

## Board of Governors Rule

Talent and Culture  
Administration and Employment Practices  
Responsible Unit: Talent and Culture  
Amended: September 9, 2022  
Effective: September 30, 2022  
Revision History: Written and adopted as  
BOG Rule 3.1 on September 8, 2017  
(effective September 28, 2017)  
Review Date: September 2027

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### **BOG TALENT AND CULTURE RULE 3.1 ADMINISTRATION AND EMPLOYMENT PRACTICES**

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#### **SECTION 1: PURPOSE & SCOPE.**

- 1.1 The University seeks to design and administer fair and flexible human resource practices for all employees that allow the University to attract, retain, and motivate high performing Employees.
- 1.2 This Rule outlines the guiding principles for establishing human resource practices for all University employee types and covers other employment practices required by State law. This Rule applies to all Classified Employees, Non-Classified Employees, Faculty, and any other employee positions of the West Virginia University Board of Governors. Specific application to various job types may be limited by each section below

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#### **SECTION 2: DELEGATION TO PRESIDENT GENERAL ADMINISTRATION OF HUMAN RESOURCES PRACTICES.**

- 2.1 To enable the University to function in a proper and expeditious manner and to advance the University's mission and objectives, the Board of Governors delegates to the President the following authority:
  - 2.1.1 To administer a system for all personnel matters, including but not limited to, hiring, promotions, demotions, transfers, compensation and benefits administration, discipline, performance management, alternative dispute resolution, and dismissal.
  - 2.1.2 To administer a system for hearing eligible employee grievances and appeals. *Provided*, that the grievance procedure established in State law is the exclusive mechanism for hearing eligible employee grievances and appeals.
  - 2.1.3 To contract and pay for disability insurance or any other supplemental employee

benefit for applicable Classified Employees, Non-Classified Employees, Faculty, and other employee positions. *Provided*, that if the disability insurance or supplemental employee benefit program incurs expense to the University, then the President shall first obtain approval from the Board of Governors.

2.1.4 To establish the standard work week and work schedules for Classified and Non-Classified Employees. *Provided*, that any significant and material change to the hours of the standard work week shall be approved by the Board of Governors before implementation by the President.

2.2 All human resource practices shall be consistent with Federal and State law and any Rule adopted by the Board of Governors.

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**SECTION 3. ENGAGEMENT WITH STAFF COUNCIL ON TALENT & CULTURE RULES, POLICIES, AND PROCEDURES.**

3.1 Pursuant to W. Va. Code §18B-7-1, et seq., §18B-9A-1, et seq., and §18B-9B-1, the Vice President for Talent and Culture shall meet at least quarterly with representatives of Staff Council to discuss the implementation and effectiveness of any Board of Governors Talent & Culture Rule. Where appropriate, the Vice President for Talent and Culture shall make recommendations to the President or Board of Governors to address concerns or issues identified by Staff Council regarding the implementation and effectiveness of the Talent & Culture Rules.

3.2 The Vice President for Talent and Culture shall initiate a comprehensive external review of human resource practices at least once every five years, relating to the University's compliance with W. Va. Code §18B-7-1, et seq., §18B-9A-1, et seq., and §18B-9B-1. Staff Council shall be given the opportunity to speak with the external auditors before the start of the audit and after its completion.

3.3 Where appropriate, the Vice President for Talent and Culture is encouraged to seek input from the University community, including, but not limited to, Staff Council, regarding the development and implementation of internal human resource policies and procedures.

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**SECTION 4: ADDITIONAL EMPLOYMENT PRACTICES REGARDING CLASSIFIED EMPLOYEES.**

4.1 **Part-Time Classified Employees.**

4.1.1 A Unit supervisor, in consultation and concurrence with the Vice President for Talent and Culture, shall only establish part-time classified positions based on the operational needs of a Unit, and shall not create part-time classified positions solely to avoid the payment of benefits.

- 4.1.2 All qualified Classified Employees who hold contracts that are at least nine-month and less than twelve-month in duration shall be given the first opportunity to accept part-time or full-time summer positions at the University before a new employee is hired for such a position.

#### **4.2 Work Schedules for Classified Employees.**

- 4.2.1 Unit supervisors are discouraged from making temporary, non-emergency, or institutionally-imposed changes to a Classified Employee's work schedule.
- 4.2.1.1 However, a Unit supervisor may temporarily change a Classified Employee's work schedule due to a Unit's operational needs.
- 4.2.2 Any change to a Classified Employee's work schedule due to a Unit's operational need must be communicated directly to the affected Classified Employee. When possible, the Unit supervisor shall provide a Classified Employee with a 15 calendar day notice regarding work schedule changes.
- 4.2.3 A Unit supervisor may approve a Flex-Time work schedule for a Classified Employee, consistent with the operational needs and practices of the Unit and any relevant internal policies and procedures on human resource practices. Any expectations associated with the granting of a Flex-Time schedule shall be communicated directly to the affected Classified Employee.

#### **4.3 Continuing Education and Professional Development for Classified Employees.**

- 4.3.1 The Vice President for Talent & Culture shall establish and operate a continuing education and development program for Classified Employees that encourages and supports continuing education and professional development. However, Unit supervisors, with requested assistance from the Vice President Talent & Culture, shall primarily be responsible for identifying developmental opportunities in partnership with the individual Classified Employee.
- 4.3.2 Subject to appropriate supervisory approval, any Classified Employee is eligible to participate in continuing education and professional development programs appropriate to his or her position.
- 4.3.2.1 Any University programs or practices shall require that Classified Employees be selected on a nonpartisan basis using fair and meaningful criteria which afford all individuals opportunities to enhance their skills and productivity in the workforce.
- 4.3.3 Funds allocated or made available for continuing education and professional development may be used to compensate and pay expenses for any Classified Employees pursuing additional academic study or training to equip themselves better for their job duties.

- 4.3.3.1 The programs or practices may include reasonable provisions for the continuation or return of any Classified Employee receiving the benefits of the education or training, or for reimbursement to the University for expenditures incurred on behalf of the individual.

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**SECTION 5: DEFINITIONS FOR ALL BOARD OF GOVERNORS TALENT AND CULTURE RULES.**

- 5.1 “Affiliate” means the West Virginia University Research Corporation, the West Virginia University Innovation Corporation, the West Virginia University Hospital System or any of its subsidiaries or affiliates, the West Virginia University Foundation, and the West Virginia University Alumni Association, or other entities created by West Virginia University to serve the institution’s mission.
- 5.2 “Benefits” means programs that the University uses to supplement the cash compensation of Employees and includes health and welfare plans, retirement plans, pay for time not worked and other Employee prerequisites.
- 5.3 “Classified Employee” means a regular full-time or regular part-time employee of an organization who:
- 5.3.1 Does not meet the duties test for exempt status under the provisions of the Fair Labor Standards Act; or
  - 5.3.2 Was a classified employee as of January 1, 2017, unless otherwise deemed a Non-Classified employee pursuant to parts 5.10.1 through 5.10.4; or
  - 5.3.3 Does not qualify as a Non-Classified Employee as defined in sub-section 5.10, below.
- 5.4 “Critical to the institution” means the position is core to the University’s mission and has a significant impact on its business operations or services as determined by Talent and Culture.
- 5.5 “Faculty” means all faculty classifications as defined in current BOG Policy 2 (or successor BOG Rule).
- 5.6 “Flex-Time” means work schedules which do not comply with the standard work schedule for the Unit. Flex-time may include, but is not limited to, flexible schedules, job sharing and four-day work weeks.
- 5.7 “Full-Time Regular” means a position established to work a minimum total of one thousand forty (1,040) hours during a calendar year and extends over at least nine (9) months of a calendar year.
- 5.8 “Good Standing” means the employee had no active disciplinary actions within the last 24

months of employment and did not have a documented performance rating of development needed, or an equivalent rating within the last 24 months of employment.

- 5.9 “Information Technology Related” means the position has a primary responsibility of supporting information technology functions, as determined by the main duties or the majority of duties assigned.
- 5.10 “Non-Classified Employee” means a non-faculty regular employee of the University who meets one or more of the following criteria:
- 5.10.1 Holds a direct policy-making position at the department or organization level;
  - 5.10.2 Reports directly to the president or chief executive officer of the University;
  - 5.10.3 Is in a position considered by the president or designee to be critical to the institution pursuant to policies or decisions adopted by the governing board;
  - 5.10.4 Is in an information technology-related position;
  - 5.10.5 Is hired after July 1, 2017, and meets the duties test for exempt status under the provisions of the Fair Labor Standards Act at the time of hire or anytime thereafter;  
or
  - 5.10.6 Was in a non-classified position as of January 1, 2017.
- 5.11 “President” means the President of West Virginia University or his or her designee.
- 5.12 “Reduction in Force” or “RIF” means a separation from employment due to lack of funds, lack of work, elimination of position(s) or reorganization, with no likelihood or expectation that the employee will be recalled because the position itself is eliminated.
- 5.13 “Staff Structure” means the pay ranges for Classified Employees (including Minimum, 25<sup>th</sup> percentile, Midpoint, 75<sup>th</sup> percentile, and Maximum) in effect as of the adoption of this Rule.
- 5.14 “Unit” means any department, budget unit, college, other identifiable employee group, or combination thereof.
- 5.15 “Vice President for Talent and Culture” means the Vice President for Talent and Culture or his or her designee.

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## SECTION 6: DELEGATION.

- 6.1 The Board of Governors delegates to the President the authority to adopt additional human resources internal policies and procedures to effectuate the implementation of this Board

of Governors Rule or in furtherance of any other authority that the Board of Governors has specifically delegated to the President pursuant to this Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.

- 6.2 To the extent federal and state law is inconsistent with this Rule and it is not possible for the University to comply with all, applicable law will govern. Accordingly, Talent and Culture, with advice from the Office of General Counsel, has the discretion to implement any necessary changes in order to comply with legal obligations.

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**SECTION 7: AUTHORITY.**

- 7.1 W. Va. Code §18B-1-6, §18B-2A-4, §18B-7-1, et seq., §18B-9A-1, et seq., §18B-9B-1.

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**SECTION 8: SUPERSEDING PROVISIONS.**

- 8.1 This Rule supersedes and replaces Higher Education Policy Commission (“HEPC”) Series 8 (W. Va. Code R. §§ 133-8-1 to -19), which was adopted November 22, 2001, and repealed June 22, 2018; HEPC Series 14 (W. Va. Code R. §§ 133-14-1 to -6), which was adopted April 19, 2002, and repealed and replaced December 1, 2019; HEPC Series 38 (W. Va. Code R. §§ 133-38-1 to -13), which was adopted November 19, 1992; HEPC Series 39 (W. Va. Code R. §§ 133-39-1 to -8), which was adopted September 5, 1996, and repealed June 22, 2018; HEPC Series 40 (W. Va. Code R. §§ 133-40-1 to -2), which was adopted December 1, 2019; HEPC Series 53 (W. Va. Code R. §§ 133-53-1 to -17), which was adopted May 2, 2013, and repealed March 29, 2019; HEPC Series 55 (W. Va. Code R. §§ 133-55-1 to -27, including Appendix A), which was adopted June 4, 2018, and any other current or subsequent Rule of the HEPC which relates to the subject matter contained within this Rule. This Rule also repeals and supersedes WVU BOG Policy 13 – Part Time Classified Employees, which was adopted October 3, 2003; WVU BOG Policy 26 – Employee Development, which was adopted April 8, 2005; WVU BOG Policy 27 – Work Scheduling, which was adopted April 8, 2005; and any other internal human resource policy or procedure which relates to the subject matter contained within this Rule.