

**AGENDA**  
**West Virginia State University**  
**BOARD OF GOVERNORS**  
**Erickson Alumni Center, Grand Hall**  
**September 6, 2018**  
**12:30 p.m.**

1. Call to Order, Oath of Office, and Roll call-Chair Mr. William Lipscomb, presiding
2. Verification of appropriate Notice of Public Meeting 2
3. Review and Approval of Meeting Agenda Action 1
4. Review and Approval of Minutes of Previous Meeting 3
5. Reports from the Board Committees
  - a. Finance
  - b. Academic Policy
  - c. Audit
  - d. Recruitment and Retention
  - e. Institutional Advancement
  - f. Presidential Review
  - g. Special Policy Review
6. Report from the University President
  - a. University Reports Forwarded by Board Committees
    - i. Presidential Review Process Action 4
    - ii. Approval of Proposed Policy on Designation/Status of Employees Action 20
7. Possible Executive Session under the Authority of West Virginia Code §6-9A-4 to Discuss Legal, Personnel and Property Matters
8. Other Matters
9. Next Meeting- October 25, 2018
10. Adjournment

Agenda prepared by – DeNeia M. Thomas, PhD, Chief of Staff and Board Liaison, September 4, 2018

**West Virginia State University**  
***Board of Governors***

**Date/Time:** 9/6/2018 -- 12:30 PM

**Location:**

Erickson Alumni Center, Grand Hall  
West Virginia State University

**Purpose:** To conduct the regular business of the Board.

**Notes:**

This is a compliant meeting.

**Meeting was approved : 8/29/2018 8:12:21 AM**

**West Virginia State University Board of Governors**  
**113 Ferrell Hall**  
**August 14, 2018**  
**Minutes**

**1. Call to Order and Roll Call**

Mr. Lipscomb called the meeting of the West Virginia State University (WVSU) Board of Governors (BOG) to order at 4:33 PM.

**Present:** Mr. Buchanan, Ms. Dooley, Mr. Jones, Mr. Lipscomb, Ms. Pitchford, Dr. Smith, Mr. Swingle, Dr. Vaughan, and Mr. Williams. Several members of the administration, faculty, and staff were also present.

**2. Verification of Appropriate Notice of Public Meeting**

Mr. Lipscomb announced the verification of appropriate notice of public meeting.

**3. Review and Approval of Meeting Agenda**

Mr. Swingle motioned for approval of the agenda, and Mr. Williams seconded the motion. The motion carried.

**4. Approval of Bachelor of Science in Nursing Program Proposal**

Mr. Lipscomb said an executive summary and the full program proposal were included in the meeting materials, which have been reviewed by the Board. Mr. Williams deferred to Provost Kumara Jayasuriya for any additional information to be shared. Provost Jayasuriya indicated that there was none. Mr. Williams motioned that the Board approve the Bachelor of Science in Nursing Program Proposal as presented. Mr. Swingle seconded the motion, and the motion carried.

**5. Other Matters**

No other matters were brought before the Board.

**6. Next Meeting Date**

September 6, 2018

**7. Adjournment**

With there being no further business, the meeting adjourned at 4:38 p.m.

Respectfully submitted,

Gail Pitchford  
Secretary

Approved:

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William L. Lipscomb  
Chair

**Agenda Item 7. a.i.  
September 6, 2018**

**Action**

**Presidential Review Process**

# WEST VIRGINIA STATE UNIVERSITY BOARD OF GOVERNORS

## West Virginia State University

### BOG Policy #61

**TITLE:        Employment and Evaluation of the President**

#### **Section 1. General**

- 1.1    Scope: This policy establishes guidelines, processes, and procedures related to the selection, appointment, responsibilities, and evaluation of the President of the University.
- 1.2    Authority: West Virginia Code § 18B-1-6, § 18B-1B-6
- 1.3    Adopted: March 16, 2017
- 1.4    Effective: April 25, 2017

#### **Section 2. Employment of the President**

- 2.1    The President of West Virginia State University is appointed by and serves at the will and pleasure of the Board of Governors, pursuant to West Virginia Code § 18B-1B-6, Higher Education Policy Commission Title 133, Series 5; and West Virginia State University Board of Governors Bylaws Article III (12).
- 2.2    The Board of Governors, consistent with West Virginia Code and the Higher Education Policy Commission, shall be empowered to take all reasonable and necessary steps to search for a President in times of vacancy:
  - 2.2.1    A search committee shall be formed, comprised of interested persons appointed by the Chairman of the Board of Governors and consistent with the representatives outlined in Higher Education Policy Commission Title 133, Series 5, Section 2.2.2. If the Board of Governors approves it, the search committee may employ consultants or agents to assist with its mission.
  - 2.2.2    The search committee shall prepare a position announcement detailing the mission of the University, a summary of its goals and the characteristics and qualities sought in a new President, and distribute the same to appropriate newspapers and other media sources, heads of higher education associations and organizations, and other appropriate individuals for the purpose of advertising the position.

- 2.2.3 Interviews with the finalists, as determined by the Board of Governors, shall be conducted on campus and, during the campus visits, students, classified employees, non-classified employees, faculty, campus administrators, community leaders, alumni, and other individuals shall be invited to meet with the candidates, and their comments shall be solicited and evaluated by the governing board.
- 2.2.4 The search committee may conduct, or direct the performance of a background check on each candidate prior to the interview, and a background check shall be conducted on finalists prior to any campus visit made at the invitation of the search committee, and also shall be conducted prior to any final selection by the search committee and Board of Governors. Background checks and procedures shall conform to the industry standard and best practices, but at a minimum shall include the confirmation of degrees, past employment, criminal history and credit checks.
- 2.2.5 On-site visits to the candidates' current and past places of employment may be conducted and is recommended for the final candidates.
- 2.2.6 Candidates may be considered through their own application or by nomination.
- 2.2.7 Members of the Board of Governors and the search committee may not provide information about the names or backgrounds of any candidates, without their consent, to anyone who is not a member of the governing board or search committee, or authorized agents or staff as designated in the search procedures approved by the Higher Education Policy Commission. In the event that candidates are invited to preliminary interviews with the search committee, they shall be notified that confidentiality may be waived as to background checks, and in the event that the candidate is invited to an on-campus interview, the candidate's name and background shall be publicly released at the time they accept an invitation for a formal campus visit.
- 2.2.8 The search committee may also retain the services of a professional search agency or consultant(s).
- 2.2.9 The Board of Governors may also retain the services of legal counsel to negotiate on behalf of the Board consistent with Bylaws Article III (17).

2.3 The Chairman of the Board of Governors, in consultation with the Executive Committee and the advice of the full Board of Governors, the search committee, search agency or consultant(s), shall draft a memorandum outlining the terms, conditions, responsibilities and duties of the prospective President in a form consistent with the form contract recommended by the Higher Education Policy Commission, which shall be presented to

the full Board for approval by majority vote prior to presentation to the prospective President.

- 2.4 The Board shall be guided by analysis of peer and market data in offering the terms, conditions, responsibilities and duties of the prospective President, whether for initial appointment or successive appointment following the initial appointment. The Board may, in its discretion, offer to award a prospective President academic rank and tenure at the University following consultation with the Provost and appropriate College Dean and Department Chair. The Board shall have the authority and latitude necessary to make all reasonable, necessary, and appropriate specific offers to the prospective President consistent with goals of the University and the training, education, experience, and status of the prospective President.
- 2.5 Following approval, by majority vote of the full Board of the memorandum outlining the terms, conditions, responsibilities, and duties of the prospective President as described above, the Chairman of the Board shall present a final written contract to the prospective President in the form prescribed by the Higher Education Policy Commission for execution; and thereafter, shall submit the same to the Higher Education Policy Commission and the Chancellor for approval.

### **Section 3. Duties and Responsibilities**

- 3.1 The President is responsible to and shall report to the West Virginia State University Board of Governors. Consistent with the policies of the Board of Governors, the written contract executed with the President, and as approved by the Higher Education Policy Commission, the President is the Chief Executive Officer of the University and has general authority and the responsibility for the University as an institution. The President shall keep the Board fully apprised of matters affecting the University in a reasonable and timely manner.
- 3.2 The President is expected to exhibit such conduct, candor, and collegiality expected of a University President and shall not withhold information vital to the success and perpetuation of the University from the Board of Governors.
- 3.3 The President shall possess and use leadership skills necessary to advance the mission of the University and to vigorously pursue any specific goals and objectives outlined in the written contract executed with the Board of Governors. The President is expected to have a keen understanding of the University's role in serving higher education in the surrounding community and to work with the Board of Governors and the Higher Education Policy Commission to develop initiatives to meet those needs. This expectation includes the ability to lead the University community, foster a culture of cooperation among faculty, staff, administrators and students in fulfilling the University's teaching, research, and public service responsibilities.
- 3.4 The President, as the Chief Executive Officer of the University, shall consult with faculty, classified staff, administrators, and students at reasonable and appropriate times, in

furtherance of discharging the duties and responsibilities conferred upon the President by the Board of Governors. The use and employment of yearly summit meetings, town hall meetings, summary addresses, or other opportunities for meaningful feedback is strongly encouraged to provide for the exchange of information and ideas from those constituents to the President; and to ensure that the policies, procedures, and actions of the Board of Governors are effectively communicated in a timely manner to those constituents. The President, from time to time, may be directed by the Board of Governors to make immediate communications with those constituents from the Board of Governors.

- 3.5 In addition to these general expectations, and those specifically enumerated within the President's written contract with the Board of Governors, the President shall also:
- 3.5.1 Implement the Mission Statement of the University as approved by the Board of Governors through effective leadership.
  - 3.5.2 Provide effective leadership and support for the academic programs of the University that are consistent with the mission of the University, the higher education needs of the surrounding community, while ensuring appropriate resources for attaining the highest standards of quality.
  - 3.5.3 Foster a culture and support for student life that compliments the mission of the University, the needs of a diverse campus population and which preserves the rich history of the University.
  - 3.5.4 Hire, retain, train, and develop a competent, cooperative, and collegial administrative organization and staff to ensure the effective, efficient, and professional management of University operations, or to discharge administrators or staff that fail or refuse to work toward those goals.
  - 3.5.5 Maintain lawful, equitable, and effective personnel programs, including the appointment of qualified persons to the faculty, adjunct faculty, staff, and administration and to promote, retain, or dismiss for cause for the same, with due regard to the best interests of the University and the State of West Virginia.
  - 3.5.6 In conjunction with the Chief Financial Officer of the University and with guidance provided by the Finance Committee of the Board of Governors, propose recommended annual operating and capital budgets and other financial plans for the effective and efficient operation of the University in order to support the mission of the University and the academic and athletic programs essential to the continued viability of the University. In discharging this obligation, the President should remain fully informed and be consistently mindful of the fluid funding allocated by the State of West Virginia to the University and shall have processes and procedures in place to react to budgetary events.
  - 3.5.7 Effective collaboration with the Higher Education Policy Commission to communicate the University mission and needs of higher education to the



Governor, State Legislators, other State and Local Government Officials, Local Community Leaders, and Stakeholders.

- 3.5.8 Maintain a proactive, effective and consistent presence at the State Capitol to impart the mission of the University and to advocate for the assistance necessary from the State of West Virginia for the continued viability of the University.
- 3.5.9 Interact and maintain a positive profile with all appropriate external bodies to achieve the mission of the University, consistent with Board of Governors policies, statutory and regulatory provisions, and sound academic principals.
- 3.5.10 Undertake reasonable and appropriate assignments as requested by the Board of Governors and the Higher Education Policy Commission.
- 3.5.11 With respect to the expectations enunciated in section 3.5.4 and section 3.5.5 above, the President is vested with the final institutional-level authority and responsibility for every personnel action within the University, with the exception of any decisions relating to the President's own employment or compensation. The President shall appropriately consult with the campus community and legal counsel as necessary, but shall retain the ultimate authority for such decisions.
- 3.5.12 The President shall address any deficiencies or concerns arising out of any annual, tri-annual or comprehensive review of performance to the satisfaction of the Board of Governors in order to continue employment, including any request for improvement or action not otherwise specified in the written contract then existing.

#### **Section 4. Evaluation of the President**

- 4.1 The West Virginia State University Board of Governors, by appointment from the Chairman of the Board, established a Presidential Review Ad Hoc Committee for the purpose of evaluating the President of the University in year 2013 and to develop the evaluation procedure outlined in this Section, consistent with West Virginia Code § 18B-1B-6.
- 4.2 The Higher Education Policy Commission, consistent with West Virginia Code, requires the evaluation of University Presidents annually, tri-annually, or at the conclusion of a contract cycle. The Presidential Review Ad Hoc Committee has endeavored to present a routine and consistent mechanism for those periodic reviews. The Presidential Review Ad Hoc Committee shall become a standing Committee of the Board of Governors whose sole purpose is to ensure the President of the University is evaluated consistent with the following guidelines.
- 4.3 The West Virginia State University Board of Governors shall form a "Presidential Review Committee;" annually at its June Board meeting in a manner consistent with the Board's Bylaws. The Board shall make such amendments to the Bylaws of the Board of Governors as necessary to effectuate this process. It is the original intent of the Presidential Review

Ad Hoc Committee, in promulgating this mechanism for review of the University President, that it always preserve the confidentiality of the process, both for the University President, and the participants providing comments to effectively evaluate the University President. The summary reporting duties outlined below is meant to foster open communication from participants by maintaining their anonymity. The summary reporting duties outlined below are not meant to filter comments from any participants and it is the intent of this section that all comments be summarized in a non-cumulative or non-redundant fashion.

- 4.4 The “Presidential Review Committee” shall discharge the following duties, whether annually, tri-annually, or at the conclusion of a contract cycle. To the extent that a comprehensive review is conducted as a result of an end of contract cycle review which would be followed by a tri-annual review, the Board may seek approval from the Higher Education Policy Commission to dispense with the comprehensive tri-annual review and to conduct the annual review following a comprehensive review as the former would be redundant and an unnecessary use of time and resources. Any time a comprehensive review is performed of the President and would be followed by a mandatory comprehensive review by reason or tri-annual review, or end of contract cycle, the Board may seek approval of the Higher Education Policy Commission to dispense with a successive comprehensive review as redundant and an unnecessary use of time and resources.

#### 4.5 The Annual Review

- 4.5.1 The Higher Education Policy Commission, in conjunction with West Virginia Code, requires an annual review of the President of the University.
- 4.5.2 The West Virginia State University Board of Governors acknowledges the obligation and inherent need to annually review the President of the University irrespective of the contract term of the current President.
- 4.5.3 In view of the policy contained below related to the tri-annual comprehensive review and conclusion of contract cycle review, **the annual review of the President shall be conducted in accordance with this section.**
- 4.5.4 The Presidential Review Committee shall convene during August/September of each academic year to begin the process of evaluating the President. The chairperson of the Committee shall coordinate the annual review with the assistance of the Committee members.
- 4.5.5 The chairperson of the Presidential Review Committee, or the chairperson’s designee, shall announce a thirty-day comment period to the campus and the community to solicit feedback regarding the President’s performance. Such comments will be kept confidential and shared with the Presidential Review Committee, and subsequently the Board of Governors, in a summary format without individually identifying any person or name associated with the information.

- 4.5.6 Once the thirty-day comment period has concluded, the Board of Governors will meet in executive session to receive the summary report of the Chairman of the Presidential Review Committee. The full Board shall hold a discussion to determine if there were sufficient comments received during the thirty-day period. To the extent that it is determined that sufficient comments were received to have a representative sample, the full Board shall then hold a discussion in executive session regarding President's performance, specifically to address and comment upon the President's leadership, assess the quality of written information disseminated by the President's office, assess the accomplishments or lack of progress toward the University's mission by the President during the review period, and note any concerns raised in comments received during the 30 day period. If it is determined that an insufficient number of comments were received during the thirty-day comment period, the Chairperson of the Presidential Review Committee, or a designee thereof, may request additional time to solicit further comment from any campus or community constituency that may be under-represented. Those comments shall be reported in the same manner as outlined herein, either at the next full Board meeting (in executive session) or at a specially called meeting. The Board shall then hold its discussion in executive session regarding the President's performance, specifically to address and comment upon the President's leadership, assess the quality of written information disseminated by the President's office, assess the accomplishments or lack of progress toward the University's mission by the President during the review period, and note any concerns expressed by any comments received during the thirty-day period or thereafter directly solicited by the Chairperson of the Presidential Review Committee.
- 4.5.7 A written summary report, based on the comment period, including any directly solicited comments by the Chairperson of the Presidential Review Committee, and the Board discussion held in executive session, shall be presented to the President and the Chairman of the Board and afford the President the opportunity to make any response, written or verbal, that the President deems appropriate.
- 4.5.8 The Chairman of the Board shall orally summarize the written summary report to the full Board during executive session to preserve the confidentiality of the comments and information, and in order to preserve the overall process as a personnel matter for the President.
- 4.5.9 The Chairman of the Board shall entertain a motion from the Board, outside of executive session, to accept the written summary report from the Presidential Review Committee, to place it in the personnel file of the President, and to report to the Higher Education Policy Commission that the annual review of the President was conducted, the dates it was conducted, the types of personnel involved in the review, and whether the conclusion of the review was favorable or unfavorable. To the extent that the conclusion of the review was unfavorable, the Chairman of the Board, in conjunction with the President, shall agree upon such terms, actions or other procedures to address any deficiency or concerns identified; and those

deficiencies or concerns shall be specifically addressed in the next annual, tri-annual, or end of contract cycle review.

4.5.10 The annual review of the President shall be concluded sufficiently in advance of the last calendar year Board of Governors meeting such that the Board may receive the information prior to the end of the calendar year and make any appropriate recommendations or take any appropriate actions. It is presumed that the annual review shall be completed prior to the December Board of Governors meeting such that the Board may receive the information and take any necessary action (or take no action when appropriate) at the December meeting.

#### 4.6 The Tri-Annual Comprehensive Review and End of Contract Cycle Review

4.6.1 The Presidential Review Committee shall have the authority to contract with an external consultant to conduct the tri-annual comprehensive review or end of contract cycle review. Whether conducted by the Presidential Review Committee or an external consultant, the comprehensive review required by West Virginia Code and the Higher Education Policy Commission at this interval shall be conducted as follows:

4.6.2 The Presidential Review Committee shall convene during August/September of the applicable academic year to begin the process of conducting a comprehensive review evaluating the President. The chairperson of the Committee shall coordinate the comprehensive review with the assistance of the Committee members; and the Committee may determine, by majority vote, that an external consultant is advisable. The Chairman shall approve the expense of retaining an external consultant.

4.6.3 The comprehensive review of the President shall consist of on-campus interviews ordinarily comprised of the following categories of personnel; however from time to time, and in the future, there may be a need to include a category or categories of personnel not yet existing that would be vital to this process, or conversely to dispense with the inclusion of a category or categories hereinafter mentioned that is no longer vital. In that way, the Presidential Review Committee shall have the implicit authority to amend these categories as necessary, but shall endeavor to be as inclusive as possible within these recommendations:

4.6.3.a The President;

4.6.3.b The President's Cabinet and all senior-level administrative support staff;

4.6.3.c The Faculty Senate;

4.6.3.d An additional representative sample of other faculty members in a caucus (normally 5-10) not otherwise serving on the Faculty Senate;

4.6.3.e A representative sample of classified staff representatives (normally 5-10 including members of the classified staff council, if available);

- 4.6.3.f A representative sample of students (normally 5-10 including members of the Student Government Association, if available);
  - 4.6.3.g The Director of Athletics;
  - 4.6.3.h At least two Athletic Coaches;
  - 4.6.3.i The Director of Physical Facilities;
  - 4.6.3.j The Chief of Campus Police; and
  - 4.6.3.k A representative sample of local community leaders (normally 5-10, including a member of the Kanawha County Commission, if available); and
  - 4.6.3.l The entire Board of Governors (the faculty representative, the classified staff representative, and the student representative may choose whether to be interviewed in the Board of Governors' caucus, or their individual caucuses, but not both).
- 4.6.4 The on-campus interviews shall be led by the chairperson of the Presidential Review Committee, or an external consultant. The interviews shall be private within each specific caucus and the information obtained in the interviews shall remain confidential in order to foster an atmosphere of open and frank communication. Each specific caucus shall be asked specifically to address and comment upon the duties and responsibilities enumerated herein at sections 3.5.1 through 3.5.12, in addition to any benchmarks or goals established in the President's written contract. The President's written contract shall be made available to any external consultant retained for the purpose of conducting the comprehensive evaluation.
- 4.6.5 Following the on-campus interviews, the chairperson of the Presidential Review Committee, or the external consultant, shall prepare a written summary report of the on-campus interviews for the Chairman of the Board, identifying only the caucus from which the information is derived, and shall not individually identify any person or name associated with the information, and shall make a conclusion as to the performance of the President.
- 4.6.6 The written summary report shall be presented to the President and the Chairman of the Board and afford the President the opportunity to make any response, written or verbal, that the President deems appropriate.
- 4.6.7 The Chairman of the Board shall orally summarize the written summary report to the full Board during executive session to preserve the confidentiality of the comments and information and in order to preserve the overall process as a personnel matter for the President.
- 4.6.8 The Chairman of the Board shall entertain a motion from the Board, outside of executive session, to accept the written summary report from the Presidential Review Committee, to place it in the personnel file of the President, and to report to the Higher Education Policy Commission that the comprehensive review of the President was conducted for purposes of the tri-annual review, or the end of

contract cycle review, the dates it was conducted, the types of personnel involved in the review, and whether the conclusion of the review was favorable or unfavorable. To the extent that the conclusion of the review was unfavorable, the Chairman of the Board, in conjunction with the President, shall agree upon such terms, actions or other procedures to address any deficiency or concerns identified; and those deficiencies or concerns shall be specifically addressed in the next annual review.

- 4.6.9 The comprehensive review of the President shall be concluded sufficiently in advance of the last calendar year Board of Governors meeting such that the Board may receive the information prior to the end of the calendar year and make any appropriate recommendations or take any appropriate actions. It is presumed that the annual review shall be completed prior to the December Board of Governors meeting such that the Board may receive the information and take any necessary action (or take no action when appropriate) at the December meeting.

## **Section 5. Resignation and Termination**

- 5.1 A President may resign his or her appointment at any time upon written notification to the Board of Governors, addressed to the Chairman. The Board expects at least 60 days notice prior to the effective date of the resignation.
- 5.2 The Board of Governors may terminate the appointment of a President at any time, when in the Board's judgment, such action would be in the best interests of the University.
- 5.3 If the Board of Governors terminates the appointment of a President for any reason other than for "cause," the Board may offer the President a non-tenured, adjunct faculty position with the University, at a salary commensurate with that particular faculty position, not to extend beyond the remaining academic year; or if the President was conferred tenured status upon initial appointment, a tenured position not to extend beyond the remaining academic year, at a salary commensurate with tenured faculty, for that pro-rated period; or for a period of time agreed to between the Board of Governors and the President.
- 5.4 If the Board of Governors terminates the appointment of a President for "cause" that term is defined to include acts or inactions of malfeasance or misfeasance, may include commission or omission of acts, or acts in contravention of the policies of the Board or the direction of the Board of Governors, crimes involving moral turpitude, actions or inactions which denigrate the character and reputation of the University, or other such actions in contravention to the best interests of the University or Board of Governors policies.

**TITLE 133**  
**LEGISLATIVE RULE**  
**WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 5**  
**GUIDELINES FOR GOVERNING BOARDS IN EMPLOYING AND EVALUATING**  
**PRESIDENTS**

**§133-5-1. General.**

1.1. Scope - Rule establishing guidelines for governing boards of non-exempted schools to use in employing and evaluating presidents.

1.2. Authority - West Virginia Code §§18B-1B-4, 18B-1B-6.

1.3. Filing Date – ~~April 14, 2009~~

1.4. Effective Date – ~~May 14, 2009~~

1.5. Repeal of former Rule – Repeals and replaces former rule dated ~~July 14, 2005~~ May 14, 2009.

**§133-5-2. State Colleges and Universities.**

2.1. The provisions of this rule apply to the employment of presidents of Bluefield State College, Concord University, Fairmont State University, Glenville State College, ~~Marshall University~~, Shepherd University, West Liberty State College, ~~West Virginia School of Osteopathic Medicine~~, and West Virginia State University ~~and West Virginia University~~.

2.2. Upon the occurrence of a vacancy in the position of President at one of the institutions set out in Section 2.1, the governing board of the institution shall undertake a search for a new President. The governing board is responsible for the search, both procedurally and financially. The governing board shall adopt a procedure, consistent with this rule, governing the search. The search procedure adopted by the governing board shall be approved by the West Virginia Higher Education Policy Commission (“Commission”) prior to being implemented. The procedure shall require, at the least:

2.2.4a. Input as to the best characteristics and qualities of the President should be solicited by the governing board of its constituencies and utilized in selecting and evaluating the candidates.

2.2.2b. If a search committee is appointed, it shall include representation of faculty, students, and staff, and other constituencies of the institution. The number and constituency of the membership of the committee shall be at the discretion of the governing board.

2.2.3c. A position announcement shall be prepared detailing the characteristics and qualities sought in a new President and distributed to appropriate newspapers and other media sources, heads of higher education associations and organizations, and other appropriate individuals for the purpose of advertising the position.

2.2.4d. Interviews with the finalists, as determined by the governing board, shall be conducted on campus and, during the campus visits, students, classified employees, non-classified employees, faculty, campus administrators, community leaders, alumni, and other individuals shall be invited to meet with the candidates, and their comments shall be solicited and evaluated by the governing board.

2.2.5e. Background checks may be conducted on each candidate prior to interviewing with the search committee or governing board. Background checks should be conducted on finalists prior to any campus visit made at the invitation of the search committee or governing board and shall be conducted prior to any final selection by the search committee or the governing board. On-site visits to the candidates' current and past places of employment may be conducted and are recommended for the final candidates. Standard industry practices shall be utilized in conducting background checks and, at a minimum, shall include confirmation of degrees and past employment-and criminal and credit checks.

2.3. Candidates may be considered through their own application or by nomination.

2.4. Members of the governing board, or any search committee appointed, may not provide information about the names or backgrounds of any candidates, without their consent, to anyone who is not a member of the governing board or search committee, or authorized agents or staff as designated in the search procedures approved by the Commission. When candidates are invited to a preliminary interview with the search committee, they shall be notified of the conditions under which confidentiality may be waived as to background checks and that in the event that they are invited for a campus interview, their names and backgrounds shall be publicly released at the time they accept an invitation for a formal campus visit.

2.5. At the request of an institution, the Commission may provide the governing board with staff assistance to manage the search process, or the governing board may enter into a contract with a consultant or executive search firm to identify potential candidates in addition to those who have applied or been nominated or to assist in the search.

2.6. The Chancellor shall serve as an ex officio, non-voting member on all search committees or bodies serving in that capacity during the search process. The Commission reserves the right to conduct independent interviews of one or more finalists. Prior to exercising such option, it shall give sufficient notice to the governing board so that any such interviews will occur sufficiently close to the final decision of the governing board. All presidential appointments ~~shall~~ must be ~~approved~~ confirmed by the Commission.

2.7. Terms of compensation and contracts discussed with or offered to candidates shall be consistent with the sections of this rule regarding presidential compensation and contracts.

2.8. Interim Presidents appointed by a governing board shall be ~~approved~~ confirmed by the Commission.

### **§133-5-3. Presidential Contracts.**

3.1. Governing boards under the jurisdiction of the Commission shall receive the approval of the



Commission of the total compensation package from all sources for a President when the President is initially hired and for any subsequent changes in the total compensation package.

3.2. A President is considered as will and pleasure employee of his/her governing board unless that status is specifically altered by the President's letter of appointment or contract. Presidential contracts exceeding a term of one fiscal year shall conform to the following:

3.2.4a. An initial offer of employment as President, or guarantee of employment in that or another position, may not exceed two years. After the initial contract, the governing board may offer contracts of up to five years. A President assigned to an alternative position during a guaranteed term of employment shall perform substantive duties on behalf of the institution in order to collect his or her salary.

3.2.2b. All contracts with a term greater than one fiscal year shall be conditioned upon availability of funding.

3.2.3c. A governing board may agree to reasonable notice of the intent not to renew a contract. It is recommended that such notice not exceed one year but may be increased up to two years after five years of service by the President.

3.2.4d. All contracts with a commitment of continued employment must provide that the President may be discharged for "cause" and that such a discharge nullifies any commitment to continued employment. "Cause" includes, but is not limited to, official misconduct, incompetence, neglect of duty, gross immorality, malfeasance, misfeasance, insubordination, and acts of commission or omission in violation of the governing board's directives or policies.

3.3.5e. Provisions in contracts existing on the effective date of this rule that are inconsistent with this rule may remain in effect at the discretion of the governing board unless the provisions are in violation of the statute.

#### **§133-5-4. Compensation.**

4.1. The total compensation of a President, from all sources, shall receive prior approval of the Commission. Forms of compensation which require prior approval include: annual salary derived from whatever funding source, deferred compensation, and housing or vehicle allowances. The governing board may require approval of other compensation such as non-state funded discretionary funds, compensation from other employment or for service on a corporate board of directors, and payment of dues or assessments for membership in non-professional related clubs or associations. Any such compensation received shall be reported to the Chancellor. If approval of deferred compensation is being sought, the institution shall submit an actuarial report to the Commission detailing the present cash value of the deferred compensation and conditions for eligibility or receipt of the deferred compensation.

4.2. The total salary from all funding sources for a President should be based on a comparison of the presidential salaries at the institution's peer institutions, ~~as defined by the Commission. Other or other~~ national data sources which may be utilized by the governing board, as appropriate, to establish salary ranges.

4.3. A percentage presidential salary increase in excess of the average percentage salary increase for all personnel at that institution within the last calendar year may be approved only if a detailed rationale of its governing board justifying the increase is submitted to the Commission.

4.4. Housing allowances granted a President not provided housing by the institution may not be considered as part of the presidential salary for the purposes of Section 4.2 above.

4.5. Annually, the Chancellor shall make available to the governing boards and Commission the most recent College and University Professional Association for Human Resources (CUPA-HR) or other comparable salary data applicable to their institutions.

4.6. The Commission must receive notice, but need not approve or confirm an increase in the compensation of a President that is exactly in the ratio of compensation increases allocated to all institutional employees if approved by the governing board.

#### **§133-5-5. Presidential Evaluation.**

5.1. Each governing board shall conduct a formal and structured written performance evaluation of the institution's President every third year of the President's employment. The President's performance shall be evaluated in relation to the duties and responsibilities assigned the President by the governing board, the success of the institution in meeting each requirement of its institutional compact, and any other criteria previously established by the governing board.

5.2. The governing board shall appoint a committee of its own members, a visiting team, or any combination thereof, and utilize institutional personnel-including faculty and staff as well as students, and persons who are knowledgeable of higher education matters ~~who are not otherwise directly employed by a governing board~~ to assist in its evaluation of the President.

5.3. The governing board committee, visiting team, or other body chosen by the governing board, shall visit the campus to receive the views of the President, governing board members, administrators, faculty, classified employees, non-classified employees, students, alumni, and community leaders. A schedule of interviews, meetings, and open forums that will assure a careful assessment of leadership and condition of the campus shall be arranged.

5.4. The governing board shall use the report of its committee, visiting team, or other body chosen by the governing board to assist in its own written evaluation of the President. The governing board's evaluation shall be reported to the President of the institution, the Chancellor, and the Chair of the Commission.

5.5. The Chancellor shall provide the governing boards, upon request, with evaluative tools, guidelines, and procedures recommended for the assessment and evaluation of college and university presidents and provide any assistance requested by a governing board in performing the evaluations set out in this rule.

**5.6. The governing board shall conduct a written evaluation at the end of the initial contract period. In**

addition to the formal and structured evaluation every three years and at the end of the initial contract period, each President shall receive a written yearly evaluation in a manner and form decided by the governing board.

5.7. The Commission shall not approve any request for an increase in compensation of a President prior to receiving an evaluation of that President for the year immediately preceding the requested increase.

**Agenda Item 7. a.ii.  
September 6, 2018**

**Action**

**Proposed BOG Policy-Designation/Status of Employees**

# WEST VIRGINIA STATE UNIVERSITY BOARD OF GOVERNORS

## West Virginia State University

### BOG Policy # / /

#### Title: DESIGNATION/STATUS OF EMPLOYEES

#### Section 1. General

- 1.1. Scope: The purpose of this policy is to define the status of West Virginia State employees as either Faculty or Staff.

Prior to legislation enacted by the Legislature in spring 2017 via HB2542, amendments to West Virginia Code §18B, regular employees in public higher education institutions in West Virginia held one of three designations or statuses: Faculty, Classified Staff or Non-Classified Staff. While the recent legislation had no impact on faculty status, it did serve to broaden the definition of non-classified status, resulting in changes to both classified and non-classified status. In response to those changes, this policy establishes that henceforth all non-faculty positions will be in non-classified status and referred to as Staff.

- 1.2. Authority: West Virginia Code §18B Section 9A-2; West Virginia Higher Education Policy Commission Title 133, Series 9

- 1.3. Adopted:

- 1.4. Effective:

#### Section 2. Designations/Statuses

##### 2.1 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. The employee category of “student employee” is for students who work at the institution in jobs or positions that are solely available to students enrolled at the institution, as opposed to the general public. When the student worker is no longer enrolled he/she is no longer eligible to work in the student worker position. A student employee is not eligible for benefits and is not covered by the West Virginia Higher Education Compensation Management Program. A student employee must be paid at least minimum wage in accordance with federal and state wage/hour laws. A student employee is not permitted to file a grievance under West Virginia Code §18-29

##### 2.2 Faculty Positions (Faculty Status)

Faculty employees are appointed at the discretion of the institutional president or designee to support the academic mission of the institution, via teaching, research, public service, and or academic administration (WV HEPC Title 133, Series 9.). A full time

faculty member is an employee appointed to render full time academic service for a full academic year under a nine-month minimum appointment 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 as non-classified staff nor subject to the West Virginia Higher Education Compensation Management Program.

### 2.3 STAFF

“Non-classified employee” means a non-faculty regular employee of the University who meets one or more of the following criteria:

- Holds a direct policy-making position at the department or organization level including but not limited to executive, administrative, college, school and academic support departments;
- Reports directly to the president or designated/acting chief executive officer of the University;
- Is in an information technology-related position as outlined by title, working title or job description;
- 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 was in a non-classified position as of January 1, 2017; and/or
- Is designated by the President or designee to be critical to the accomplishment of the mission of the university.

West Virginia State considers all positions critical to the accomplishment of the mission of the institution. Therefore, all staff positions are non-classified as critical and may fall under another non-classified criterion as well. Non-classified employees, even those that serve as at-will employees, are subject to the West Virginia Higher Education Compensation Management Program and eligible for benefits.

While critical to daily operations, a non-classified employee may or may not be deemed essential for operational or service purposes. An essential employee is required to report for duty in emergencies or other special situations as identified by the President or his/her designee. Supervisors are required to notify employees annually or as circumstances change if they or their positions are identified as essential.

### 2.4 At-Will Employees

This status includes full-time and part-time administrative officers, deans (faculty members may serve in administrative roles, with the administrative portion of their duties being at-will), heads of major divisions or departments, information technology-related staff and nonacademic staff officers and/or administrators.

The inclusion OR exclusion of a specific position or employee within this category is determined by the President or her/his designee, based on the level of duties and responsibilities assigned to the position and consistent with the provisions of applicable policies and WV Code §18-B-9A2. Such appointments, so determined, are considered “at-will employment” and, as such, serve at the discretion of the President. At-will

employees are subject to the West Virginia Higher Education Compensation Management Program and eligible for benefits.

2.5 All Other Employees (Staff)

All regular full-time and part-time positions not covered in the definitions of “at-will” above shall be included in this category. Employees in this category are primarily engaged in nonteaching support and service activities of the University. Such employees are subject to progressive discipline as outlined in BOG policy 19.

DRAFT