year.

- 8.23.3 The Commission, Council or an institution which is granted any grounds, buildings, office space or other space leased in accordance with West Virginia Code §18B-5-4 may not order or make permanent changes of any type unless the Commission, Council or the Governing Board, as appropriate, has first determined that the change is necessary for the proper, efficient and economically sound operation of the institution. For purposes of this section, a "permanent change" means any addition, alteration, improvement, remodeling, repair or other change involving the expenditure of state funds for the installation of any tangible thing which cannot be economically removed from the grounds, buildings, office space or other space when vacated by the institution.
- 8.23.4 Leases and other instruments for grounds, buildings, office or other space, once approved by the Commission, Council or Governing Board, may be signed by the chief executive officer of the Commission, Council or the institution. A lease and other instrument entered into by a Governing Board that exceeds one million dollars in total must receive prior approval of the Commission or Council, as appropriate, before being executed by the Governing Board or institution.
- 8.23.5 The Commission or Council shall present to the Joint Committee on Government and Finance for prior review any purchase of real estate, any lease-purchase agreement and any construction of new buildings or other acquisitions of buildings, office space, grounds resulting from a lease entered into pursuant to the provisions of West Virginia Code §18B-5-4(r)(2).
- 8.23.6 Any lease or instrument exceeding one hundred thousand dollars annually shall be approved as to form by the Attorney General. A lease or other instrument for grounds, buildings, office or other space that contains a term, including any options, of more than six months for its fulfillment shall be filed with the State Auditor.
- 8.23.7 The Commission and Council may promulgate additional rules deemed necessary to carry out the provisions of this section, and

the Vice Chancellor for Administration may issue procedures for complying with this section

§133-30-9. PROTESTS AND RECONSIDERATION

- 9.1 Protests and requests for reconsideration of a decision made by a chief procurement officer may only be made by a person and/or vendor who is a potential or actual bidder on that particular contract and/or purchase.
- 9.2 Protests
 - 9.2.1 Protests based on specifications or improprieties in any type of solicitation which are apparent or should have been apparent prior to the bid or proposal opening or closing date must be filed not later than five calendar days prior to the bid or proposal opening or closing date. A protest of the award must be filed no later than five calendar days following the notice of the institution's intent to award the contract as posted or otherwise made available in the institution's purchasing office for competitive transactions greater than \$25,000. Protests filed prior to five calendar days following the notice of intent to award shall be resolved in accordance with this rule before an award is made. Information regarding awards may be obtained from the institution's purchasing office, and a vendor contemplating a protest has a duty to obtain this information in a timely manner.
 - 9.2.2 The protest must be filed in writing with the chief procurement officer and contain the name and address of the protestor, the requisition number of the bid or the purchase order number, a statement of the grounds for protest and supporting documentation, the relief sought, and if a hearing on the merits of the protest is requested.
 - 9.2.3 The chief procurement officer shall review the protest and issue a decision in writing. In the event a hearing on the merits of the protest is requested by the protestor, the chief procurement officer shall set a time and place for the hearing. The hearing shall be recorded and an official record shall be prepared. Following the hearing, the chief procurement officer shall issue a written decision.
- 9.3 Reconsideration
 - 9.3.1 Reconsideration of a decision on a protest by the chief procurement officer may be requested by an aggrieved party to the institution's chief financial officer. A request for reconsideration shall be made in writing within five calendar days after receiving the

chief procurement officer's written decision, and it shall contain the name and address of the aggrieved party, the requisition or purchase order number, a statement of the grounds for reconsideration with supporting documentation, the relief sought, and if a hearing on the merits is requested.

- 9.3.2 The chief financial officer shall review the request for reconsideration and issue a decision in writing. In the event a hearing on the merits is requested by the aggrieved party, the chief financial officer shall set a time and place for the hearing. The hearing shall be recorded and an official record shall be prepared. Following the hearing, the chief financial officer shall issue a decision in writing to the aggrieved party and his or her decision shall be final.
- 9.3.3 The chief procurement officer and chief financial officer may refuse to decide any protest or reconsideration where the matter involved is the subject of litigation before a court of competent jurisdiction, or has been decided on the merits by such court. The foregoing shall not apply where the court requests, expects or otherwise expresses interest in the decision of the chief procurement officer and chief financial officer.

§133-30-10. SUSPENSION AND RECONSIDERATION

10.1 Suspension

- 10.1.1 The chief procurement officer shall have authority to suspend, for a period not exceeding one year, the right and privilege of a person to bid on purchases of the institution.
- 10.1.2 The following shall be considered adequate grounds for suspension of a vendor: (a) a vendor has exhibited a pattern of poor performance in fulfilling its contractual obligation(s) including, but not limited to, providing or furnishing commodities, materials, or services or construction late, or at a quantity or quality level below that which is specified in the contract, or repeated instances of poor performance; or (b) the vendor has breached any contract entered into pursuant to the provisions of West Virginia Code §18B-5-4 through §18B-5-9 or this rule, or the vendor has been convicted of any federal or state law punishable as a felony if such conviction is directly related to the performance of a contract entered into pursuant to West Virginia Code §18B-5-4 through §18B-5-9 or this rule. Any such suspension must be imposed within one year of the date of the act, omission, or conviction the suspension is based upon, or within one year of the chief

procurement officer's discovery of such act, omission, or conviction.

10.2 Reconsideration

- 10.2.1 Reconsideration of a decision on suspension by the chief procurement officer may be requested by an aggrieved party to the institution's chief financial officer. A request for reconsideration shall be made in writing within five calendar days after receiving the chief procurement officer's decision and it shall contain the name and address of the aggrieved party, a statement of the grounds for reconsideration with supporting documentation, the relief sought, and if a hearing on the merits is requested.
- 10.2.2 The chief financial officer will review the request for reconsideration and issue a decision in writing. In the event a hearing on the merits is requested by the aggrieved party, the chief financial officer shall set a time and place for the hearing. The hearing shall be recorded and an official record prepared. Following the hearing, the chief financial officer will issue a decision in writing to the aggrieved party and his or her decision shall be final.
- 10.2.3 The chief financial officer may refuse to decide any reconsideration when the matter involved is the subject of litigation before a court of competent jurisdiction, or has been decided on the merits by such court. The foregoing shall not apply when the court requests, expects or otherwise expresses interest in the decision of the institution.

10.3 Vice Chancellor for Administration

- 10.3.1 An institution that suspends the right and privilege of a vendor to bid on purchases of the institution shall forward a copy of the suspension notice to the chief procurement officer of the Commission Office, who shall maintain a record of such suspension and shall notify all institutions as well as the Director of the State Division of Purchasing of such suspension.
- 10.3.2 If the chief procurement officer of the Commission Office determines that the actions of the vendor leading to the suspension by an institution are of a serious enough nature to justify imposition of a system-wide suspension, he or she shall forward the suspension and his or her recommendation to the Vice Chancellor for Administration for review. If the Vice Chancellor for Administration determines that the actions of the suspended

vendor justify a system-wide suspension, he or she shall notify the vendor and all institutions of the system-wide suspension.

§133-30-11. QUALIFICATIONS OF A BUYER AND A CHIEF PROCUREMENT OFFICER

11.1 Buyer

11.1.1 No person shall be employed as a buyer unless that person, at the time of employment, is either: (a) a graduate of an accredited college or university; or (b) has at least four year's experience in purchasing for any unit of government or for any business, commercial or industrial enterprise.

11.1.2 Any person making purchases and acquisitions pursuant to this section shall execute a bond in the penalty of fifty thousand dollars, payable to the state of West Virginia, with a corporate bonding or surety company authorized to do business in this state as surety thereon, in a form prescribed by the Attorney General and conditioned upon the faithful performance of all duties in accordance with West Virginia Code §18B-5-4 through §18B-5-9 and this rule. In lieu of separate bonds for such buyers, a blanket surety may be obtained. Any such bond shall be filed with the Secretary of State. The cost of any such bond or bonds shall be paid from funds appropriated to the Commission, Council or Governing Board.

11.2 Chief Procurement Officer

11.2.1 From the date of adoption of this rule by the Commission and Council and henceforth, no new person shall be employed as a chief procurement officer unless that person, at the time of employment, is: (a) a graduate of and has received a baccalaureate degree from an accredited college or university; and (b) has at least four year's experience in purchasing for any unit of government or for any business, commercial or industrial enterprise.

11.2.2 The bonding provisions set forth in subparagraph 11.1.2 shall also apply to any person employed as a chief procurement officer.

§133-30-12. PROMPT PAYMENT

12.1 Each institution purchasing or acquiring materials, supplies, equipment, services and printing in accordance with West Virginia Code §18B-5-4 through §18B-5-9 and this rule, shall notify and inform every vendor doing

business with that institution of the provisions of West Virginia Code §5A-3-54, also known as the "Prompt Pay Act of 1990."

§133-30-13. RECEIVING AND INVENTORY MANAGEMENT

13.1 Receiving

13.1.1 The chief procurement officer shall establish institutional guidelines and procedures for receiving and distributing materials, supplies, equipment, services and printing to departments and offices within the institution. These guidelines and procedures shall be consistent with this rule, and they shall be approved by the president, filed with the Vice Chancellor for Administration and shall be on file in the institution's purchasing office and made available to the public upon request.

13.2 Inventory Management

13.2.1 The chief procurement officer shall inventory all equipment and furnishings that have a value at the time of purchase or acquisition of \$5,000 or more per unit. Such inventory shall be kept current at all times. An institution may elect to inventory equipment and furnishings with a value less than \$5,000 per unit.

13.2.2 The chief procurement officer shall set up and maintain the institution's inventory management system on the basis of generally accepted accounting standards. This system shall also conform to the requirements of the Commission, Council, the Governing Board, the state and the federal government as applicable.

13.2.3 The chief procurement officer shall conduct an annual audit of the institution's inventory.

§133-30-14. DISPOSAL OF SURPLUS OR OBSOLETE MATERIALS, SUPPLIES AND EQUIPMENT

14.1 The chief procurement officer shall identify and inventory the institution's surplus or obsolete materials, supplies and equipment and shall store such materials, supplies and equipment until such time as they may be disposed of in a manner consistent with this rule and state law.

14.2 An institution may dispose of surplus or obsolete materials, supplies and equipment by transfer to other governmental agencies or institutions, by exchange or trade, or by sale as junk or otherwise.

- 14.3 If the method of disposition is other than by transfer to, or exchange or trade with other governmental agencies or institutions, the chief procurement officer shall, at least ten days prior to the disposition, advertise once a week for two consecutive weeks by newspaper publication as a Class II legal advertisement in compliance with the provisions of West Virginia Code §59-3-1 et. seq., in the county where the surplus or obsolete materials, supplies and equipment are located, their availability or sale, in whole or part, at public auction or by sealed bid, as sound business practices may warrant under existing circumstances and conditions.
- 14.4 An institution may also dispose of surplus or obsolete materials, supplies and equipment through the surplus property unit of the Purchasing Division of the West Virginia Department of Administration; in which case, all of the rules and regulations of the Department of Administration shall be followed.
- 14.5 Under no circumstances shall any of the property described in this section be sold, transferred or conveyed to any private person, firm or corporation other than at public auction or by sealed bid or as otherwise provided in West Virginia Code §18B-5-7.
- 14.6 The funds an institution receives from the sale of surplus materials, supplies, and equipment shall be deposited in the institutional account originally used to purchase said materials, supplies, and equipment, if such account is readily ascertainable, minus any administrative costs associated with the disposal.

§133-30-15. VIOLATIONS

- 15.1 Any person who authorizes or approves a purchase contract in a manner in violation of the West Virginia Code, this rule, or any policy or procedure adopted by the Commission, Council and the Governing Board shall be personally liable for the cost of such purchase or contract. Purchases or contracts violating the West Virginia Code and/or this rule shall be void and of no effect.
- 15.2 Any person receiving anything of value from a known interested party in the awarding of a purchase order shall be subject to the provisions of West Virginia Code §5A-3-28, -29, -30, -31.
- 15.3 Except as may be authorized by the provisions of Chapter 6B of the West Virginia Code, neither the Commission, Council or a Governing Board, nor any employee of the Commission, Council or a Governing Board, shall be financially interested, or have any beneficial personal interest, directly or indirectly, in the purchase of any equipment, materials, supplies, services, or printing, nor in any firm, partnership, corporation or association furnishing them. Neither the Commission, Council or a Governing Board nor any

employee of the Commission, Council or a Governing Board shall accept or receive directly or indirectly, from any person, firm or corporation, known by the Commission, Council, Governing Board or such employee to be interested in any bid, contract or purchase, by rebate, gift or otherwise, any money or other thing of value whatsoever or any promise, obligation or contract for future reward or compensation.

- 15.5 Any vendor violating the West Virginia Code or this rule may be suspended from the right to bid on or submit a proposal for institutional purchases for a period of up to one year.

§133-30-16. PERFORMANCE AUDITS

- 16.1 The Joint Committee on Government and Finance is required by West Virginia Code to conduct performance audits and the Commission or Governing Board shall be responsible for paying the cost of the audit from funds appropriated to the Commission or Governing Board.
- 16.2 The Commission also has an obligation under West Virginia Code to conduct performance audits of the policies, procedures and results of the procurement of goods and services by the state institutions of higher education and report to the Legislative Oversight Committee on Educational Accountability (LOCEA) on the results of the performance audits, together with any recommendations for additional actions that might be taken to improve the efficiency, effectiveness and economy of the administrative operations of the institutions and the Commission.

§133-30-17. PERMITTING PRIVATE INSTITUTIONS OF HIGHER EDUCATION TO JOIN AS PURCHASERS

- 17.1 The Commission and Governing Boards shall permit private institutions of higher education to join as purchasers on purchase contracts for materials, supplies, equipment, services and printing entered into by the Commission and Governing Board or the institutions under the Board's control. Any private school desiring to join as a purchaser on such purchase contracts shall file with the Vice Chancellor for Administration an affidavit signed by the president of the institution of higher education or a designee, requesting that it be authorized to join as a purchaser on such contracts, and agreeing that it will be bound by such terms and conditions as the Commission or Governing Board may prescribe, and that it will be responsible for payment directly to the vendor under each purchase contract.

**TITLE 133
PROCEDURAL RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 31
ETHICS**

SECTION 1. GENERAL

- 1.1 Scope - This rule establishes guidelines for institutional governing boards in adopting policies in accordance with the West Virginia Governmental Ethics Act.
- 1.2 Authority - West Virginia Code § 18B-1-6, 6B-2-5(L)
- 1.3 Filing Date – July 2, 2002
- 1.4 Effective Date – August 1, 2002
- 1.5 Preamble - In 1989, the West Virginia Legislature enacted the West Virginia Governmental Ethics Act, set out in Chapter 6B of the West Virginia State Code, declaring unlawful certain activities by public employees. Section 5(b), Article 2 of the Act prohibits a public employee from using his or her office or the prestige of that office for his or her private gain or that of another person. Section 5(c), Article 2 prohibits solicitation of gifts that may confer pecuniary benefits upon the employee or his or her immediate family. Section 5(d), Article 2 prohibits an interest in the profits or benefits of a public contract which an employee has direct authority to enter into or over which he or she may have control.

The original version of the Ethics Act subjected all public employees, including higher education employees, to fines, sanction, and criminal prosecution for violation of the Ethics Act unless they obtained prior approval for the proposed activity from the West Virginia Ethics Commission. Many of the teaching, research, consulting and publication activities of higher education faculty and staff necessarily result in known and appropriate private benefits or gain which are customary and normal in higher education, but which were identified as potential violations of these provisions of the Ethics Act after its enactment.

In 1990, the Ethics Act was amended at Section 5(l), Article 2 to allow higher education employees who derive private benefits from teaching, research, consulting, or publication activities the option of seeking exemption from the above prohibitions from their employing institution instead of through the Ethics Commission.

The previous Board of Trustees and Board of Directors adopted a rule to set forth an expeditious procedure for granting such approval of

exemptions at the institutional level to faculty and staff members who sought to be relieved of certain statutorily imposed prohibitions of the West Virginia Governmental Ethics Act. The Policy Commission has previously transferred that rule to the jurisdiction of the institutional governing boards. This rule shall govern any modification of that rule by a governing board.

- 1.6 Repeal of Former Rule - Repeals and replaces Series 43 of Title 128 and 131.

SECTION 2. APPROVAL OF ACTIVITY

- 2.1 Any rule governing ethics of its faculty or staff adopted by an institutional governing board shall include at least the following:
 - 2.1.1 That institutional approval of any activity pursuant to the rule shall be deemed to be a part of the employee's employment contract with the board.
 - 2.1.2 That any institutional approval granted pursuant to the rule may be revoked upon reasonable notice to the employee.
 - 2.1.3 That approval for any activity pursuant to this rule may only be given by an institution's president or the president's designee or designees. Such delegation of authority by a president shall be in accordance with the needs of the institution but in no case shall such delegation be at an authority level lower than a departmental chair, director or other similar department supervisor.
 - 2.1.4 That approval for any activity may be granted on a case-by-case basis or, when such activities are common within an institution, a department or other category or grouping of employees, to all of an institution's employees or any subgrouping thereof.
 - 2.1.5 That the institution shall establish appropriate procedures for the review and approval of those employee activities covered by this rule.
 - 2.1.6 That disclosures required by the rule are personal in nature and shall be kept confidential, as permitted by law.

SECTION 3. SOLICITATION OF GIFTS

- 3.1 Any such rule shall also include provisions that state:
 - 3.1.1 Unless otherwise restricted by one's supervisor, employees shall be permitted to solicit gifts which directly benefit the board or the employing institution. Solicitations on behalf of a particular department, on behalf of the institution's supporting foundation or on behalf of an affiliated corporation or center shall, for the purposes of the rule, be deemed to be a solicitation on behalf of or for the benefit of the institution.
 - 3.1.2 Permissible solicitations shall include but not be limited to the following, even though the soliciting employee may work in a position which will be directly or indirectly supported thereby:
 - 3.1.2.1 Grants from governmental agencies, foundations, corporations, or individuals to the institution to support teaching, research, publication or service activities of the institution;
 - 3.1.2.2 Contracts with governmental agencies, foundations, corporations, or individuals to the institution to support teaching, research, publication or service activities of the institution;
 - 3.1.2.3 Donations from foundations, corporations, or individuals to the institution to support teaching, research, publication or service activities of the institution.
 - 3.1.3 Support for teaching, research, publication and service activities shall include but not be limited to such normal and regular institutional needs as support for salaries; scholarships; capital improvements or repairs; and classroom, laboratory, athletic, medical, scientific, and other similar equipment supplies.

SECTION 4. USE OF PUBLIC OFFICE FOR PRIVATE GAIN

- 4.1 Any such rule shall also provide that:
 - 4.1.1 No solicitation or other activity permitted by the rule shall be deemed to be the inappropriate use of an employee's public office (position) or the prestige of that office for one's own private gain or that of another person.

- 4.1.2 When an employee uses his or her knowledge and personal prestige for private gain without the use of the employee's public office, then there is no requirement to obtain an exemption under the ethics rule.
- 4.1.3 W. Va. Code § 6B-2-5(l) gives institutions of public higher education limited authority to grant exemptions to their employees from the prohibitions in the State Ethics Act relating to the use of public office or the prestige of public office for private gain when the employee is using his or her field of expertise as an author, speaker, consultant or through other approved activities such as service as a board member for outside agencies or businesses and when an employee of the institution seeks to use his or her public office or the prestige of their public office for the employee's private gain or for the private gain of another person, the employee may seek from an appropriate institutional authority an exemption (as limited by the Ethics Act) from the prohibition against the use of public office or the prestige of public office for private gain.
- 4.1.4. The appropriate institutional authority may grant the employee an exemption to permit the employee to use the employee's public office to derive private benefit from the employee's field of expertise as an author, speaker, consultant, or through other approved activities such as service on the board of an outside agency or business.
- 4.1.5 In granting permission for an employee to engage in such outside activities which may be directly or indirectly associated with the employee's position with the institution, consideration should be given to the following:
 - 4.1.5.1 Whether the employee brings to his/her position his/her own unique personal prestige which is based upon his/her own intelligence, education, experience, skills and abilities, or other personal gifts or traits.
 - 4.1.5.2 Whether such activity is customary and usual within the field;
 - 4.1.5.3 Whether the institution derives any benefit through prestige or otherwise from the activity;
 - 4.1.5.4 Whether the institution expects or anticipates that the employee will gain financially from the activities which are not a part of the employee's required employment activities;

4.1.5.5 Whether the employee's activity will increase his/her personal or professional development or will lend service or benefit to the nation, state or community;

4.1.5.6 Whether the outside activity will interfere with or create an overriding conflict with the employee's responsibility to the institution or will interfere with the satisfactory performance of the employee's institutional duties.

4.1.6 The disclosure by an employee of an employee's position, title, and work history with the institution in the promotion of an employee's private activities shall be exempt from the prohibition against the use of prestige of public office for a private gain. However, in these cases the employee has the responsibility to make clear the fact that he or she is not representing the institution but is speaking as a private citizen.

4.1.7 An employee who obtains an exemption from the Ethics Act prohibitions under the procedure authorized in this rule shall not be deemed an agent of the institutions when the employee is acting outside the scope of his or her other employment for his or her private benefit.

4.1.8 No exemption granted under this ethics rule shall be deemed to constitute a waiver by the institution of any lawful contractual provision in the employment contract of a full or part-time employee of the institution.

SECTION 5. INTERESTS IN PUBLIC CONTRACTS

5.1 Any such rule shall also provide that:

5.1.1 Each employee shall be required to disclose any interest the employee or any member of the employee's immediate family or a business with which he or she is associated may have in the profits or benefits of a contract which the employee may have direct authority to enter into or over which the employee may have control unless such interest is limited within the meaning of West Virginia Code 6B-2-5(d)(2).

5.1.2 The institution may review any interest an employee or any member of the employee's family or a business with which he or she is associated may have and determine what, if any, restrictions or limitation should be placed on the employee's activities.

SECTION 6. ADDITIONAL ETHICAL STANDARDS

- 6.1 A governing board may establish additional ethical standards for its employees not inconsistent with this rule or the West Virginia Governmental Ethics Act.

SECTION 7. PRESIDENTS

- 7.1 The chair of a governing board shall have the authority to review and grant approval of those activities of the institution's president which may involve a conflict of interest pursuant to this rule or the institution's rule.

**TITLE 133
PROCEDURAL RULE
HIGHER EDUCATION POLICY COMMISSION**

**SERIES 38
EMPLOYEE LEAVE**

SECTION 1. GENERAL

- 1.1 Scope - Rule regarding annual leave, military leave, leave of absence without pay, sick leave, special emergency leave, catastrophic leave, parental leave, and witness and jury leave for employees of the Higher Education Policy Commission.
- 1.2 Authority - West Virginia Code § 18B-1-6
- 1.3 Filing Date - October 20, 1992
- 1.4 Effective Date - November 19, 1992

SECTION 2. GENERAL LEAVE COVERAGE

- 2.1 Eligibility for annual and sick leave shall be based on the following:
 - 2.1.1 Employees working on a regular and continuing basis for no less than 1950 hours within a twelve (12) consecutive month period are considered to be full-time employees and are eligible for leave as specified in this document.
 - 2.1.2 Employees working between 1,040 hours and less than 1,950 on a regular and continuing basis during a twelve (12) consecutive month period shall accumulate leave on a pro rata basis.
 - 2.1.3 Employees working less than 1,040 hours are not eligible for leave benefits.
- 2.2 Faculty members on twelve-month appointments are defined as full-time employees and accrue leave according to the appropriate sections of this rule. The provisions of this rule related to annual leave, sick leave, catastrophic leave, special emergency leave, and managing work time in areas affected by interruption to utility or similar situations do not apply to faculty members on annual appointments of less than twelve months.

- 2.3 Annual and sick leave may not be taken before it is accrued. If an employee works less than a full month, annual and sick leave shall be accumulated on a pro rata basis.
- 2.4 During a terminal leave period, no type of leave may be accrued. Terminal leave is the period following the last day of scheduled work from employment such as resignation, retirement, etc.
- 2.5 Length of service shall be total years of service which includes experience with state institutions of higher education and other state agencies. Continuous service is not required to complete the required term. Annual appointment periods of nine (9) months or more shall be credited for one (1) year of service for annual leave calculation purposes.
- 2.6 A recognized institutional holiday occurring during an employee's leave period shall not be considered as a day of leave, provided the employee is not in a terminal leave period.
- 2.7 Up to fifteen (15) days of annual leave may be transferred from other agencies of state government and state higher education institutions to other higher education institutions. Certification of the balance which existed in the agency or institution from which the employee is transferring must accompany the request for transfer and bear the signature of an officer of that agency. A request for transfer must be made within one (1) year from the last day of employment with the other agency or institution.
- 2.8 When an employee transfers from other agencies of state government or from other state institutions of higher education to another institution, the employee's accumulated sick leave may be transferred. Written verification of the accumulated amount of sick leave to be transferred must be provided by the state agency or institution of higher education wherein the employee accumulated the sick leave within one (1) year of the date of employment with the institution.
- 2.9 An employee is required to notify her/his supervisor immediately if ill or unable to work for any reason and to follow the institution's established procedures for absences from work. The notification shall be given to the immediate supervisor or designee, as determined by established procedures of the institution.
- 2.10 Employees on leave of absence without pay shall not accrue annual or sick leave or years of service credit for any and all full months in which they are off the payroll.
- 2.11 Each institution shall keep on file a record showing current leave status of each employee.

SECTION 3. ANNUAL LEAVE

- 3.1 Full-time non-classified employees and faculty with twelve-month appointments shall be eligible for up to twenty-four (24) days leave per year calculated at the rate of 2.00 days per month from the date of employment. However, upon leaving a non-classified position, the accumulation rates outlined in Section 3.2 shall apply.
- 3.2 Employees occupying full-time classified positions shall be eligible for annual leave on the following basis:
 - 3.2.1 Less than 5 years' service: 1.25 days per month;
 - 3.2.2 5 but less than 10 years' service: 1.50 days per month;
 - 3.2.3 10 but less than 15 years' service: 1.75 days per month;
 - 3.2.4 15 or more years' service: 2.00 days per month.
- 3.3 Employees working at least 1,040 hours per twelve (12) consecutive months on a regular and continuing basis, but less than 1,950 hours shall accumulate annual leave on a pro rata basis.
- 3.4 Accumulated annual leave for continuing employees may be extended beyond that earned during a period of one (1) year by written approval of the president or her/his designee, but in no case shall it exceed twice the amount earned in any twelve-month period.
- 3.5 An employee is entitled to accumulated leave at termination of service, but in no case may this exceed the limits set in 3.4 above.

SECTION 4. OTHER CONDITIONS FOR ANNUAL LEAVE

- 4.1 At the request of the employee through established procedures, annual leave may be granted because of illness.
- 4.2 The work requirements of the institution shall take priority over the scheduling of annual leave or other leave for an employee. When operationally possible, the supervisor shall grant earned annual leave at the convenience of the employee. However, departmental needs must be met, and annual leave may not be taken without prior request and approval of the employee's supervisor.
- 4.3 In the event of an employee's death, the value of accumulated annual

leave will be paid to the employee's estate.

SECTION 5. SICK AND EMERGENCY LEAVE

- 5.1 Full-time employees shall accumulate sick leave at the rate of 1.5 days per month. All other employees shall accumulate sick leave in accordance with Section 2.1 of this rule.
- 5.2 Sick leave may be accumulated without limit.
- 5.3 Sick leave may be used by the employee when ill or injured or when in need of medical attention or when death occurs in the immediate family.
- 5.4 An employee may use sick leave for a member of the immediate family who is ill, injured, or in need of medical attention. Immediate family is defined as: father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, granddaughter, grandson, stepmother, stepfather, step children, or others considered to be members of the household and living under the same roof.
- 5.5 Sick leave for more than five (5) consecutive days shall not be granted to an employee for illness without satisfactory proof of illness or injury, as evidenced by a statement of the attending physician or by other proof satisfactory to the institution. An employee having an extended illness or serious injury shall, before returning to duty, obtain satisfactory medical clearance to help ensure adequate protection and shall indicate the employee's ability to perform her/his duties. Such medical clearance shall be presented in writing.
- 5.6 The institution may require evidence from an employee for verification of an illness or other causes for which leave may be granted under this rule, regardless of the duration of the leave.
- 5.7 In cases, except those involving catastrophic sick leave as defined in Section 8.1, where all accumulated sick leave has been used and annual leave is available, it shall be the option of an employee either to use any accumulated annual leave until it has also expired, rather than being removed from the payroll, or to retain the accumulated annual leave for use after return to work, but be taken off the payroll immediately after the accumulated sick leave has expired.
- 5.8 On-the-job injuries or occupational illnesses which involve no more than three (3) days of disability leave or absence from work shall not be charged against the employee's accumulated sick leave as long as they are the next three (3) consecutive working days after injury or illness

occurred. If on-the-job injuries or illnesses require a leave beyond the three-day period, it shall be the option of the employee either to use earned and accumulated sick and annual leave until both may be exhausted or to reserve for future use any earned and accumulated sick and annual leave and receive only Workers' Compensation benefits for which adjudged eligible.

- 5.9 Disabilities caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery therefrom shall be, for all job-related purposes, temporary disabilities and shall be treated the same as any other illness or disability would be treated for sick leave entitlement. For this reason, employees shall be entitled to sick leave for their disabilities related to pregnancy and childbirth on the same terms and conditions as they or other employees would be entitled for other illnesses and disabilities. In determining whether an employee is unable to work because of a disability related to pregnancy or childbirth, the same criteria shall be used as would be used in the case of another type of illness or disability.
- 5.10 Sick leave provisions are contingent upon continued employment. When the services of an employee have terminated, all sick leave credited to the employee shall be considered cancelled as of the last working day with the institution, and no reimbursement shall be provided for unused sick leave except in the event of retirement, in which case sick leave may be converted to insurance coverage or for provisions lawfully provided for at that time. Employees who resign in good standing and are later reemployed may have their total accumulated sick leave reinstated, provided the date of termination is one (1) year or less from the date of reemployment. However, if the employee returns to work after more than one (1) year from the date of termination, no more than 30 days of accumulated sick leave may be reinstated.

SECTION 6. MEDICAL LEAVE OF ABSENCE WITHOUT PAY

- 6.1 Any employee requesting a medical leave of absence without pay must provide the institutional president or the president's designee, through established procedures, with satisfactory medical evidence (such as a statement from the attending physician) that he/she is unable to work. The medical statement shall include a diagnosis, prognosis, and expected date that the employee can return to work. If the evidence is satisfactory, the president or her/his designee may authorize a medical leave of absence without pay only for the period of disability specified by the attending physician.
- 6.2 The employee shall be expected to report to work on the first workday following expiration of the disability period. Failure of the employee to report promptly at the expiration of a medical leave of absence without pay, except for satisfactory reasons submitted in advance, shall be cause for termination of employment by the institution. An employee, prior to return to duty, shall obtain satisfactory medical clearance to help ensure adequate protection and which shall indicate the employee's ability to

perform her/his duties. Such medical clearance shall be presented in writing.

- 6.3 A medical leave of absence without pay may be granted for no more than a twelve (12) consecutive month period. Employees who may need an extended medical leave beyond twelve (12) consecutive months may apply for an extension through institutional procedures or may consider other options, such as disability.
- 6.4 After an employee has taken a twelve-month medical leave, the institution shall continue group health insurance coverage provided that the employee pays the institution the full premium cost of such group health plan.
- 6.5 Any employee who is separated from employment following a medical leave of absence of twelve (12) consecutive months and who had chosen to maintain her/his accumulated annual leave will receive payment for such accumulated annual leave in a lump sum payment.

SECTION 7. PARENTAL LEAVE

- 7.1 A full-time employee who has worked at least twelve (12) consecutive weeks for the state may request up to twelve (12) weeks unpaid parental leave.
- 7.2 The request must be due to birth or adoption by the employee or because of a planned medical treatment or care for the employee's spouse, son, daughter, parent, or dependent who has a serious health condition.
- 7.3 The employee must provide her/his supervisor with written notice two (2) weeks prior to the expected birth or adoption; or for the medical treatment; or for the supervision of a dependent. Failure to submit a written request may be cause for denial.
- 7.4 The employee must provide the employer with certification by the treating physician and/or documentation regarding dependency status.
- 7.5 All annual leave must be exhausted before the parental leave begins. No more than a total of twelve (12) weeks of parental leave may be taken in any twelve (12) consecutive month period.
- 7.6 During the parental leave by an employee, the institution shall continue group health insurance coverage provided that the employee pays the employer the full premium cost of such group health plan.

- 7.7 The position held by the employee immediately before the leave is commenced shall be held for a period not to exceed the twelve-week period of the parental leave and the employee shall be returned to that position. However, the institution may employ a temporary employee to fill the position for the period of the parental leave.

SECTION 8. CATASTROPHIC LEAVE

- 8.1 Catastrophic leave is provided for employees and a catastrophic illness is defined as: a medically verified illness or injury which is expected to incapacitate the employee and which creates a financial hardship because the employee has exhausted all leave and other paid time off. Catastrophic illness or injury shall also include an incapacitated immediate family member if this results in the employee being required to take time off from work to care for the family member and the employee has exhausted all leave and other paid time off.
- 8.2 Each institutional president and the Chancellor of the Higher Education Policy Commission will have the option to establish a leave bank and/or a procedure for direct transfer of sick or annual leave to an employee who has requested and been approved to receive leave donations due to a catastrophic illness or injury. The institution may develop procedures which limit the amount of deposits an employee may make in any twelve (12) continuous month period.
- 8.3 A catastrophic leave bank provides for the deposit of sick and annual leave into a "bank" from which employees approved for catastrophic leave may withdraw leave.
- 8.4 A direct transfer provides for sick and annual leave to be donated at the request of the employee upon appropriate medical verification that the individual is unable to work due to the catastrophic illness or injury as determined by the president of the institution or the Chancellor of the Higher Education Policy Commission.
- 8.4.1 Upon approval for an employee to receive direct transfer of catastrophic leave, any employee may, upon written notice to the human resources department, donate sick and/or annual leave in one-day increments. No employee shall be compelled to donate sick leave. Any leave donated by an employee, but not used by the employee to whom it was donated, shall be returned to the donating employee and reflected in her/his leave balance.
- 8.5 An employee receiving the transfer of leave shall have any time which is

donated credited to such employee's leave record in one-day increments and reflected as a day-for-day addition to the leave balance of the receiving employee. The leave record of the donating employee shall have the donated leave reflected as a day-for-day reduction of the leave balance.

- 8.6 Use of donated credits may not exceed a maximum of twelve (12) continuous calendar months for any one catastrophic illness or injury. The total amount of leave received by transfer or withdrawn from a bank may not exceed an amount sufficient to ensure the continuance of regular compensation and shall not be used to extend insurance coverage pursuant to Section 13, Article 16, Chapter 5 of the Code, which relates to insurance coverage for state employees. The employee receiving donations of leave shall use any leave personally accrued on a monthly basis prior to receiving additional donated leave.
- 8.7 Direct transfer of leave or deposits into a leave bank may be inter-institutional. The president or her/his designee shall notify in writing other institutional presidents requesting that the institution consider the transfer of leave by either the direct transfer method or from the institution's leave bank. Upon approval of the receiving president, transfer leave will be made through appropriate institutional procedures.
- 8.8 Each institution and the higher education policy commission office shall be responsible for the administration of catastrophic leave and shall develop and disseminate procedures for the administration of this policy.

SECTION 9. PERSONAL LEAVE OF ABSENCE WITHOUT PAY

- 9.1 An employee, upon application in writing and upon written approval by the institutional president or her/his designee, may be granted a continuous leave of absence without pay for a period of time not to exceed twelve (12) consecutive months provided all accrued annual leave has been exhausted.
- 9.2 The president or the president's designee, at her/his discretion, may require the written approval of the supervisor before accepting the written application of an employee for a leave of absence without pay.
- 9.3 The president or the president's designee, at her/his discretion, shall determine if the purpose for which such a leave is requested is proper and within sound administrative policy.
- 9.4 At the expiration of leave of absence without pay, the employee shall be reinstated without loss of any rights, unless the position is no longer available due to a reduction in staff caused by curtailment of funds or a reduced workload. Failure of the employee to report promptly at the expiration of a leave of absence without pay, except for satisfactory reasons submitted in advance, shall be cause for termination of

employment by the institution.

- 9.5 During a personal leave, the institution shall continue group health insurance coverage provided that the employee pays the employer the full premium costs of such group health plan.

SECTION 10. MILITARY LEAVE

- 10.1 An employee who is a member of the National Guard or any reserve component of the armed forces of the United States shall be entitled to and shall receive a leave of absence without loss of pay, status, or efficiency rating, for all days in which engaged in drills or parades ordered by proper authority, or for field training or active service for a maximum period of thirty (30) working days ordered or authorized under provisions of state law in any one (1) calendar year. The term "without loss of pay" shall mean that the employee shall continue to receive normal salary or compensation, notwithstanding the fact that such employee may receive other compensation from federal sources during the same period. Furthermore, such leave of absence shall be considered as time worked in computing seniority, eligibility for salary increased, and experience with the institution. An employee shall be required to submit an order or statement in writing from the appropriate military officer in support of the request for such military leave.
- 10.2 Benefits of this section shall accrue to individuals ordered or called to active duty by the President of the United States for thirty (30) working days after they report for active service.

SECTION 11. SPECIAL EMERGENCY LEAVE WITH PAY

- 11.1 Special emergency leave with pay may be granted by the president of the institution or her/his designee to full-time employees in the event of extreme misfortune to the employee or the immediate family. The leave should be the minimum necessary, and in no case may it exceed five (5) days within any twelve (12) consecutive month period. Typical events which may qualify an employee for such leave are fire, flood, or other events (other than personal illness or injury or serious illness or death in the immediate family) of a nature requiring emergency attention by the employee.

SECTION 12. WITNESS AND JURY LEAVE

- 12.1 Upon application in writing, an employee of the a higher education institution or the Higher Education Policy Commission may be granted

leave as indicated hereinafter in this section provided the employee is not a party to the action. Annual leave will not be charged under the provisions of this section.

- 12.2 When, in obedience to a subpoena or direction by proper authority, an employee appears as a witness for the Federal Government, the State of West Virginia, or a political subdivision thereof, the employee shall be entitled to leave with pay for such duty and for such period of required absence.
- 12.3 When attendance in a court is in connection with an employee's usual official duties, time required in going and returning shall not be considered as absence from duty.
- 12.4 When an employee serves upon a jury, or is subpoenaed in litigation, the employee shall be entitled to leave with pay for such duty and for such period of required absence.
- 12.5 The employee shall report to work if he/she is excused by the court before the end of her/his regular work day. Provisions for employees who work a shift other than day shift shall be made according to institutional policy.

SECTION 13. MANAGING WORK TIME IN AREAS AFFECTED BY INTERRUPTION TO UTILITY SERVICE OR SIMILAR SITUATIONS

- 13.1 Utility Service Interruptions - When extended power and utility service interruptions occur, administrators should make arrangements for employees' usual work routine to be accomplished at alternate work locations, or make affected employees available to other administrators for work in other areas. Also, if an administrator deems it advisable and the employee agrees, time off during the utility service interruption may be granted and charged against an employee's accumulated annual leave. Combinations of the above alternatives may be necessary, but in all cases interruptions of work schedules must be dealt with in accordance with applicable laws, including West Virginia Code 12-3-13. This law is interpreted to mean that if pay is associated with the absence from work, the absence must be charged to accumulated annual leave.
- 13.2 Emergency Situations - In the event that an emergency exists, the president, in conjunction with local or state public safety officials, has the authority to comply with the emergency situation and close the institution. Such a declaration will be transmitted to the chancellor of the Higher Education Policy Commission. The president, working with public safety officials, will determine when the emergency condition no longer exists. Should an employee be required to work by the president or her/his designee during a declared emergency, the time worked shall be

compensated according to the provisions of Series 8. Work time lost by any employee during a declared emergency will be considered regular work time for pay purposes and will not require that the time be charged to annual leave nor will there be a requirement that the time be made up.

- 13.3 Absences from work due to weather conditions other than during a declared emergency must be charged against accumulated annual leave, accumulated compensatory time, or the employee must be removed from the payroll for the time in question. Where institutions employ the "floating holiday" concept, the holiday record may be charged. Sick leave may not be charged for absence due to weather. Time lost from work may be made up in the same work week at the discretion of the employee's supervisor.

**TITLE 133
PROCEDURAL RULE
HIGHER EDUCATION POLICY COMMISSION**

SERIES 39

CLASSIFIED EMPLOYEES

SECTION 1. GENERAL

- 1.1 Scope - This rule establishes procedures related to West Virginia Code 18B.
- 1.2 Authority - West Virginia Code §18B-1-6.
- 1.3 Filing Date - August 5, 1996
- 1.4 Effective Date - September 5, 1996

SECTION 2. DEFINITIONS

- 2.1 Part-Time Regular Employee (PTR). An employee in a position created to last less than 1,040 hours during a twelve-month period. An employee in a PTR position is not eligible for benefits, but is covered under the classification program as set out in Series 8.
- 2.2 Temporary Employee. An employee hired into a position expected to last fewer than nine months of a twelve month period regardless of hours worked per week. A temporary employee is not eligible for benefits, but is covered by the classification program as set out in Series 8.
- 2.3 Casual Employee. A casual employee position is a position created to meet specific operational needs at an institution for no more than 225 hours in a 12-month period. Individuals in a casual employee position are not eligible for benefits and are not covered by the classification program as set out in Series 8.
- 2.4 Student Employee. An employee enrolled at the institution as a student and whose primary purpose for being at the institution is to obtain an education. A student employee is not eligible for benefits and is not covered by the classification program as set out in Series 8.
- 2.5 Classified Employee. An employee who is covered by the provisions of the classification program outlined in this rule as set out in Series 8.
- 2.6 Exempt. Employees not covered by the Fair Labor Standards Act (FLSA) for overtime purposes as set out in Series 8.

SECTION 3. PART-TIME AND TEMPORARY EMPLOYEES

- 3.1 Institutions shall not hire part-time employees solely to avoid the payment of

benefits or in lieu of full-time employees and shall provide all qualified classified employees with nine-month or ten-month contracts with the opportunity to accept part-time or full-time summer employment before new persons are hired for the part-time or full-time employment. Consequently, institutions may only employ individuals into temporary positions when the function of the position is expected to require less than nine (9) consecutive months of employment (regardless of hours worked per week) to equal the full-time equivalency of the position.

3.2 Classified employees who are employed in less than twelve-month positions and who meet the minimum qualifications of a position shall be provided with an opportunity to accept part-time or full-time summer employment before new persons shall be hired for those positions.

SECTION 4. WORK SCHEDULES

4.1 Each institution shall establish a policy, with the advice and assistance of staff council and other groups representing classified employees, which shall: address any institution-specific procedures concerning the use of flexible work schedules, job sharing, and four-day work weeks; discourage temporary, non-emergency changes in an employee's work schedule; and provide a mechanism for changes in, and notification of, changes in work schedules. This policy shall also provide that, where possible, the institution shall provide the employee with a fifteen (15) day notice of such changes. Institutions shall develop such policies within 90-days of the effective date of this rule.

SECTION 5. APPOINTMENT OR PROMOTION

5.1 Pursuant to W.Va. Code §18B-7-1(d), non-exempt classified employees who apply for and meet the minimum qualifications as determined by the institutional human resources director or other designee of the president for a posted non-exempt position within an institution and are currently employed at the institution shall be hired into the posted position prior to hiring someone from outside the institution.

5.2 If more than one qualified, non-exempt classified employee applies, the best-qualified non-exempt classified employee shall be awarded the position. In such cases, if the employees are equally qualified, the employee with the greatest amount of continuous seniority at the institution shall be awarded the position. A random selection method such as drawing of lots, rolling dice, or selection of playing cards shall be utilized if two or more employees have equal qualifications and seniority. Such method shall be mutually agreed upon by the affected employees and approved by the President or her/his designee. If the employees cannot agree on a random selection method, the President of the institution shall use the drawing of lots to determine rankings.

5.3 Provisions of this section shall not apply to casual, temporary and student employees, nor shall they apply to exempt positions.

5.4 Pursuant to W. Va. Code §18B-7-1d, the provisions of this section shall not take precedence over the mandates in an institution's affirmative action plan adopted pursuant to the provisions of Executive Order 11246 or pursuant to any other federal or state requirement. In no event shall an institution's affirmative action plan require the use of quotas to meet its affirmative action goals or require the hiring of an unqualified person for any non-exempt position.

SECTION 6. PROBATIONARY PERIOD

6.1 Full-time regular classified employees shall serve a six-month probationary period beginning at the original date of employment.

6.2 At the end of three months and the end of the six-month probationary period, the employee shall receive a written evaluation of her/his performance and shall be informed as to whether her/his employment will continue beyond the probationary period. As with all positions, continued employment is based on adequate funding, satisfactory performance and adherence to system and institution rules and regulations.

SECTION 7. COMPENSATORY/OVERTIME PROVISIONS

7.1 Non-exempt employees may receive compensatory time off in lieu of overtime pay. All hours worked beyond 37½ and up to and including 40 hours are calculated at the employee's regular hourly rate. Time worked beyond 40 hours in a work week are to be calculated at a rate of one and one-half times the regular hourly rate.

7.2 A written agreement between the employee and the institution shall exist when the employee chooses compensatory time off in lieu of overtime pay. The written agreement may be modified at the request of either the employee or employer at any time but under no circumstances shall a change in the agreement deny the employee compensatory time heretofore acquired.

7.3 Within 60 days of passage of this rule, institutions shall develop an agreement form for compensatory time accumulation in lieu of overtime payment and shall specify the required approval process which must be completed before a non-exempt employee may work beyond 37½ hours.

7.4 Employees may accumulate up to two hundred forty (240) hours of compensatory time and shall be paid for all hours worked above the maximum accrual.

7.5 Employees in public safety, seasonal work, and/or emergency response categories may accumulate up to four hundred eighty (480) hours and shall be paid for all hours worked above the maximum accrual.

7.6 Compensatory time must be used within one year of accrual. The use of compensatory time off shall be requested two weeks in advance of the use of the time off. Approval of the request shall be contingent upon whether it will unduly disrupt the operation of the institutional unit.

7.7 Should an individual's employment be terminated, any unused compensatory time shall be reimbursed as follows:

7.7.1 The average regular rate received by such employee during the first three years of the employee's employment; or,

7.7.2 The final regular rate received by such employee, whichever is higher.

7.8 An employee may not work overtime unless approved in advance per institutional policy.

SECTION 8. POSTING

8.1 Each institution shall develop a policy for posting of classified positions both internally and externally in order to provide employees adequate time to make application for positions. Institutions shall develop such policy within 90-days of the effective date of this rule.

8.2 Posting shall not apply to casual or temporary positions.

**TITLE 133
PROCEDURAL RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 40
EQUAL OPPORTUNITY and AFFIRMATIVE ACTION**

§133-40-1. General.

- 1.1. Scope. This rule establishes equal opportunity and affirmative action policy.
- 1.2. Authority. West Virginia Code §18B-1-6 and §18B-1B-5.
- 1.3. Filing Date. October 8, 2013.
- 1.4. Effective Date. November 7, 2013.

§133-40-2. General Policy.

- 2.1. It shall be the policy of the West Virginia Higher Education Policy Commission (Commission) and the West Virginia Council for Community and Technical College Education (Council) to provide equal employment opportunities to all qualified employees and applicants and to prohibit discrimination or harassment against any such individuals on the basis of protected characteristics. The Commission and Council consider race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, gender identity and veteran status as protected characteristics and will not permit discrimination or harassment against any employee or applicant for employment on the basis of any such characteristic. The Commission and Council will conform both to the letter and the spirit of the law and regulations with respect to prohibiting any such discrimination or harassment and will engage in affirmative action to employ, advance in employment and treat all qualified persons without discrimination in any employment practices.
- 2.2. The scope of this policy prohibiting discrimination and harassment extends, but is not limited to, the following: recruitment, employment, promotion, transfer, training, working conditions, wage and salary administration, benefits and the application of all other employment-related policies. These principles of non-discrimination and anti-harassment also apply to business relationships of the Commission and Council, such as the selection and treatment of independent contractors and personnel working on Commission and/or Council premises.
- 2.3. Under the Commission's and Council's additional authority to allocate

specified functions and responsibilities among the institutions within the jurisdiction of the Commission and Council, each institution shall accept primary and long-term responsibility for the development and implementation of equal employment opportunity and affirmative action policies consistent with the Commission's and Council's guidance and all applicable laws and regulations.

- 2.4. Each institution and the Commission and Council shall take the initiative in developing or modifying its own plans to achieve compliance with the equal employment opportunity and affirmative action policies of the Commission and Council as well as those of the state and federal governments. The president of each institution shall, through appropriate means, establish and maintain a positive program of equal employment opportunity and affirmative action within her/his jurisdiction in accordance with all laws and regulations applicable to the institution. The equal employment opportunity and affirmative action goals of the institution must be integrated into and consistent with other performance goals of the institution. The realistic goals and timetables of each institution shall be vigorously pursued to achieve a proportional representation of minorities and women in the workforce based on availability within the relevant workforce recruitment markets. The effective pursuit of affirmative action requires not only the adoption of an adequate plan, but also results-oriented procedures designed to ensure the involvement of managers at all levels of each institution. Institutional affirmative action plans shall be submitted to the Chancellors by July 1 of each year.
- 2.5. The Chancellors shall appoint an equal employment opportunity/affirmative action advisory council, to be known as the Chancellors' Equal Employment Opportunity Council, composed of at least one representative from each of the campuses or institutions. The Council will help to facilitate the achievement of equal employment opportunity/affirmative action goals and compliance across the institutions under the Commission's and Council's jurisdiction. Under the general direction of the Chancellors, the Council shall be responsible for, but not necessarily limited to, the following duties and responsibilities:
 - 2.5.1. Conducting periodic reviews of institutional equal employment opportunity/affirmative action plans and programs, while providing any assistance that may be required to improve programs and realize objectives.
 - 2.5.2. Consulting from time to time with the Chancellors and presidents of institutions and/or their designees on equal employment opportunity/affirmative action matters.

- 2.5.3. Reviewing copies of equal employment opportunity reports of all institutions submitted to federal authorities responsible for enforcement of laws and regulations and providing consultation to the Chancellor where appropriate or as requested.
- 2.5.4. Helping to assure that current information affecting equal employment opportunity/affirmative action is disseminated to institutions and their employees.
- 2.5.5. Conducting other advisory assignments as directed by the Chancellors.

**TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 53
HUMAN RESOURCES ADMINISTRATION**

§133-53-1. General.

- 1.1. Scope. This rule establishes policy in a number of areas regarding human resources administration for the employees of the West Virginia Higher Education Policy Commission (Commission) and the public higher education institutions in West Virginia. It also provides guidelines for governing boards relative to decisions pertaining to public higher education employees.

The primary responsibility for implementation rests with the Commission, in consultation with the West Virginia Council for Community and Technical College Education (Council), who shall provide leadership and assistance to the human resources professionals within each organization to bring about the changes successfully.

- 1.2. Authority. West Virginia Code §18B-1B-5, §18B-4-2a, §18B-7, §18B-8, §18B-9 and §18B-9A.
- 1.3. Filing Date. May 2, 2013.
- 1.4. Effective Date. May 2, 2013.
- 1.5. Repeals and replaces Title 133 Series 8, Sections 3, 10, 11, 18, and 19.

§133-53-2. Purpose.

- 2.1. The intent of this rule is to establish a statewide, integrated human resources structure capable of, but not limited to, meeting the following objectives.
 - 2.1.a. Providing benefits to the citizens of the State of West Virginia by supporting the public policy agenda as articulated by state policymakers;
 - 2.1.b. Addressing fiscal responsibility by making the best use of scarce resources and promoting fairness, accountability, credibility, transparency and a systematic (FACTS) approach to progress in personnel decision-making;

- 2.1.c. Building upon human resources best practices to prevent, reduce, or, wherever possible, eliminate arbitrary and capricious decisions affecting employees of higher education organizations;
- 2.1.d. Creating a stable, self-regulating human resources system capable of evolving to meet changing needs;
- 2.1.e. Providing for institutional flexibility with meaningful accountability;
- 2.1.f. Adhering to federal and state laws, promulgated and adopted rules;
- 2.1.g. Implementing, as appropriate, human resources best practices throughout the state higher education system;
- 2.1.h. Developing and implementing a classification and compensation system that is fair, transparent, understandable, easy to administer, self regulating, and adaptable to meet future goals and priorities;
- 2.1.i. Providing for careful consideration of the recommendations and supporting documentation contained in the Final Report of the Select Committee on Higher Education Personnel;
- 2.1.j. Encouraging organizations to pursue a human resources strategy which provides monetary and non-monetary returns to employees in exchange for their time, talents, and efforts to meet articulated goals, objectives and priorities of the State, the Commission and the organization;
- 2.1.k. Maximizing the recruitment, motivation and retention of highly qualified employees, ensuring satisfaction and engagement of employees with their jobs, ensuring job performance and achieving desired results; and
- 2.1.l. Providing for recommendations from the Compensation Planning and Review Committee and the Job Classification Committee to be considered by the Commission and to be included in the legislative reporting process.

§133-53-3. Definitions.

- 3.1. Base Salary. The amount or a rate of compensation for a specified position of employment or activity excluding annual experience increment and any other payments or allowances for work or activity unrelated to that specified position of employment.

- 3.2. Benchmark Job. A job that is commonly found and defined and is used to make pay comparisons, either within the organization or to comparable jobs outside the organization.
- 3.3. Benefits. Programs that an employer uses to supplement the cash compensation of employees, including but not limited to, health and welfare plans, retirement plans, pay for time not worked, and other employee perquisites.
- 3.4. Career Ladder. A structured sequence of related, upwardly progressing positions.
- 3.5. Chancellor. Chancellor refers to the chief executive officer of the West Virginia Higher Education Policy Commission or the West Virginia Council for Community and Technical College Education, as appropriate.
- 3.6. Classification System. An organized structure in which classified jobs, job descriptions, job titles, and job analyses are utilized to determine a hierarchy of jobs, career ladders and pay grade assignments.
- 3.7. Classified Employee. Any regular employee of an organization who holds a full-time or part-time position and is assigned a particular job and job title within the classification system established by this rule or by other duly promulgated and adopted rules of the Commission.
- 3.8. Compensation. Earnings provided by an employer to an employee for services rendered.
- 3.9. Compensation Philosophy. The guiding principles that ensure that a compensation program supports an organization's culture.
- 3.10. Compensation Strategy. The principles that guide the design, implementation and administration of a compensation program at an organization for the purpose of supporting the organization's mission, vision, goals and objectives.
- 3.11. Employee Classification or Employee Class. There are three employee classes: classified, nonclassified and faculty.
- 3.12. External Market Compensation: The external market, for purposes of evaluating relative market equity, for a classified, nonclassified or faculty position, shall be deemed to be the median compensation of substantially comparable positions in the relevant recruitment market as provided for in the approved institutional salary rule.

- 3.13. **Factor.** A key position trait used to evaluate a classified position according to a point factor system. The items are Knowledge; Experience; Complexity and Problem Solving; Freedom of Action; Breadth of Responsibility; Scope and Effect; Intrasystems Contacts; External Contacts; Direct Supervision Exercised; Indirect Supervision Exercised; Physical Coordination; and Working Conditions and Physical Demands.
- 3.14. **Full Funding.** When an organization provides, in total, one hundred percent of the funds needed to meet the salary funding target reflected in the Temporary Higher Education Classified Employee Annual Salary Schedule, as calculated in October, 2010.
- 3.15. **Generic Job Description.** A summary of the essential functions of a job, including the general nature of the work performed, a characteristic listing of duties and responsibilities, and the specifications necessary to perform the work.
- 3.16. **Hot Jobs.** Jobs which are subject to market volatility and in high demand, usually for a temporary length of time, for which there is a low supply of available workers with the required education, skills and abilities.
- 3.17. **Institutions.** The following entities individually or collectively—Bluefield State College; Concord University; Fairmont State University; Glenville State College; Marshall University; Shepherd University; West Liberty University; West Virginia School of Osteopathic Medicine; West Virginia State University; and West Virginia University, including Potomac State College and West Virginia University Institute of Technology.
- 3.18. **Job.** The total collection of tasks, duties, and responsibilities assigned to one or more individuals whose work is of the same nature and level.
- 3.19. **Job Evaluation.** A formal process used to evaluate classified jobs, establish proper pay grades, and slot jobs in pay grades.
- 3.20. **Job Family.** A series of job titles in an occupational area or group.
- 3.21. **Job Title.** The label that uniquely identifies and generally describes a job. The same descriptive job title shall be given to a group of jobs, regardless of location in the organization, which are substantially the same in duties and responsibilities, and which require substantially the same knowledge, skills and abilities performed under similar working conditions.
- 3.22. **Major Deficiency.** When an organization has failed to comply with federal or state law or with personnel rules of the Commission as identified by the human resources review.

- 3.23. **Meaningful Accountability.** Measures that ensure adherence to rules and policies and provides for consequences for non-compliance.
- 3.24. **Merit Increases.** A discretionary salary increase given to an employee to reward demonstrated achievements in the performance of the duties and responsibilities of a position, as evaluated by criteria established by the organization.
- 3.25. **Nonclassified Employee.** An employee of an organization who holds a position that is not assigned a particular job and job title within the classification system established by this rule, or, by other duly promulgated and adopted rules of the Commission and who meets one or more of the following criteria:
- 3.25.a. Employee holds a direct policy-making position at the department or organization level; or
- 3.25.b. Employee reports directly to the president or chief executive officer of the organization.
- 3.26. **Nonclassified Job Description.** A summary of the most important features of a job, including the general nature and level of the work performed.
- 3.27. **Organizations.** The following entities individually or collectively—Bluefield State College; Concord University; Fairmont State University; Glenville State College; Marshall University; Shepherd University; West Liberty University; West Virginia School of Osteopathic Medicine; West Virginia State University; West Virginia University, including Potomac State College and West Virginia University Institute of Technology; Blue Ridge Community and Technical College; Bridgemont Community and Technical College; Eastern West Virginia Community and Technical College; Kanawha Valley Community and Technical College; Mountwest Community and Technical College; New River Community and Technical College; Pierpont Community and Technical College; Southern West Virginia Community and Technical College; West Virginia Northern Community College; West Virginia University at Parkersburg; the Office of the Higher Education Policy Commission; the Office of the Council for Community and Technical College Education; and the West Virginia Network for Educational Telecomputing.
- 3.28. **Pay Grade.** The level to which a job is assigned within a classification structure.
- 3.29. **Peer Group.** The job occupation group as recommended by the external vendor conducting the employee market salary study used to compare where each employee category falls in relation to its relevant recruitment

market.

- 3.30. Point Factor Methodology. A method used to evaluate job factors in order to determine the pay grade to which a classified position is assigned.
- 3.31. Position. A set of duties and responsibilities requiring employment of a single employee at a particular organization.
- 3.32. Position Information Questionnaire (PIQ). A tool used in the creation and evaluation of a classified position including the factors of Knowledge; Experience; Complexity and Problem Solving; Freedom of Action; Scope and Effect; Breadth of Responsibility; Intrasystems Contacts; External Contacts; Direct Supervision Exercised; Indirect Supervision Exercised; Physical Coordination; and Working Conditions and Physical Demands.
- 3.33. President. A chief executive officer of an institution of higher education in West Virginia who reports to the institution's governing board.
- 3.34. Promotion. Movement from a classified position requiring a certain level of skill, effort, and authority into a vacant or newly created classified position assigned to a different job title and a higher pay grade that requires a greater degree of skill, effort, and authority.
- 3.35. Relative Market Equity. The relative market status of each employee classification at an organization falls within five (5) percent of all other employee classifications within the organization for the preceding three-year period. A comparison of the relative market status of the three distinct employee classes wherein the range from the class furthest from its market is within five (5) percent of the class closest to its market.
- 3.36. Relative Market Status. The calculated relationship between the average salary of each employee classification and its peer group.
- 3.37. Return Rights. The right of a nonclassified employee to return to either classified status or faculty status when provided for in the employee's contract or when an employee is involuntarily transferred to a nonclassified position; provided, however, that the return right either shall be provided for in West Virginia Code, or be in writing, a copy of which is to be provided to the employee and placed in the personnel file. For return to classified status, this writing must set forth the classified job title and pay grade. For return to faculty status, this writing must set forth the appropriate faculty track, and rank.
- 3.38. Salary Benchmarking. The process of market pricing a benchmark job.

- 3.39. Salary Schedule. A schedule consisting of a series of pay grades enacted by the Legislature or the Commission.
- 3.40. Step. A standard progression in pay rate established within a pay grade.

§133-53-4. Classification and Compensation System Goals and Objectives.

- 4.1. The Commission, in consultation with the Council, shall implement, control, supervise, and manage a complete, uniform system of personnel classification and compensation for classified employee positions. The chief purposes of the system are to accomplish the following goals and objectives:
 - 4.1.a. Attract well qualified and diverse applicants.
 - 4.1.b. Retain and motivate employees to accomplish objectives, goals, and priorities in state law, rules of the Commission, state-wide master plans for higher education, and institutional compacts.
 - 4.1.c. Retain and reward classified employees who make valuable contributions to state and organization goals, objectives and priorities.
 - 4.1.d. Compensate employees within an organization fairly in relation to one another.
 - 4.1.e. Compensate employees across the higher education system who are performing similar work at similar wage rates.
 - 4.1.f. Compensate employees at levels that are competitive with appropriate external markets and are fiscally responsible.
 - 4.1.g. Ensure that regular market salary analyses are performed to determine how organization compensation for all classes of employees compares to compensation in relevant external markets.
 - 4.1.h. Maintain a uniform system for classifying jobs and positions of an organization's classified employees.
 - 4.1.i. Move classified employees through the compensation system based on performance and other objective, measureable factors including education, years of experience in higher education and experience above position requirements.
 - 4.1.j. Assign each current employee to an initial step for his or her pay grade that is closest to and exceeds his or her current salary regardless of previous education, experience or performance. The

salary of a current employee may not be reduced by a job reclassification, a modification of the market salary schedule, or other conditions that the Commission and the Council consider appropriate and reasonable.

- 4.2. The Commission, in consultation with the Job Classification Committee (JCC), shall have in place a generic job description for every classified job title.
- 4.3. The Commission, in consultation with the JCC, shall develop a Position Information Questionnaire (PIQ) to be used by all organizations to gather data necessary for classification of positions.
 - 4.3.a. Each organization must ensure that a PIQ shall exist for every classified position. A PIQ shall be updated at least every three years for accuracy by the employee and supervisor and submitted to human resources. Submission of an updated PIQ does not constitute a request for a classification review. A formal request must be made pursuant to section six of this rule.
 - 4.3.b. Neither the employee nor the supervisor shall place duties in the employee's PIQ that the employee is not performing, but may be expected to perform in the future.
- 4.4. Salary adjustments shall be made in accordance with the procedures for upgrades and downgrades specified in Commission rule or rules. During the course of its reviews, should the JCC discover the systematic misapplication of the program by an organization, it shall notify the Chancellors, who will take the appropriate action warranted.
- 4.5. Whenever the Chancellors, in consultation with the Vice Chancellor for Human Resources and the JCC determine that employees have been misclassified at the organizational level, they shall order that these classifications and salaries be immediately adjusted to the proper level.
- 4.6. Absent fraud on the behalf of the employee, any overpayment to the employee because of an erroneous classification decision by an organization shall not be collected from the employee. However, any erroneous overpayment to such an employee, once corrected, shall not be deemed as evidence in claims by other employees that the classification and compensation program is not equitable or uniform.
- 4.7. Provide that recommendations from the Compensation Planning and Review Committee (CPRC) and the JCC be considered by the Commission and the Council and be included in the legislative reporting process.

- 4.8. The Commission may allow the CPRC to collapse the three lowest pay grades into a single pay grade and provide for employees to be paid at rates appropriate to the highest of the three lowest pay grades.
- 4.9. Pursuant to State law, the Commission may not delegate to the JCC or the CPRC the following:
 - 4.9.a. Approval of a classification and compensation rule;
 - 4.9.b. Approval of the job evaluation plan;
 - 4.9.c. Approval of the annual market salary schedule; and
 - 4.9.d. Approval of the annual minimum salary schedule.

§133-53-5. Job Classification Committee.

- 5.1. The Commission hereby establishes a Job Classification Committee (JCC). This committee shall replace the Job Evaluation Committee (JEC) upon the effective date of this rule. The Vice Chancellor for Human Resources shall serve as the Chair of the Job Classification Committee.
- 5.2. The JCC shall be comprised of four classified employees and six Human Resources specialists, ensuring representation from the Council institutions and the Commission institutions.
- 5.3. The Chancellor shall solicit nominations for JCC members from the Advisory Council of Classified Employees (ACCE) and the Chief Human Resources Officers (CHROs).
- 5.4. JCC members shall be appointed by the Chancellor of the West Virginia Higher Education Policy Commission, with concurrence of the Chancellor of the West Virginia Council for Community and Technical College Education, subject to approval by the Commission and Council.
- 5.5. An organization may have no more than two members serving on the Committee at any time and the combined membership representing various groups or divisions within or affiliated with an organization in total may not constitute a majority of the membership.
- 5.6. Committee members shall serve staggered terms. One third of the initial appointments shall be for two years, one third for three years and one third for four years. Thereafter, the term is four years. A member may not serve more than four years consecutively.

- 5.7. The Commission shall use a point factor methodology to classify jobs. The Commission, in consultation with the Council, may adjust the job evaluation plan, including the factors used to classify jobs and their relative values, if necessary.
- 5.8. Powers and duties of the Job Classification Committee include, but are not limited to, the following:
 - 5.8.a. Providing a system of audit for all job descriptions to make sure that the responsibilities of positions are accurately reflected;
 - 5.8.b. Modifying and deleting jobs and assigning job titles;
 - 5.8.c. Reviewing and revising job titles to make them consistent among organizations, including adopting consistent title abbreviations;
 - 5.8.d. Establishing job worth hierarchies and data lines for each job title;
 - 5.8.e. Classifying jobs, establishing proper pay grades, and placing jobs in pay grades consistent with the job evaluation plan;
 - 5.8.f. Determining when new job titles are needed and creating new job titles within the system;
 - 5.8.g. Recommending base pay enhancements for jobs for which the application of point factor methodology produces significantly lower salaries than external market pricing. The JCC may exercise this authority only if it reevaluates each job annually to make a determination whether the enhancement should be continued;
 - 5.8.h. Recommending a procedure for performing job family reviews for the joint approval of the Commission and Council;
 - 5.8.i. Determining appropriate career ladders within the classification system and establishing criteria for career progression;
 - 5.8.j. Hearing job classification appeals prior to commencement of the formal grievance process pursuant to Commission rule or rules; and
 - 5.8.k. Developing operational procedures which shall include, but not be limited to, the keeping of minutes which shall be recorded, posted and maintained at the direction of the Vice Chancellor for Human Resources.

- 5.9. The JCC shall meet monthly if there is business to conduct and also may meet more frequently at the call of the chair, given adequate lead time. A majority of the voting members serving on the Committee at a given time constitutes a quorum for the purpose of conducting business providing that both classified staff and human resources representatives are present.
- 5.10. When evaluating jobs, the JCC shall use the following procedure:
 - 5.10.a. Each JCC member shall classify each job individually, independently of other members;
 - 5.10.b. The chair shall compile and share the individual evaluations with the whole JCC; and
 - 5.10.c. After discussing the issues and resolving differences, the JCC shall make a determination of the appropriate classification for each job. The Vice Chancellor for Human Resources shall communicate, in writing, the JCC's decision to the CHROs and members of the JCC within ten working days.

§133-53-6. Classification Review Request of Existing Position.

- 6.1. An incumbent classified employee or the employee's supervisor may request a PIQ review when significant changes occur in the principal duties and responsibilities of a classified position. To initiate the review, the employee and supervisor must revise the PIQ and submit it to Human Resources along with a formal request for a review. The request must include the date and the reason for such request.
 - 6.1.a. The responsibility for assigning tasks and duties to a position belongs to the supervisor.
 - 6.1.b. Requests for position reviews also may be initiated by an employee with Human Resources after discussion with the immediate supervisor.
 - 6.1.c. PIQ reviews also may be initiated by the institution's Chief Human Resources Officer or his/her designee after discussion with the immediate supervisor.
- 6.2. Within forty-five (45) working days from the date of the formal request for review of a PIQ, the institution's Chief Human Resources Officer or his/her designee shall report to the requestor in writing the result of the classification review.

- 6.3. An organization that fails to complete a review within the specified time shall provide the employee back pay from the date the request for review was received if the review, when completed, produces a reclassification of the position into a job in a higher pay grade.

§133-53-7. Classification Appeals Process.

- 7.1. The objective of classifying a position is to determine job content and its relative worth. A job's title and description are based upon the duties and responsibilities of the position, not the characteristics of the individual holding the position.
- 7.2. In the event that a classified employee disagrees with a classification decision made at the organizational level, he/she may appeal that decision in writing to the Vice Chancellor for Human Resources for review by the JCC. Filing a classification appeal, however, shall not abridge the rights of a classified employee to file a formal grievance, using the statutory grievance process as set forth in West Virginia Code §6C-2-1 *et seq.*; provided, however, upon the simultaneous filing of a statutory grievance and a classification appeal to the Vice Chancellor for Human Resources by a classified employee, a request may be made, in writing, by the classified employee to hold the grievance in abeyance until the review by the JCC is completed and a classification decision is rendered by the JCC.
- 7.3. Time limits.
 - 7.3.a. The classified employee shall submit a completed "Classification Appeals Form" to the organization's Human Resources office within ten (10) working days from the date of receipt of the notice of the organization's classification decision.
 - 7.3.b. The organization's human resources staff shall render a decision on the appeal within five (5) working days whether the original decision shall be upheld.
 - 7.3.c. The classified employee shall have five (5) working days from the date of receipt of the notice upholding the original decision of the organization to appeal the action to the Vice Chancellor for Human Resources for submission to the JCC.
- 7.4. Upon receipt of the classified employee's appeal of the organization's decision, the Vice Chancellor for Human Resources shall forward the appeal to the JCC.

- 7.4.a. The JCC shall review the Classification Appeals Form, the original PIQ, and all supporting documentation, submitted by a classified employee to the Human Resources Office.
 - 7.4.b. The JCC may review comparable positions within the organizations, as defined in Section 3.27 of this rule.
 - 7.4.c. The JCC shall notify the classified employee, and the organization's Human Resources Office, of its decision in writing, within twenty (20) working days from the date of receipt of the appeal to the Vice Chancellor for Human Resources. The notification shall specify the effective date should there be any change in status.
- 7.5. An appeal shall not be considered if based on any of the following reasons:
- 7.5.a. Seniority. An appeal shall not be considered if it is based on the employee's length of service with the organization or with the state of West Virginia.
 - 7.5.b. Qualifications of the individual incumbent. An appeal shall not be considered if it is based upon the individual classified employee's qualifications. A classification determination is based upon the requirements in the PIQ necessary to perform the duties and responsibilities of the position.
 - 7.5.c. Anticipated future job responsibilities. An appeal shall not be considered if it is based upon responsibilities that may be included in the job assignment in the future.
 - 7.5.d. Job Performance. An appeal shall not be considered if it is based upon the performance of the incumbent or certain personality traits (e.g., loyalty, dedication, commitment to organization, hardworking, etc.). A classification determination is based upon the level and complexity of the duties and responsibilities outlined in the PIQ, not the characteristics of the individual holding the position.
 - 7.5.e. Salary within a salary range. An appeal shall not be considered if it is based upon the fact that an employee's salary is close to the maximum of a salary range or the relative position of the salary within the assigned salary range.

- 7.5.f. Increase in the volume of work. An appeal shall not be considered if it is based on the volume of work rather than the level of responsibilities and complexity of the work.

§133-53-8. Compensation Planning and Review Committee.

- 8.1. The Commission shall hereby establish and maintain a Compensation Planning and Review Committee (CPRC). The Vice Chancellor for Human Resources shall serve as the Chair of the CPRC.
- 8.2. The composition of the CPRC shall consist of the Vice Chancellor for Human Resources, the Vice Chancellor for Finance, four members representing the statewide Advisory Council of Classified Employees, two from institutions under the jurisdiction of the Council and two from institutions under the jurisdiction of the Commission; two members representing the Advisory Council of Faculty; one from institutions under the jurisdiction of the Council and one from institutions under the jurisdiction of the Commission; and two human resources administrators from institutions under the jurisdiction of the Council, and two human resources administrators from institutions under the jurisdiction of the Commission; and a president from each of the two systems.
- 8.3. The method for nominating CPRC members shall be representative of all the higher education organizations and affected constituent groups, including specifically providing for membership selections to be made from nominations from the Advisory Council of Classified Employees, the Advisory Council of Faculty, the human resources representatives, and the Council of Presidents group. The Presidents shall nominate a president from their respective systems. The Chancellors, jointly, shall appoint members from nominations made by these affected constituent groups and require approval of the Commission and Council before beginning service.
- 8.4. An organization may have no more than two members serving on the CPRC at any time and the combined membership representing various groups or divisions within or affiliated with an organization in total may not constitute a majority of the membership.
- 8.5. The CPRC members shall develop operational procedures which shall include, but not be limited to, the keeping of minutes which shall be recorded, posted and maintained at the direction of the Vice Chancellor for Human Resources.
- 8.6. The CPRC shall manage all aspects of compensation planning and review that the Commission delegates to it, within the provisions of state law.

- 8.7. CPRC members shall serve staggered terms. One third of the initial appointments shall be for two years, one third for three years and one third for four years. Thereafter, the term is four years. A member may not serve more than four years consecutively.
- 8.8. The CPRC shall meet at least quarterly and at other times at the call of the Chair. A majority of the voting members serving on the CPRC at a given time constitutes a quorum for the purpose of conducting business, provided that at least one member from each constituent group is present.
- 8.9. The CPRC has powers and duties which include, but are not limited to, the following:
 - 8.9.a. Making annual recommendations for revisions in the system compensation plan, based on existing economic, budgetary and fiscal conditions or on market study data;
 - 8.9.b. Overseeing the five-year external market salary study;
 - 8.9.c. Overseeing the annual internal market review;
 - 8.9.d. Meeting at least annually with the JCC to discuss benchmark jobs to be included in salary surveys, market “hot jobs” that may require a temporary salary adjustment, results of job family reviews, and assessment of current job titles within the classification system for market matches and other issues as the Vice Chancellor for Human Resources, in consultation with the Chancellors, determines to be appropriate;
 - 8.9.e. Recommending to the Chancellors a process for their approval to recommend and calculate temporary salary adjustments and any time limits or reviews of these adjustments; and
 - 8.9.f. Performing other duties as assigned by the Commission or as necessary or expedient to maintain an effective classification and compensation system.

§133-53-9. Compensation: Classified Market Salary Structure and Minimum Salary Schedule.

- 9.1. The Commission and Council shall develop and maintain a market salary structure and minimum salary schedule and ensure that all organizations under its jurisdiction adhere to state and federal laws and duly promulgated and adopted organization rules.

- 9.2. The Commission and Council shall jointly contract with a qualified external vendor to conduct a market salary study for each category of employees at least once within each five-year period. Based on the study results, the Commission and Council, in consultation with the CPRC, and taking into consideration the recommendations of the external vendor, may take any combination of the following actions in regard to the classified market salary structure:
 - 9.2.a. Adjust the number of pay grades;
 - 9.2.b. Adjust the point values necessary for a job to be assigned to a particular pay grade;
 - 9.2.c. Adjust the midpoint differentials between pay grades to better reflect market conditions; or
 - 9.2.d. Adjust the range spread for any pay grade.
- 9.3. The Commission, in consultation with the Council, may perform an annual review of market salary data to determine how salaries have changed in the external market. Based on supporting data derived from that review, the Commission and Council, with input from the CPRC, shall adjust the market salary structure. In the absence of a market salary study conducted by a qualified external vendor, the Commission and Council may not adjust the midpoint differentials between pay grades unless required to do so by a change in minimum wage or other laws or regulations and may not adjust the range spread for any pay grade.
- 9.4. The market salary structure serves as the basis for the following activities:
 - 9.4.a. Evaluating compensation of classified employees in relation to appropriate external markets. The external market compensation for a job shall be deemed to be the median compensation of substantially comparable positions in the relevant recruitment market; and
 - 9.4.b. Developing the minimum salary schedule to be adopted by the Commission and Council. No organization may compensate a classified employee at a salary rate of less than the minimum salary rate values provided for in the minimum salary schedule.
- 9.5. The market salary structure shall include the following criteria:
 - 9.5.a. The number of pay grades and steps to be included in the structure;

- 9.5.b. A midpoint value for each pay grade which represents the average salary of jobs in that pay grade. The Commission and Council may choose a midpoint step value at its discretion, based on its compensation philosophy, which need not be based exclusively on market salary data; and
- 9.5.c. The minimum and maximum step values based on an established range spread, as well as values for other steps in the salary structure.
- 9.6. The Commission and Council may annually approve a minimum salary schedule that sets forth a compensation level for each step and pay grade below which no organization employee may be paid.
- 9.7. The minimum salary floor for each pay grade and step on the minimum salary schedule shall be at an appropriate percentage of the most recent annual market salary data, to be determined by the Commission and Council. The Commission and Council also shall consider the minimum wage and other laws that ensure that employees earn a living wage and shall maintain a salary structure which ensures that the average salary of each class of employees meets relative market equity among employee classes. The Commission and Council may take into consideration other factors they consider appropriate.
- 9.8. The external market, for purposes of evaluating relative market equity, for a classified, nonclassified or faculty position, shall be deemed to be the median compensation of substantially comparable positions in the relevant recruitment market, as provided for in the approved institutional salary rule.
- 9.9. The salary of a classified employee working fewer than thirty-seven and one-half hours per week shall be prorated. The organization's salary rule may provide for differential pay for certain classified employees who work different shifts, weekends or holidays.
- 9.10. Merit increases may be granted if they are in accordance with state code and with duly promulgated rules of the Commission.

§133-53-10. Salary Benchmarking.

- 10.1. The Commission will utilize an experienced compensation consultant to perform the functions related to salary benchmarking.
- 10.2. Job descriptions representative of all categories of employees will be reviewed to ensure that the duties and responsibilities are understood so that appropriate matches can be made to benchmark positions. The

following guidelines will be used for benchmark selection:

10.2.a. Representation of all job families and levels throughout the system.

10.2.b. Highly populated jobs.

10.2.c. Jobs found in most of the system institutions.

10.2.d. Jobs with recruitment or retention problems.

10.2.e. Geographic differentials as necessary will be used to ensure that the data are reflective of the labor market and economic conditions.

§133-53-11. Full Funding: Temporary Higher Education Classified Employee Annual Salary Schedule.

11.1. Once the Commission has certified that an organization under its jurisdiction has achieved full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule, the organization's governing board has the authority to pay classified employees in excess of the salary on the Temporary Higher Education Classified Employee Annual Salary Schedule for their pay grade and years of experience, as long as the governing board has a salary rule in place ensuring that salary increases above the salary schedule are distributed equitably and in a manner consistent with the uniform classification and compensation system.

11.2. An organization has achieved full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule when it provides, in total, one hundred percent of the funds needed to meet the salary funding target as calculated in October 2010. When an organization is fully funded, the Chancellor shall provide official certification that the organization has attained full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule.

11.3. Until an organization is fully funded or making appropriate progress as defined in this rule, the following restrictions apply:

11.3.a. Classified salary increases distributed within the organization shall be provided in accordance with the uniform classification and compensation system established by §18B-9A-1 et seq.

11.3.b. An organization may not provide discretionary salary increases including performance or merit based increases to the president or chief executive or any group or class of employees, other than

classified employees.

- 11.4. An organization is considered to be making appropriate progress when it has funded at least twenty-five percent of the amount needed to reach full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule by July 1, 2012; has funded at least fifty percent of the calculated amount by July 1, 2013; has funded at least seventy-five percent of the calculated amount by July 1, 2014 and has funded one hundred percent of the calculated amount by July 1, 2015.
- 11.5. Until such time that a new salary schedule is implemented, the current Temporary Higher Education Classified Employee Annual Salary Schedule, consisting of a minimum annual salary for each pay grade in accordance with experience in West Virginia higher education or West Virginia state government, shall be in place. An employee is considered equitably compensated if his or her salary is at the minimum salary on the Temporary Higher Education Classified Employee Annual Salary Schedule that is required for his or her pay grade and years of experience on the July 1, 2001 salary schedule.

§133-53-12. Classification System Methodology Audit.

- 12.1. By July 1, 2014 and at least once within each five year period thereafter, the Commission and Council shall review the effectiveness of the system for classifying jobs and submit an in-depth report to the Legislative Oversight Commission on Education Accountability. The report shall include, but is not limited to, findings, recommendations and supporting documentation regarding the following job classification issues:
 - 12.1.a. The effectiveness of the point factor methodology and a determination of whether it should be maintained; and
 - 12.1.b. The status of the job evaluation plan, including the factors used to classify jobs or their relative values, and a determination of whether the plan should be adjusted.

§133-53-13. Nonclassified Employees.

- 13.1. By July 1, 2013, the percentage of personnel placed in the category of nonclassified may not exceed twenty-five percent of the total number of classified and nonclassified employees of that organization.
- 13.2. Except as otherwise provided for in this rule, by July 1, 2015, the percentage of personnel placed in the category of nonclassified may not exceed twenty percent of the total number of classified and nonclassified employees of that organization.

- 13.3. Organizations may request an extension to July 1, 2016, to comply with the requirement that the percentage of personnel placed in the category of nonclassified may not exceed twenty percent of the total number of classified and nonclassified employees of that organization. If an extension is granted, it may not exceed twenty-five percent and it must be approved in advance of implementing such extension, by both the institution's governing board and the Commission.
- 13.4. In establishing return rights of a nonclassified employee to classified status, the return rights must be evidenced in writing, provided to the employee and placed into the employee's personnel file, and must articulate the job title and pay grade. If the institution's compensation system establishes discretion as to placement on the salary schedule, then an indication of that placement must be specified.
- 13.5. In establishing return rights of a nonclassified employee to faculty status, the return rights must be evidenced in writing, provided to the employee and placed into the employee's personnel file, and must articulate faculty track, tenure status if any, faculty rank if any, faculty job title, faculty compensation rate, and if non-tenured, whether the faculty status would be for a term, defined in the document, or for the remainder of the academic or fiscal year following separation from nonclassified status.
- 13.6. Classified employees who were involuntarily transferred to non-classified positions have the right to return to classified positions based on West Virginia Code provisions.
- 13.7. When an organization counts, as faculty or classified staff, those administrators who retain the right to return to faculty or classified positions, these designations apply only to the calculation of the organization's compliance with the statutory maximum ratio of nonclassified employees and are to be treated and counted as nonclassified employees for all other purposes. An organization shall report to the Commission all nonclassified employees who retain return rights to either a classified or faculty position in the category of "nonclassified" in all data submissions or analysis other than the determination of the ratio of nonclassified employees, including but not limited to the analysis of relative market equity.
- 13.8. The current annual salary of a nonclassified employee may not be reduced if his or her position is redefined as a classified position solely to meet the requirements of West Virginia Code §18B-7-11. If such a nonclassified employee is reclassified, his or her salary does not constitute evidence of inequitable compensation in comparison to other employees in the same pay grade.

§133-53-14. Employee Performance Evaluations.

- 14.1. After a classified employee's probationary period, during which 3-month and 6-month probationary performance evaluations are required, each employee shall receive a written evaluation of his or her job related performance on an annual basis. A copy of the evaluation document shall be placed into the employee's personnel file and must include confirmation, through a physical or an electronic signature of the employee, signifying that the employee has participated in the evaluation process.
- 14.2. Organizations shall conduct regular performance evaluations of non-classified employees and faculty as well as classified employees.
- 14.3. Each organization shall develop a consistent, objective performance evaluation system and evaluation instrument(s).
- 14.4. Organizations shall train supervisors in the best practices of conducting employee performance evaluations.
- 14.5. Supervisors who fail to conduct evaluations of those employees who report to them, according to their organization's policies, may be subject to disciplinary action.

§133-53-15. Training and Development.

- 15.1. The Vice Chancellor for Human Resources shall carry out the following duties related to training and development:
 - 15.1.a. Analyzing and determining training needs of organization employees and formulating and developing plans, procedures and programs to meet specific training needs and problems. Successful completion of these tasks requires the Vice Chancellor for Human Resources to work closely with and communicate regularly with the training and development coordinators employed by each organization.
 - 15.1.b. Developing, constructing, maintaining and revising training manuals and training aids or supervising development of these materials by outside suppliers.
 - 15.1.c. Planning, conducting, and coordinating management inventories, appraisals, placement, counseling and training.
 - 15.1.d. Coordinating participation by all employees in training programs developed internally or provided by outside contractors.

- 15.1.e. Administering and analyzing an annual training and development needs survey. The survey may coincide with the completion of the annual performance review process.
- 15.1.f. Developing model supervisor training programs in order to provide guidance in best practices related to supervision of subordinates and compliance with federal and state employment laws and rules of the Commission.
- 15.1.g. Developing training and professional development programs for personnel who administer human resources functions at each organization in response to performance reviews of those personnel, which are conducted at least once every three years.
- 15.2. The Commission shall assist organization human resources professionals in applying Fair, Accountable, Credible, Transparent, and Systematic (FACTS) principles to all human resources functions and shall provide model training programs to organizations upon request for assistance.
- 15.3. Funds allocated or made available for employee continuing education and development may be used to compensate and pay expenses for faculty or staff pursuing additional academic study or training to better equip themselves for their duties.
- 15.4. Subject to legislative appropriation therefore, the Commission shall provide additional, regular training and professional development for human resources employees and any appointees to committees appointed by this rule. The training and development shall be:
 - 15.4.a. Mandatory with appropriate consideration given to limiting travel demands on employees; and
 - 15.4.b. In addition to and may not supplant the training and professional development regularly provided to any class of employees by each organization.
- 15.5. An account of the total amount, type of training or professional development provided, the number of employees who participated and the overall cost of the training and professional development provided to employees shall be provided to the Commission by the organizations as part of the annual personnel reports at a time designated by the Commission.

§133-53-16. Organizational Rules.

- 16.1. Each institution shall amend any of its policies/rules to comply with the Commission's rule or rules no later than six months after the effective date of any change in statute or Commission rule or rules, unless a different compliance date is specified within the statute or rule containing the requirements or mandate.
- 16.2. An institution may not adopt a rule, as mandated by this subsection, until it has consulted with the appropriate employee classes affected by the institution's rule or rule's provisions. At a minimum, consultations with the institutional Classified Employees Council (staff council) and/or the institutional Faculty Senate (faculty senate), as appropriate, shall take place.
- 16.3. If an institution fails to adopt a rule or rules as mandated by this subsection, the Commission may prohibit it from exercising any flexibility or implementing any discretionary provision relating to human resources contained in statute or in a Commission rule until the organization's rule requirements have been met.
- 16.4. An institution may exercise additional flexibility or areas of operational discretion identified in statute or in Commission rule or rules when it meets the following requirements:
 - 16.4.a. Receives certification from the Commission that the institution has achieved full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule or is making appropriate progress toward achieving full funding.
 - 16.4.b. Promulgates a comprehensive salary rule or rules as required by statute.
 - 16.4.c. Receives approval for the salary rule from the Chancellor.
 - 16.4.d. Adopts the rule by vote of the institution's governing board.
- 16.5. The Chancellor or his or her designee has the authority and the duty to review each institution's salary rule or rules and to recommend changes to the rule or rules to bring them into compliance with state and federal law, Commission rule or rules or legislative and Commission intent. The Chancellor may reject or disapprove any rule or rules, in whole or in part, if he or she determines that it is not in compliance with any law or rule/rules or if it is inconsistent with Legislative and Commission intent or does not sufficiently address and include measures that foster meaningful

accountability of the institution to this rule, its own rules and state and federal law.

§133-53-17. Organizational Accountability.

- 17.1. The Commission shall conduct a systematic human resources review of each organization by an external vendor possessing experience and expertise in conducting these reviews every five years, subject to Legislative appropriation. The first review shall be completed no later than June 30, 2013.
- 17.2. The review shall focus on highlighting strengths and identifying and correcting any deficiencies in complying with state and federal law and in adhering to personnel rule or rules of the Commission.
- 17.3. The Commission shall provide organizations with reasonable notice prior to conducting a human resources review and shall identify the subjects to be examined in the review.
- 17.4. A major deficiency means an organization has failed to comply with federal or state law or with personnel rules of the Commission. The following guidelines exist for correcting deficiencies should any be found:
 - 17.4.a. When a major deficiency is identified, the Commission shall notify the governing board of the institution in writing within forty working days, giving particulars of the deficiency and outlining steps the governing board is required to take to correct the deficiency.
 - 17.4.b. The governing board shall correct the major deficiency within four months and shall notify the Commission when the deficiency has been corrected; however, extensions of this time frame may be requested and granted by the Commission.
- 17.5. If the governing board fails to correct the major deficiency or fails to notify the Commission that the deficiency has been corrected within a period of four months from the time the governing board receives notification, the Commission shall apply sanctions as specified:
 - 17.5.a. A formal reprimand shall be placed in the personnel file of each key administrator who shares responsibility and has operational authority in the area of the identified deficiency. The maximum period of time this reprimand shall remain in the personnel file shall be one year.

- 17.5.b. Other sanctions may include, but are not limited to, suspending new hiring by the organization and prohibiting compensation increases for key administrators who have authority over the areas of major deficiency until the identified deficiencies are corrected.
- 17.6. To the extent that major deficiencies are identified relative to the Commission central office the sanctions described above shall be applicable.
- 17.7. The Vice Chancellor for Human Resources shall report annually to the Commission on each institution under its jurisdiction on its adherence to this rule, the institution's own rules and both state and federal law regarding personnel and accountability.



WEST VIRGINIA
HIGHER EDUCATION
POLICY COMMISSION

Chancellor's Interpretive Memorandum No. 3 SB 653

Issued By: John F. Thralls, Interim Chancellor

Date: July 3, 2000

Subject: Internal Hiring of Non-Exempt Classified Employees

According to § 18B-7-3, non-exempt classified job openings at the institution are to be advertised internally to provide an opportunity for non-exempt employees to apply and be laterally transferred or promoted before a new person is hired. A non-exempt classified employee who meets the minimum qualifications for a lateral transfer or promotion to a non-exempt job opening at the institution where the employee is currently employed, and who applies for a non-exempt job opening, shall be transferred or promoted to that non-exempt job opening before any external applicants, unless the hiring is affected by mandates in affirmative action plans or the Americans with Disabilities Act.

If more than one qualified, non-exempt classified employee applies, the best qualified shall be employed. If there are equally qualified applicants, the non-exempt classified employee with the greatest continuous seniority at the institution of higher education shall be awarded the position.



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POLICY COMMISSION

Chancellor's Interpretive Memorandum No. 5 SB 653

Issued By: John F. Thralls, Interim Chancellor

Date: July 3, 2000

Subject: Grievance Process for Faculty, Classified Employees and Administrators

Section 18B-2A-4(k)

Effective July 1, 2000, all higher education employees who file a grievance are required to do so using the grievance procedure in § 18-29 of the West Virginia Code.

This interpretive memorandum replaces any inconsistent provisions of Series 36, Academic Freedom, Professional Responsibility, Promotion, and Tenure.