History & Future

The Fairmont State University Staff Council, originally known as the Classified Employee Staff Council, was originally created by the West Virginia Legislature via HB 2224 under WV State Code §18B-6-6. The council’s purpose was to provide classified staff employees at state institutions of higher education with a means to share information and discuss issues affecting them or the efficient and effective operations of an institution. The council was formed with recognition that all matters at Fairmont State University are governed by state law, by the Fairmont State University Board of Governors, and Fairmont State University policies and procedures.

Today’s Fairmont State Staff Council keeps its original purpose but in preparation for the anticipated changes to Code §18B-6-6 to transfer all “Classified-Staff” to “Staff”, the Staff Council has made these changes.
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Article I – Name

The name of this organization shall be the Fairmont State University Staff Council, hereinafter referred to as the Classified Staff Council.

Article II – Authority

The Staff Council will be a unit of Fairmont State University (hereafter referred to as the University) and will continue to be so until such time as the West Virginia Legislature withdraws recognition. The organization of the Staff Council will in no way affect the right of the University employees to belong to other organized groups of their choice, nor will it preclude the functioning of such organizations.

Article III – Mission

The Staff Council serves as a representative body and a voice for all members of Fairmont State University staff and will provide a forum for discussion of staff concerns.

The Staff Council will:

- provide and share community service opportunities in our efforts to give back to the local community;
- provide and increase educational financial assistance opportunities for staff by awarding scholarships (ex. Staff Councils Scholarship);
- communicate new or proposed legislation that may directly or indirectly effect staff;
- promote, improve, and make recommendations for the good of the general welfare and working conditions of all staff personnel being aware and concerned with the subsequent effect on Fairmont State University as a whole;
- act in fostering improvement of working conditions for employees through input into staff development programs and appointment of election of staff employees to major University committees. The Staff Council may consider questions, concerns and recommendations of any individual or groups of individuals within the staff personnel of Fairmont State University.
- act in an advisory capacity and will have the responsibility of making recommendations related to concerns of the staff personnel to the Higher Education Policy Commission, Board of Governors, the President, University administration and legislature as deemed appropriate.
- oversee all aspects of the Staff Employee Scholarship Fund established and maintained by the Staff Council in conjunction with the President of Fairmont State University Foundation.
The Staff Council responsibilities DO NOT include acting as a grievance board for individual cases.

**Article IV – Maximum Membership**

A. Eligibility: Must be a staff employee, defined as a regular full-time or part-time employee of the University who holds a position that is assigned a particular job title and pay grade.

B. The Staff Council shall consist of:

   I. the Staff Council Chair (voting);

   II. the Institutional Board of Governors (BOG) Staff Representative (ex officio, voting);

   III. the State Advisory Council Representative (ex officio, voting);

   IV. up to two (2) staff employees from the First/Mid-Level Officials and Managers sector; Excluding Vice Presidents *(EEO category 1.2)*;

   V. up to two (2) staff employees from the Professionals sector *(EEO category 2)*;

   VI. up to two (2) staff employees from the Technicians sector *(EEO category 3)*;

   VII. up to two (2) staff employees from the Administrative Support Workers sector *(EEO category 5)*;

   VIII. and up to two (2) staff employees from the Craft Workers, Operatives, Laborers & Helpers and Service Workers sector *(EEO categories 6, 7, 8 and 9)*.

C. There shall also be one elected, alternate for each *(EEO category 1.2, 2, 3, 5, 6-9)*. In the temporary or permanent absence of a Council member, the appropriate category alternate shall serve as a voting member.

D. The retiring Chair of the Staff Council may serve as advisor during the transition from one administration to another upon approval of the Council during a fiscal year.
Article V - Terms of Office

A. The term of office for a member of Staff Council shall be two years and shall begin on July 1 of each odd-numbered year.

B. Elections of representatives will be done in the manner prescribed in Article VI of this Constitution.

C. Transfer of a Staff Council member from one EEO category to another shall not affect his/her unexpired term on the Council.

D. Vacancies will be created by death, termination of service to the University, resignation, or four (4) unexcused absences from regularly scheduled Staff Council Meetings per term.

E. After a member has accrued three (3) unexcused absences, the Council Chair will notify the member, in writing, that one additional absence will result in his/her removal from the Council. Vacancies will be filled according to the procedures as outlined in Article VI of this Constitution.

F. Staff Council category members, Chair, and ACCE representative have unlimited eligibility to succeed themselves. However the BOG representative is eligible to succeed herself/himself for three additional terms, not to exceed a total of eight consecutive years.

Article VI – Elections

A. Elections shall be held each odd-numbered year in the month of April.

1. The elections will be held for the ACCE representative, the BOG representative, the Staff Council Chair, and the members of each category of EEO staff and their alternates during the second week of April of each odd-numbered year. Nominees for Staff Council Chair should have been a member of the Council for at least one year.

2. The Council Chair shall request a current list of staff who are eligible to be nominated for Staff Council positions prior to the election held in April. This list shall be distributed to Staff one week before the election.

B. Elected positions shall consist of:

1. Staff Council Chair
2. State Advisory Council Representative
3. Institutional Board of Governor’s Representative
4. EEO Category Representatives
C. The Council’s chosen designee will accept nominations and conduct the elections as described in this Constitution.

D. All EEO classes of staff employees have the opportunity to vote for the ACCE, BOG and staff council chair representative. Each employee will vote for their specific EEO representative.

1. Nominations for the elected positions of representatives to the ACCE, the BOG, the Staff Council Chair, and the members of each EEO category and their alternates will be accepted by campus mail or email one week prior to the specified election date. The Council’s designee will confirm that the nominee accepts the nomination. A list of nominees will be distributed to all staff employees at least two work days prior to the scheduled election date.

2. Votes for nominees to the positions of ACCE Representative, BOG Representative, Staff Council Chair, and Staff Representatives will only be accepted on the specified election date and can be provided either in-person at the designated polling area or via email.

3. If more than one candidate is nominated for the ACCE, BOG, or Staff Council Chair position, the elected person must receive the majority of the votes cast. In the event of a tie, a run-off election will be held between the tied candidates.

4. If only one person is nominated for either the ACCE, BOG, or Staff Council Chair position, that person will be accepted to the position; a formal vote is not necessary.

E. Only staff employees from within each EEO job category may nominate and vote for their respective representatives and alternates.

1. Nominations for EEO category representatives and alternates will be accepted by campus mail or email during the week prior to the specified election date.

2. Votes for nominees to the positions of EEO category representatives and alternates will only be accepted on the specified election date and can be provided either in-person at the designated polling area or via email.

3. If more than one candidate is nominated for an individual category representative or alternate position, the elected person must receive the majority of the votes cast. In the event of a tie, a run-off election will be held between the tied candidates.
4. If only one person is nominated for an individual category representative or alternate position, that person will be accepted to the position; a formal vote is not necessary.

F. The Council’s designee will conduct the final vote for each election by secret ballot. The ballot records will be retained in the designee’s office for a period of 60 days after elections are complete and are subject to Freedom of Information Act (FOIA).

G. The Executive Officers of the outgoing Staff Council will certify the election results. In cases where officers are running for reelection, the Chair will appoint a Council Member as a substitute for the ineligible officer.

H. In the event a vacancy should occur in the positions of Staff Council Chair, the representative to the ACCE, or the representative to the BOG, a special election will be held to fill the unexpired term, with nominations accepted by mail or email two weeks prior to the election from all staff employees.

I. In the event that a vacancy should occur in a category representative’s position, the elected alternate will assume the Council position. The staff members in the affected category will be asked to nominate and elect a person for the unexpired term of that alternate.

J. All special elections will be held within 30 days of the occurrence of the vacancy. In the event of a tie, a run-off election will be held between the tied candidates.

**Article VII - Officers and their Duties**

A. The Officers of the Staff Council shall be Chair, Vice Chair, and Secretary.

1. The Chair will be elected in the regular election. The Chair shall appoint a Vice Chair and a Secretary. If either office becomes vacant later, an election by members of the Council shall be held as soon as possible after notice of such vacancy is given.

B. The Chair will:

1. preside at all regular and special meetings and enforce all regulations and policies of the Staff Council,

2. preside over the Executive Committee and be responsible for preparing the committee structure,

3. provide the Staff report, along with the ACCE Representative at scheduled BOG meetings,

4. be responsible for the Staff Council budget,
5. call special meetings when it is deemed necessary,

6. appoint standing committee chairs,
7. appoint ad-hoc committees and chairs, as necessary,
8. appoint staff employees to serve on University committees,
9. coordinate public relations efforts for the Staff Council,

C. The Vice Chair will:

1. assume the duties of the Chair in the absence of or at the request of the Chair,
2. record and prepare meeting minutes in the absence of the Secretary,
3. prepare an agenda for each regular meeting at least seven working days prior to the scheduled meeting,
4. track attendance of council members and report to Chair
5. distribute the meeting agenda to all staff within five working days prior to the scheduled meeting,

D. In the event of the absence of both the Chair and Vice Chair at a regularly scheduled meeting, a President Pro Tempore will be elected by the Staff Council members present to conduct the meeting.

E. The Secretary will:

1. record and prepare minutes of Executive Committee meetings,
2. record and prepare minutes of regular meetings,
3. record and prepare minutes of special meetings,
4. provide a draft copy of the minutes to each member of Staff Council via email within ten working days after the meeting,
5. have the approved minutes posted to the Council’s web site and distribute a copy of the approved minutes to:
   a. All staff employees
   b. The President of the University
   c. All faculty and non-classified supervisors of staff employees
   d. All members of the University Board of Governors

6. be responsible for retaining all records of the Staff Council, including fiscal records obtained from the Fairmont State Foundation Office.

F. The Staff Council may relieve any Officer of the Staff Council from his or her seat, except the Chair, of his/her duties by a two-thirds vote of the total body of the Staff Council.

G. In the absence of the duly elected staff employee representative to the ACCE, the Chair of the Staff Council shall appoint an alternate to attend the ACCE meeting. The alternate will be authorized to serve as a proxy (voting member) at the designated ACCE meeting.
H. Restrictions:

1. No agreement made by the officers or members of the Council will be considered to be the Staff Council’s position until it has been approved by the Staff Council by a quorum vote.

2. No expenditure of funds allocated under Staff Council or expenses incurred by its members will be made or reimbursed unless approved by the Staff Council. In the interim between regular monthly meetings, the Executive Committee will have authority to incur or approve costs.

Article VIII – Meetings

A. Regular meetings of the Staff Council shall be held once a month. The date of the next meeting will be decided at each meeting. There will be no scheduled meeting in the month of July.

B. Council members shall be given release time from their regular duties to attend Council meetings and conduct Council business. Supervisors and managers will be notified of meeting dates and times in advance to encourage employee attendance.

C. The Chair may authorize special meetings of the Staff Council when necessary or appropriate in matters concerning staff employees.

D. The Staff Council will meet with the President of the University at least quarterly to discuss matters affecting staff employees.

E. The Staff Council will meet with the University Board of Governors at least once each fiscal year in an informal meet and greet format.

F. A quorum at a regular meeting will be a majority of the total voting membership present at that meeting.

G. All Council meetings will be open to the public except as provided for in Executive Session by state law. Non-members of Staff Council may participate in discussions upon recognition by the Chair of the Council.

Article IX – Executive Committee

A. The Executive Committee shall be composed of the Staff Council Chair, the Vice Chair, the Secretary, the ACCE representative, and the BOG representative.
B. The Executive Committee is authorized to act for the Staff Council on an emergency basis between meetings of the Council and to assist the Chair in making appointments to all committees.

C. Any actions of the Executive Committee must be presented to the entire Staff Council for approval at the next regularly scheduled meeting.

Article X – Committees

A. Unless otherwise specified, the Chair, with the assistance of the Executive Committee, shall appoint all committee members and designate a chair for each committee from within the membership of the Council. Committee members shall receive release time to attend committee meetings.

B. The Staff Council shall have the following Standing Committees:

1. Legislative Affairs - The Legislative Affairs Committee serves to identify issues relevant to Employees and the University community and bring those issues to the attention of our regional legislators with the goal of making positive changes through legislation. The Committee shall maintain and provide a key list of area legislators and key members of the Executive and Legislative branches of state government for distribution to Staff Council.

2. Election – The Election Committee, working with the Council’s designee, shall coordinate elections for the positions of Council members and alternates, Staff Council Chair, BOG representative, and ACCE representative. The committee also ensures appropriate procedures are followed as outlined in the Constitution and recommends changes to Staff Council.

3. Staff Development - The Staff Development Committee shall be concerned with the promotion and coordination of development, training, and educational opportunities to heighten the professional level and effectiveness of staff employees in their assigned duties and for personal advancement. The Committee shall make recommendations to the Council. The Committee shall also coordinate the Staff Council tuition waiver program.

4. Website – The Website Committee is responsible for maintaining and updating the Council website.

5. Special Events - The Special Events Committee is responsible for coordinating, planning, and publicizing the annual Staff Employee Recognition luncheon, holiday luncheons, and other social activities.
C. Each Committee Chair will bring all proposals in writing to the Staff Council for approval prior to implementation. Each Committee Chair will report at each regular monthly Council meeting.

D. Each member of Staff Council will serve on at least one Council committee but not more than two.

E. Committee appointments will be for the duration of the two-year Council membership term or until the Committee is dissolved by the Council.

F. No position or agreement made by any Standing Committee or member shall be considered to be the Staff Council’s position until it has been approved by Staff Council.

G. The Staff Council will create Ad-Hoc committees as deemed necessary. The Council Chair, with assistance from the Executive Committee, will appoint Ad-Hoc committee members and designate a Chair for each. No agreement made by any Ad-Hoc committee will be considered to be the Staff Council’s position until it has been approved by the Council.

Article XI – Procedures

A. Any staff employee may present ideas, opinions, and requests to any member of the Staff Council to consider for inclusion on the agenda of the next regular meeting. The Council member will forward the information to the Vice Chair who will consult with the Chair to determine whether or not the request will be included on the agenda. The employee will receive notification of the disposition of the Council regarding the request.

B. All formal proposals created and approved by the Staff Council will be submitted to the President for his/her consideration.

C. The Staff Council reserves the right, after the President’s review, to forward the proposal to the BOG and/or the ACCE.

Article XII – Amendments

A. Amendments to the Constitution may be proposed by any Council member and must be presented to the Council in the form of a motion.

B. A notice that an amendment is being proposed must be distributed to all staff employees at least 20 working days prior to the meeting at which voting will occur.

C. Amendments to the Constitution will be considered approved with the majority vote at the Council meeting at which it is presented.
Article XIII - Parliamentary Authority

Robert's Rules of Order, as revised, shall govern the proceedings of the Staff Council except where otherwise specified in this Constitution.
EEO Job Categories

1.1 – Executive/Senior Level Officials and Managers. This category is reserved for the highest level within the organization. This level includes individuals who plan, direct, and formulate policies, they set the strategy, and they provide information to be approved by the board of directors. Some examples are the chief executive officer or the chief operating officer.

1.2 – First/Mid-Level Officials and Managers. Individuals in this category take direction from those in the 1.1 EEO job category. The 1.2 EEO job category includes managers at the group, regional, or divisional level of the organization. Examples might include vice presidents, operations managers, or group directors.

2 – Professionals. Jobs in this category typically (but not always) require professional degrees or certifications. This category includes roles like engineers, accountants, teachers, pilots, programmers, lawyers, athletic coaches, programmers, and doctors.

3 – Technicians. This category includes jobs that require specific skills to be applied in the work. This category is very specific; certainly not every company will have technicians. Some examples include chemical technicians, drafters, engineering technicians, dental hygienists, and emergency medical technicians.

4 – Sales Workers. As the name implies, this EEO job category includes anyone dealing in sales as their primary function. Retail salespeople, insurance salespeople, travel agents, real-estate agents, financial services salespeople, and telemarketers are some examples of roles that would fall into this category.

5 – Administrative Support Workers. These jobs are typically found in office settings and include roles such as secretaries, paralegals, switchboard operators, payroll and timekeeping clerks, file clerks, dispatchers, and other general office clerks.

6 – Craft Workers. Individuals in this category typically will have a specific skill set that makes them qualified for a particular subset of jobs. For example: carpenters, brick and stone masons, plumbers, painters, auto mechanics, and roofers, just to name a few. The distinction here is that a craft worker will have a specific skill to set them apart. This can be difficult to distinguish from the next category, which generally includes what can be termed “semi-skilled” workers.

7 – Operatives. This group includes jobs that require minimal (a few months, maximum) training. They can be termed as semi-skilled or intermediate-skilled because the training is less specific, but there is still a specific job title involved. Examples include butchers, forklift drivers, bus drivers, bakers, poultry processing workers, etc.

8 – Laborers and Helpers. Roles in this category generally don’t require anything more than brief training, and the individuals who perform them are not expected to exercise independent judgment. Some examples might include helpers, assistants, attendants, and freight movers.

9 – Service Workers. It is important to note that just because this is the last job category does not indicate that it is considered to be the lowest, and certainly not lowest paid. This category includes those in the service sector, such as cooks, bartenders, firefighters, hairdressers, janitors, police, detectives, criminal investigators, and medical assistants.
Non-Exempt and Exempt Employees—What’s the Difference?

Employees are either exempt or non-exempt—but what IS the difference between the two?

The federal Fair Labor Standards Act (FLSA) requires that employers appropriately assign jobs to either non-exempt or exempt status; non-exempt employees are covered and protected by FLSA rules and regulations, but exempt employees are not. The FLSA (enacted in 1938, at the height of the Great Depression) was the first federal legislation that established minimum wage, overtime regulations, child-labor, record-keeping and other protections for the vast majority of American workers. If you are a non-exempt employee, then you are “not exempt” from the provisions and protections of the FLSA and are thus eligible for overtime pay and minimum wage protections. If you are an exempt employee, then you are “exempt” from and are not covered by the provisions of the FLSA and have no guarantees of overtime pay or minimum wage. It’s as simple as that.

What isn’t so simple, however, is determining who may be exempt from FLSA protections. Typically, the status of “exempt” is assigned to positions that earn at least $455 per week in addition to holding certain professional degrees and/or performing job responsibilities at a certain level. The three exemption categories permitted by the FLSA are executive, administrative and professional, and in each, the work assigned to and/or the education required of these positions must meet very stringent “tests.”

The executive exemption is supported if the employee has an enterprise-management role, supervises more than two employees, has the authority to hire and fire other employees and is compensated at a minimum of $455 per week. At Fairmont State, examples would be the president, vice presidents and directors.

The professional exemption may be invoked if the employee’s job duties and responsibilities require knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. Examples would be faculty and nurses.

The administrative exemption is appropriate if an employee’s position involves the performance of office or nonmanual work related to the employer’s management or general business operations; the exercise of discretion and independent judgment with respect to significant matters in the employer’s business or operations and if it compensates the employee at a rate not less than $455 per week. Examples would be assistant directors, program managers and coordinators and office administrators.

Thus the greater majority of positions will fall into the non-exempt category and be overtime-eligible. So who’s non-exempt at our institution? Most of our classified/staff employees are—around 75%. These employees must be paid at least the minimum wage (currently $8.75 per hour). Non-exempt employees’ hours worked must be accurately recorded and maintained, which for our institution is done through the Kronos time-clock system. If they work over 40 hours in a workweek (our workweek is
from Saturday at 12:01 a.m. to the following Friday at midnight), then they must be compensated at time-and-one-half. (Because we work a 37.5 hpw schedule, any hours a non-exempt employee works between 37.5-40 are paid at the regular, straight-time hourly rate. Overtime compensation is not paid until the 40-hour threshold has been reached.)

And what does being an exempt employee at our institution mean? Exempt employees are expected to “work to get the job done,” and regardless of how many hours per week that takes, the exempt employee will receive only his/her established salary. Exempt employees are not protected by overtime or minimum wage provisions and therefore do not and are not allowed to receive overtime compensation in any form for hours worked over the established workweek. This further means that a manager or supervisor can require an exempt employee to work overtime to meet deadlines or service needs.

Exempt fulltime (1.0) FTE employees at are expected to maintain a minimum level of 37.5 hours on the job in a given workweek or to request appropriate leave to cover absences.

An important aspect to remember is that exemption is not based on a job’s TITLE, but on its DUTIES/RESPONSIBILITIES. This means that an employer is not permitted to give titles such as “manager” or “professional secretary” just to make an employee exempt and non-overtime-eligible.

Non-exempt employees are actually “hourly” workers, even though the State of West Virginia, up until the new wvOASIS system was implemented a couple of years ago, had traditionally referred to them as “salaried.” Being paid hourly has nothing to do with one’s level of skill or work ethic or dedication to his/her job, but rather with the duties performed and the employer’s obligation under the Fair Labor Standards Act to make sure that all hours worked by a non-exempt/hourly employee are recorded and paid correctly, to include time-and-one-half overtime compensation.

Exempt employees are paid on a salary basis, which means that their compensation doesn’t change based on the actual hours they work, nor are they entitled to extra pay for hours worked in excess of their established schedule each week. Exempt employees are paid to get a job done, and it is thus to be expected that the workweeks of exempt staff might frequently exceed 37.5 hours per week. Again, managers/supervisors also have the prerogative of scheduling exempt/salaried employees for more than 37.5 hours per week without consideration of extra compensation or compensatory time off.

FLSA status for jobs at our institution is determined by the Office of Human Resources staff based on information provided in job descriptions. If you have a question about the FLSA or exemption status, please contact Cindy Curry in the Human Resources Office at 304.367.4386 or at cindy.curry@fairmontstate.edu.