

REQUEST FOR INFORMATION COMPREHENSIVE HUMAN RESOURCES INITIATIVES

REQUEST FOR INFORMATION (RFI) NO. 15010 Appendix A

Important Reference Information

WV Code References and Background Information

Respondents are expected to review [SB 330 \(http://goo.gl/2zL8yw\)](http://goo.gl/2zL8yw), (specifically those sections labeled §18B-4-1, §18B-4-2, §18B-4-2a, §18B-7, §18B-8, §18B-9, §18B-9A) to gain a full understanding of the legislature's expectation with regard to personnel administration by the Commission and Council. Specific references and additional information affecting RFI projects follow:

Classification and Compensation

The term "Classification and Compensation" is mentioned multiple times in the WV Code chapters and sections amended by Senate Bill 330.

The initial establishment of the classification system and salary structure was codified in approximately 1994 in WV Code Chapter 18B "Higher Education". Article 9. "Classified Employee Salary Schedule and Classification System." Article 9 was amended in 2001 when the salary structure was updated. It was again amended by SB330 in 2011. The 2011 amendments changed the name of the salary structure for classified employees to "Temporary higher education classified employee annual salary schedule" and required higher education organizations to fully fund the salary schedule at a specific level of service (October 2010). The legislature imposed time restrictions for funding the October 2010 service point on the schedule by requiring certain percentages be funded by certain dates through July 1 2016. The code limited the ability of organizations to provide discretionary salary increases, including merit or performance-based increases to any group of employees other than classified employees unless the organization was making appropriate progress toward full funding according to the schedule of dates previously mentioned.

Senate Bill 330, in 2011, created a new article, [§18B-9A "Classification and Compensation System"](#) which expanded the principle of compensation management to include not only classified employees, but also non-classified and faculty categories of higher education employees.

§18B-9A-1. "Legislative Intent and Purpose"

The intent of the Legislature ([West Virginia Code §18B-9A-1](#)) with regard to the pay programs is to establish the classification and compensation system and apply recognized best human resources practices in order to use available resources in the most effective and efficient manner for the benefit of the citizens of West Virginia. The chief purposes, with regard to classification and compensation, are to accomplish the following objectives:

- to develop and implement a classification and compensation system that is fair, accountable, credible, transparent and systematic (FACTS).
- in furtherance of the FACTS principles, the classification and compensation system must be understandable, simple to administer, self-regulating and adaptable to meet future goals and priorities;

- to provide current, reliable data to governing boards, the Commission, the Council, the Governor and the Legislature to inform the decision-making process of these policy-makers;
- to attract well-qualified and diverse job applicants and retains and motivates employees to accomplish the goals, objectives and priorities identified in state law, rules of the Commission and Council, the statewide master plans for higher education and the institutions¹ compacts;
- to retain and reward employees who make valuable contributions to state and organization goals, objectives and priorities;
- to compensate employees within an organization fairly in relation to one another;
- to compensate employees across organizations who are performing similar work at similar wage rates;
- to compensate employees at levels that are competitive with appropriate external markets and are fiscally responsible;
- to improve the process for evaluating jobs, including, but not limited to, mandating training and development in best human resources practices and directing that key terms, job titles and evaluation forms are consistent across organizations, and;
- to ensure that regular market salary analyses are performed to maintain compensation programs for all categories of employees relative to their labor markets and to ensure compensation equity between all categories/classes of employees.

[§18B-9A-6 “Salary structure and salary schedules.”](http://www.legis.state.wv.us/WVCODE/ChapterEntire.cfm?chap=18b&art=9A§ion=6#09A)

<http://www.legis.state.wv.us/WVCODE/ChapterEntire.cfm?chap=18b&art=9A§ion=6#09A>

Directs the commission and council to “develop and maintain a market salary structure and minimum salary schedules and ensure that all organizations under their respective jurisdictions adhere to state and federal laws and duly promulgated and adopted organization rules.” The code clarified what may not be delegated to the Compensation Planning and Review Committee or the Job Classification Committee; additionally, this section:

- outlines uses and criteria for the “market salary structure”;
- requires that an external vendor conduct a classified employee market salary study at least once every five years;
- clarifies what actions may be taken by the Compensation Planning and Review Committee;
- allows the commission and council to perform an annual review of market salary data and adjust the market salary structure;
 - limits adjustment of midpoint differentials between grades and range spreads to only those years the external vendor conducts a market salary study;
 - allows the commission and council to approve a minimum salary schedule (entry rates);
 - directs how the minimums are established;
 - requires the commission and council consider minimum wage and other laws that ensure employees earn a living wage;

¹ SB330 changed the term “institutions” in reference to colleges and universities under the purview of the Commission and Council to “organizations.” Throughout WV Code, legislative rules and procedural rules of the commission and council, and this document, the terms “institution” and “organization” in reference to colleges and universities are used interchangeably.

- requires the commission and council maintain a salary structure which “ensures the average salary of each class of employees meets relative market equity among employee classes”²;
- allows for pay differentials for different work schedules.

Additionally, aspects the Classification and Compensation program are affected by requirements outlined in [§18B-9A-7-\(b\)\(2\) “Employee classification and compensation”](#), paragraphs (A) through (J).

(Web address:

<http://www.legis.state.wv.us/WVCODE/ChapterEntire.cfm?chap=18b&art=9A§ion=7#09A>)

This section of the code outlines ten objectives that must be addressed in the classification and compensation system.

Consultants will find a great degree of inconsistency with regard to how the legislature attempted to define “markets.” Reference to “peers,” “peer institutions” and “peer groups” may be found. After three years of analysis and attempts to reconcile the specific language of the code with best human resources practices and sound compensation management principles in regard to the appropriate definition of the market for the compensation studies, the legislature has recognized that their specificity in creating a requirement for using relative labor markets was not consistent with sound compensation principles. In a resolution passed in May 2014, the Legislative Oversight Committee on Educational Accountability (LOCEA) agreed to allow compensation consultants to establish “local, regional or national comparison pools designated for various categories of employees based on appropriate recruitment area and markets rather than institutional peers” referenced in the statute.

West Virginia Code often refers to the “**Final Report to the Select Committee on Higher Education Personnel**” which was received and accepted by the Select Committee of the legislature on January 11, 2010. This is a report of a study of personnel practices during 2007-2009. The report can be found on the West Virginia Advisory Council of Classified Employees (ACCE) website. The series of .pdf files that make up the final report can be found here: <http://www.wvacce.org/final-report-2010-jan.shtml>

[§18B-9A-8 “Implementation of classification and compensation system.”](#)

(<http://www.legis.state.wv.us/WVCODE/ChapterEntire.cfm?chap=18b&art=9A§ion=8#09A>)

This section of the code states that the primary responsibility for implementation “rests with the commission and council who shall provide leadership and assistance to the human resources professionals within each organization to bring about the changes successfully.” It requires the implementation process be carried out in incremental steps. The code outlines the steps. However, the steps included in this section are more related to cultural changes necessary to implement a statewide system of human resources administration. One of the steps is most related to classification and compensation and requires communicating with organization employees and administrators to acquaint them with the guiding principles of the classification and compensation system. We expect this communication program to be part of the recommendation for implementation of the structures developed by the consultants.

² The concept of “relative market equity” will be developed based on recommendations from compensation consultants who respond to the Commission and Council’s RFI. The legislature has recognized that the specific language related to “relative market equity” in SB 330 is not the best approach. They are allowing the concept to be developed by qualified compensation consultants using sound compensation practices. Their goal is to develop a rule to ensure each category of employee is equitable paid in relation to each other. For further information, please see the section titled, “Compensation – Internal and External Equity” on the following page(s).

[§18B-7-8 “Reporting”](#) outlines the specific information required for reporting personnel data to the legislature. This section of the code requires a series of reports on progress during development and implementation of the FACTS system of personnel administration and the “classification and compensation” system. Additionally, it requires a series of annual reports to the legislature on human resources metrics in the form of a “report card.” The first “report card” and report of system metrics was completed in 2012 by Modern Think. Finally, the code requires an “in depth” report every five years of the effectiveness of the system for classifying jobs.

Compensation – Internal and External Equity

Senate Bill 330 created a concept called “relative market equity.” After three years of analysis and attempts to reconcile the specific language of the code with best human resources practices and sound compensation management principles, the legislature has recognized that their specificity in creating a requirement for fair pay among and between employee categories was not the best approach to achieving the concept. In a resolution passed in May 2014, the Legislative Oversight Committee on Educational Accountability (LOCEA) agreed to allow compensation consultants to recommend “how best to define and implement” Relative Market Equity, keeping with the original legislative intent. We believe the intent of the legislature was to develop a method of analysis and comparison of compensation for the three categories of employees in West Virginia higher education against the market and each other to achieve relative equity in compensation levels that support the missions of the organizations in our systems and the goals of the compensation programs established in WV Code.

References to “relative market equity” or “relative market status” can be found in WV Code [§18B-4-2a\(e\)\(6\)](#), WV Code [§18B-7-2\(f\) and \(g\)](#), and WV Code [§18B-9A-6\(g\)\(1\)](#). Respondents are encouraged to review these sections of the WV Code to develop an understanding of legislative intent.

Statewide Systems - Human Resources Support

Senate Bill 330 became law on June 10, 2011. Since that time the Commission and Council have been unable to maintain consistent employment in the position of Vice Chancellor for Human Resources. Given the turnover in the position and after three years of inability to make progress on initiatives required by the legislature for human resources administration, the Commission and Council are seeking recommendations for development of an RFP for study and design of an organization capable of designing, delivering and maintaining the statewide human resources services, programs, advice and assistance required by statute.

[§18B-4-2a “Employment of Vice Chancellor for human resources; powers and duties generally, staff; office.”](#) This section of the code creates the position and outlines the responsibilities of the Vice Chancellor for human resources with regard to providing a statewide personnel system.

The structure of the state supported system of higher education in West Virginia has changed several times over the last thirty years. Currently the Commission and Council are responsible for developing, establishing, and overseeing the implementation of public policy for West Virginia’s higher education institutions/organizations. The Commission has this responsibility for the state’s 4-year colleges and universities. The Council has this responsibility for the community and technical colleges. The Commission and Council is the coordinating body and enforcement agency for statewide rules, laws and initiatives. Each organization/institution is governed by a board of governors, who delegates authority for operation of the organization to a President. Chief Human Resources Officers (CHRO) at each organization typically report to the President or Chief Finance Officer. Some may report to a Chief Administrative Officer. Not all CHROs have the same level of education or training, nor do they have

the same level of authority or responsibility at their institutions. The Vice Chancellor for Human Resources does not have direct authority or responsibility for the CHROs employed by higher education organizations. The legislature established the Vice Chancellor for human resources to provide vision, leadership and direction to ensure the human resources system for employees of the commission, council and governing boards is effective, efficient and aligned with industry best practices.” In addition to providing professional human resources leadership and support for the eighty employee organization that is the offices of the Commission and Council Chancellors, the Vice Chancellor for Human Resources is further charged with establishing a statewide human resources system for all West Virginia higher education and overseeing and monitoring “all issues related to the personnel system for higher education employees and provide(ing) technical support to organizations as directed or requested on all issues related to the design, development, implementation and administration of the personnel system established” by WV Code.

§18B-4-2a further outlines statewide responsibilities with regard to developing and maintaining classification and compensation programs; human resources information systems, benefit administration, systems reporting including metrics, “performance reviews of personnel who administer human resources functions at each organization in relation to best practices” every three years; and designing and administering a Training and Development program that includes needs analysis, training program design and delivery, management inventories, appraisals, placement, counseling and training as well as coordinating programs developed internally or provided by outside contractors for all organizations of the systems. With regard to “performance reviews of personnel who administer human resources functions at each organization,” it is important to consider, as mentioned above, that individual employees who perform HR functions at organizations have no direct reporting responsibility to the Vice Chancellor for HR. However, when considering the clarifying phrase, “in relation to best practice” leads one to believe that compliance with this requirement could be achieved using a balanced scorecard approach. However, it is the intent of the Commission and Council to rely on recommendations from qualified HR consultants for compliance with this requirement of the law.

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

The intent of the legislature ([West Virginia Code §18B-7-1](#)) with Senate Bill 330 was to create a statewide integrated human resources structure for public higher education capable of, but not limited to, meeting the following objectives:

- Providing benefits to the citizens of the State of West Virginia by supporting the public policy agenda as articulated by state policymakers;
- Assuring fiscal responsibility by making the best use of scarce resources;
- Promoting fairness, accountability, credibility, transparency and a systematic approach to progress (FACTS) in personnel decision-making;
- Reducing, or, wherever possible, eliminating arbitrary and capricious decisions affecting employees of higher education organizations as defined in section two, article nine-a of this chapter;
- Creating a stable, self-regulating human resources system capable of evolving to meet changing needs;
- Providing for institutional flexibility with meaningful accountability;
- Adhering to federal and state laws;
- Adhering to duly promulgated and adopted rules; and
- Implementing best practices throughout the state higher education system.

To accomplish these goals, the Legislature encourages organizations of the Council and Commission to:

- pursue a human resources strategy which provides monetary and nonmonetary returns to employees in exchange for their time, talents and efforts to meet articulated goals, objectives and priorities of the state, the commission and council, and the organization;
- the system should maximize the recruitment, motivation and retention of highly qualified employees;
- ensure satisfaction and engagement of employees with their jobs;
- ensure job performance and achieve desired results.

[§18B-7-16 “Study of employment practices”](#)

In addition to requirements of §18B-4-2a, this section requires specific studies relating to employment practices be conducted. Those include for:

- reduction in force, furloughs and other issues relating to seniority including how employees shall be treated whose salaries are derived from funds other than state appropriations;
- studies to determining the advantages and disadvantages of maintaining the internal preferences for hiring, promoting and transferring classified employees;
- collecting and analyzing data and developing recommendations on the advantages and disadvantages of outsourcing;
- recommending a rational, uniform policy to determine the status of employees whose positions are funded in whole or in part by an external grant or contract from a federal, state or local government of private entity.

Finally, the legislature outlines their views on implementation of the major cultural changes effectuated by Senate Bill 330 in [§18B-9A-8 “Implementation of classification and compensation system.”](#) Although the title of this section leads one to believe it addresses only Classification and Compensation implementation, it says little about it. As mentioned in a previous section, §18B-9A-8 focuses on the aspects of statewide human resources administration and the need for “sweeping cultural changes.” It includes communication of policy changes; seeking credentialed HR professionals as catalysts for change to promote implementation of FACTS principles; conducting review of the HR function at each organization to identify best practices and areas of deficiency; developing and implementing employee training and professional development; conducting a study of the HRIS system being implemented by the State of WV; establishing the Compensation planning and review committee and providing data throughout the process of implementation of SB 330 initiatives.