

WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS

July 10, 2017

The one hundred fiftieth meeting (called as a Special Meeting) of the West Virginia University Board of Governors was held on July 10, 2017 in Morgantown, WV. Board members in attendance/participating by telephone included David Alvarez, Timothy Bailey, Marty Becker, Elmer Coppoolse, Thomas Flaherty, Thomas Heywood, Blake Humphrey, Dr. Stanley Hileman, J. Thomas Jones, Dixie Martinelli, Taunja Willis Miller, Ed Robinson, J. Robert (J.R.) Rogers, Benjamin Statler, Dr. Matthew Valenti, Dr. Kimberly Weaver, and William Wilmoth.

WVU officers, divisional campus officers, representatives (and others) present included:

President, E. Gordon Gee;
Vice President, Legal, Government and Entrepreneurial Engagement, Rob Alsop;
General Counsel, Stephanie Taylor;
Vice Provost, John Campbell;
Vice President for University Relations, Sharon Martin;
Vice President for Talent and Culture, Cris DeBord;
Executive Officer and Assistant Board Secretary, Jennifer Fisher;
Vice President and Chief Financial Officer, Paula Congelio;
Associate Vice President of Finance, Anjali Halabe; and,
Special Assistant to the Board of Governors, Valerie Lopez.

Members of the Press were also present.

CALL TO ORDER

This Special Meeting was called to order by Board Chairman, William Wilmoth, at 3:30 p.m. A roll call was taken to determine who was in attendance and a quorum established.

Chairman Wilmoth reinforced the mission of West Virginia University as a land-grant institution, the faculty, staff and students at West Virginia University commit to creating a diverse and inclusive culture that advances education, healthcare and prosperity for all by providing access and opportunity; by advancing high-impact research; and by leading transformation in West Virginia and the world through local, state and global engagement.

As the new chairman, Mr. Wilmoth welcomed and provided a brief background narrative on our four newest members to the Board of Governors, namely: Timothy Bailey, Elmer Coppoolse, Blake Humphrey (student representative) and Dr. Matthew Valenti (faculty representative.)

Chairman Wilmoth also announced that there will not be a need to conduct an Executive Session during today's meeting.

BOARD ITEM
**Discussion and Potential Action Regarding the Issuance of a Notice
of Proposed Rulemaking**

Chairman Wilmoth called upon Vice President, Legal, Government and Entrepreneurial Engagement, Rob Alsop, who provided the following overview of the proposed adoption of Board Rules.:

- The proposed changes are to amend, approve, rename/renumber, and, in some cases, repeal the current policies in order to implement new rules in accordance with W. Va. House Bill 2542 (2017) and W. Va. House Bill 2815 (2017). To that end, the term "Policy" will be replaced with "Rule" and these policies will be reformatted to the new design for BOG Rules, renumbered, and standard terms will be used when applicable. Moreover, all BOG Rules will be updated to supersede and repeal W. Va. Higher Education Policy Commission Rules, where applicable. Substantively, the proposed changes to the policies above will result in additions, amendments, or repeals as set forth in detail in a table located in the Notice of Proposed Rulemaking.
- Vice President Alsop stated that these recent legislative changes provide the University with the ability to adopt rules relating to a broad set of topics, including rulemaking, finance, administration, faculty, and other issues of importance – but that today's Special Meeting will address the initial Rulemaking Topics of Rulemaking, Human Resources, and Bylaws.

Chairman Wilmoth called upon Vice President for Talent and Culture, Cris DeBord, who provided the following overview related to the proposed adoption of the Board's Talent and Culture Rules:

- The new legislation gives us the freedom to work directly with our faculty and staff to develop progressive policies and practices that are specifically aligned with the needs of the University. His team has worked for the last four months on formulating the new Talent and Culture Rules.
- DeBord said hundreds of faculty and staff provided input to developing the rules through workshops and numerous Campus Conversations.
- The proposed BOG Talent and Culture Rules support our ongoing efforts to mitigate bureaucracy and develop a strong culture that positions the University as an employer of choice.

- While few of the changes are substantive, there are four significant new rules. Those changes include:
 - Providing guiding principles for establishing a University classification and compensation program for classified and non-classified employees, as well as for performance management.
 - Outlining what compensation elements can be considered for individual employee's pay.
 - Eliminating point factor method for job change adjustments.
 - Establishing new factors to evaluate when a job change adjustment is appropriate, which shifts focus on growing individual compensation toward performance and away from re-evaluation of individual job descriptions.
 - Requiring written performance evaluations, as well as requiring supervisors to take training in how to prepare the evaluations.
 - Setting detailed procedures on how to proceed should the University need to go through a reduction in force.

- WVU staff council was granted a 30 day comment period - prior to today's Special Meeting. Vice President DeBord described the proposed changes – all of which are detailed in a table attached to the Notice of Proposed Rulemaking presented to the full Board for approval during today's Special Meeting.

Chairman Wilmoth called upon General Counsel, Stephanie Taylor, who provided the following overview related to today's meeting:

- If the Board approves the Notice of Proposed Rulemaking, the proposed changes to the Policies will be posted for a required thirty (30) day comment period. All comments received will thereafter be posted for ten (10) business days, and we anticipate all new rules will be ready for approval during our September 8, 2017 regular meeting.

- General Counsel Taylor went onto explain that Board of Governors Policy 45 is the Board's current rulemaking rule. This Policy is based upon the requirements contained within W. Va. Code § 18B-1-6 and the Higher Education Policy Commission's ("HEPC") rulemaking policy. However, following the passage of House Bill 2815, we are no longer required to include within our own Rulemaking Rule any additional requirements on rulemaking contained in the HEPC policy. She stated that WVU has revised our Rulemaking Rule to remove references to and approvals from HEPC and revised the language to be easier to understand. However, given the statutory requirements, the critical procedural components for rulemaking will not substantially change. The proposed draft of the Rulemaking Rule will be re-numbered Board of Governors Governance Rule 1.1 (as opposed to Policy 45). A summary of the key provisions are:
 - **Rulemaking Process:** Upon determination by the Board or the President that a new Rule is needed or a current Rule should be amended or repealed, an appropriate University unit will be assigned to review and draft the Rule. The drafting unit is

encouraged to consult with interested University groups before finalizing the draft. The Rule acknowledges the statutory requirements to consult and provide 30-day notice to Staff Council on certain human resources Rules and to consult and provide 30-day notice to Faculty Senate on Rules regarding faculty salaries. However, these 30-day periods may run concurrent with the 30-day public comment period. Before a draft Rule is presented to the Board, it must be reviewed and approved by the President and/or an appropriate group of senior management leaders.

Notice of Proposed Rulemaking: Assuming that the Board, after review, would like to adopt, amend or repeal a draft Rule, the Board must issue a Notice of Proposed Rulemaking. The Notice of Proposed Rulemaking must include a copy of the proposed Rule, a brief description of the Rule, how public comments will be received, and the time period for public comment. The Notice of Proposed Rulemaking must be posted on the University's designated policy website and distributed, as appropriate, to faculty, staff, and students.

Public Comment Period: The Notice of Proposed Rulemaking must provide for a 30-day public comment period. If comments are received, a summary of the comments or the actual comments must be posted on the University's designated policy website for 10 days before the Board takes final action.

Approval of Rule: Following the public comment period, the Board must approve the proposed Rule before it is effective. The Board or President may amend a proposed Rule as a result of the received comments without additional notice or public comment periods.

Emergency Rulemaking: In certain delineated emergency circumstances, the Board may adopt a new Rule or amend or repeal a current Rule without first following the formal rulemaking procedures. An Emergency Rule is only valid for 90 days unless the Rule goes through the formal rulemaking procedures.

Publication and HEPC Reporting Requirements: All Board Rules will be published on the University's designated policy website for easy access to the University community and the public. As still required in W. Va. Code § 18B-1-6, the Board must provide copies of all Rules in effect on July 1 of each year to HEPC by October 1. The Board Chair must certify that all Rules were adopted in accordance with the requirements laid out in West Virginia Code.

Following these presentations, and after a brief discussion among board members, David Alvarez moved that the board approve the Notice of Proposed Rulemaking, as presented. This motion was seconded by Dixie Martinelli, and unanimously approved. **NOTE:** The approved Notice of Proposed Rulemaking is attached hereto, made a part hereof, and incorporated herein by reference.

BOARD ITEM
Discussion and Potential Action Regarding textual amendments to the
West Virginia University Board of Governors Operating
Procedures and re-constituting them as the West Virginia
University Board of Governors By-Laws

General Counsel, Stephanie Taylor, provided the following overview related to this agenda item:

- We revised the Board's current Operating Procedures and propose re-constituting these Operating Procedures as By-Laws. We have revised these draft By-Laws to remove appropriate references to HEPC, ensure that it reflects current Board practices, and re-organize sections to improve the flow of the text.
- We made two substantive changes of note. First, we inserted language into Section 4.09(d) that reflects the Board's current practice of voting by consent agenda. Second, at the suggestion of Vice Chair Wilmoth, we have inserted in Section 6.02 delegation of authority language to the President for the day-to-day operations of the University. This language is consistent with the delegation of authority contained within the Board's Delegation of Authority Resolution (approved by the Board in 2001) and the delegation authority language currently contained within the Operating Procedures. Also, there was an addition to Section 6.01 related to the president's duties and responsibilities. However, please note that as we continue to work through the rulemaking process, we will be providing recommendations, through future draft Rules that clarify when Board approval is necessary for certain actions, including but not limited to the overall University budget, significant financial commitments by the University, and major capital projects.
- Pursuant to Article 7 of the Operating Procedures, a copy of the proposed amendments was provided to each BOG member ten days in advance of today's meeting. Further, the proposed By-Laws do not need to go out for public comment.
- General Counsel Taylor provided a summary of the proposed changes as set forth in the Revisions to the text of the West Virginia University Board of Governors Operating Procedures and Re-constituting them to be West Virginia University Board of Governors By-Law - presented to the full Board for approval during today's Special Meeting.

Following these presentations, and after a brief discussion among board members (during which member, Matthew Valenti advised he had certain grammatical corrections), J. Robert (J.R.) Rogers moved that the board approve the Revisions to the text of the West Virginia University Board of Governors Operating Procedures and Re-constituting them as the West Virginia University Board of Governors By-Law, as presented, and as modified today to make technical, non-substantive changes, be approved. This motion was seconded by David

Alvarez, and unanimously approved. **NOTE:** The approved Revisions to the text of the West Virginia University Board of Governors Operating Procedures and Re-constituting them to be West Virginia University Board of Governors By-Law is attached hereto, made a part hereof, and incorporated herein by reference.

ADJOURNMENT

There being no further business to come before the Board, Thomas Heywood moved to adjourn the meeting. The motion was seconded by David Alvarez, and passed. The meeting was adjourned at 4:18 p.m.

Taunja Willis Miller, Secretary

NOTICE OF PROPOSED RULEMAKING

This Notice of Proposed Rulemaking is issued pursuant to West Virginia University Board of Governors Policy 45 and W. Va. Code R. §§ 133-4-1 to -8. The proposed changes to current Board of Governors Policies are to:

- West Virginia University Board of Governors Policy 8, Holidays;
- West Virginia University Board of Governors Policy 13, Part-Time Classified Employees;
- West Virginia University Board of Governors Policy 24, Employee Leave;
- West Virginia University Board of Governors Policy 26, Employee Development;
- West Virginia University Board of Governors Policy 27, Work Scheduling;
- West Virginia University Board of Governors Policy 29, Salary Policy;
- West Virginia University Board of Governors Policy 32, Rule on Annual Increment;
- West Virginia University Board of Governors Policy 34, Affirmative Action & Equal Employment Opportunity;
- West Virginia University Board of Governors Policy 45, Adoption or Amendment of Rules;
- West Virginia University Board of Governors Policy 50, Meal Breaks;
- West Virginia University Board of Governors Policy 53, Emergency Call-In; and
- West Virginia University Board of Governors Policy 56, Drug and Alcohol Testing for Federal Transit Administration (FTA) & Federal Motor Carrier Safety Administration (FMCSA) Covered Positions.

Additionally, four new Board of Governor Rules (formerly called Policies) are proposed:

- West Virginia University Board of Governors Talent & Culture Rule 3.1 – Administration and Employment Practices;
- West Virginia University Board of Governors Talent & Culture Rule 3.3 – Classification and Compensation;
- West Virginia University Board of Governors Talent and Culture Rule 3.8 – Performance Management; and
- West Virginia University Board of Governors Talent and Culture Rule 3.9 – Reduction in Force (RIF).

The proposed changes are to amend, approve, and, in some cases, repeal current BOG Policies in order to implement new BOG Rules in accordance with W. Va. House Bill 2542 (2017) and W. Va. House Bill 2815 (2017). To that end, the term “Policy” will be replaced with “Rule” and these Policies will be reformatted to the new design for BOG Rules, renumbered, and standard terms are used, when applicable. Moreover, all BOG Rules will be updated to supersede and repeal W. Va. Higher Education Policy Commission Rules, where applicable.

Substantively, the proposed changes to the BOG Policies above will result in additions, amendments, or repeals as set forth below:

Current BOG Policy	Proposed Change	New BOG Rule	Brief Description
BOG Policy 8 – Holidays	Amend & Approve	BOG Talent and Culture Rule 3.6 – Holidays	<ul style="list-style-type: none"> Amends to clarify President’s ability to grant either a floating holiday or a change to the holiday schedule in response to additionally granted holiday time by the Governor or other governmental entity. Amends language to align Rule with the current practice of setting one holiday schedule for all University campuses.
BOG Policy 13 – Part-Time Classified Employees	Relocate & Repeal	BOG Talent and Culture Rule 3.1 – Administration and Employment Practices	<ul style="list-style-type: none"> Incorporates substance of BOG Policy 13 into new BOG Talent & Culture Rule 3.1.
BOG Policy 24 – Employee Leave	Amend & Approve	BOG Talent and Culture Rule 3.5 – Employee Leave	<ul style="list-style-type: none"> No substantive changes. Re-numbers and re-formats original BOG Policy 24 into BOG Talent & Culture Rule 3.5.
BOG Policy 26 – Employee Development	Relocate & Repeal	BOG Talent and Culture Rule 3.1 – Administration and Employment Practices	<ul style="list-style-type: none"> Incorporates substance of BOG Policy 26 into new BOG Talent & Culture Rule 3.1.
BOG Policy 27 – Work Scheduling	Relocate & Repeal	BOG Talent and Culture Rule 3.1 – Administration and Employment Practices	<ul style="list-style-type: none"> Incorporates substance of BOG Policy 27 into new BOG Talent & Culture Rule 3.1.
BOG Policy 29 - Salary Policy	Repeal		<ul style="list-style-type: none"> New, more comprehensive BOG Rule on compensation now required by W. Va. House Bill 2542 (2017), for non-Faculty, which will be contained within BOG Talent & Culture Rule 3.3.

Current BOG Policy	Proposed Change	New BOG Rule	Brief Description
BOG Policy 32 – Rule on Annual Increment	Amend & Approve	BOG Talent and Culture Rule 3.7 – Annual Increment	<ul style="list-style-type: none"> No substantive changes. Re-numbers and re-formats original BOG Policy 32 into BOG Talent & Culture Rule 3.7.
BOG Policy 34 – Affirmative Action & Equal Employment Opportunity	Amend & Approve	BOG Talent and Culture Rule 3.2 – Affirmative Action and Equal Employment Opportunity	<ul style="list-style-type: none"> No substantive changes. Re-numbers and re-formats original BOG Policy 32 into Talent & Culture Rule 3.2.
BOG Policy 45 – Adoption or Amendment of Rules	Amend & Approve	BOG Governance Rule 1.1 – Adoption, Amendment, or Repeal of Rules	<ul style="list-style-type: none"> Amends language to reflect revised rulemaking authority and procedures, as permitted in W. Va. House Bill 2815 (2017). Re-numbers and re-formats original BOG Policy 45 into Governance Rule 1.1.
BOG Policy 50 – Meal Breaks	Repeal		<ul style="list-style-type: none"> A BOG Rule is not required on this topic, as meal break requirements are mandated by West Virginia statute.
BOG Policy 53 – Emergency Call-In	Relocate & Repeal	BOG Talent and Culture Rule 3.3 – Classification and Compensation	<ul style="list-style-type: none"> Incorporates substance of BOG Policy 53 into new BOG Talent & Culture Rule 3.3.
BOG Policy 56 – Drug and Alcohol Testing for Federal Transit Administration (FTA) & Federal Motor Carrier Safety Administration (FMCSA) Covered Positions	Amend & Approve	BOG Talent and Culture Rule 3.4 – Drug and Alcohol Testing for Federal Transit Administration (FTA) & Federal Motor Carrier Safety Administration (FMCSA) Covered Positions	<ul style="list-style-type: none"> Amends practice regarding second drug tests for dilute specimens. Re-numbers and re-formats original BOG Policy 56 into BOG Talent & Culture Rule 3.4.

Current BOG Policy	Proposed Change	New BOG Rule	Brief Description
N/A	Approve	BOG Talent & Culture Rule 3.1 – Administration and Employment Practices	<ul style="list-style-type: none"> ▪ Re-states general delegation of authority to President for University's human resources practices. ▪ Adds language required by W. Va. House Bill 2542 (2017) regarding continued engagement with Classified Staff Council regarding human resource practices, including: <ul style="list-style-type: none"> ○ Meeting with Classified Staff Council quarterly to review BOG Talent & Culture Rules. ○ Providing for external review of human resource practices at least once every 5 years, with opportunity to Classified Staff Council to speak with external auditors. ▪ Defines terms for all BOG Talent & Culture Rules. ▪ Incorporates or replaces current BOG Policies: <ul style="list-style-type: none"> ○ BOG Policy 13 – Part-Time Classified Employees ○ BOG Policy 26 – Employee Development ○ BOG Policy 27 – Work Scheduling
N/A	Approve	BOG Talent & Culture Rule 3.3 – Classification and Compensation	<ul style="list-style-type: none"> ▪ Provides guiding principles for establishing a University classification and compensation program for Classified and Non-Classified Employees, including procedures for determining new Employees classification, initial job title, job description, and compensation. <ul style="list-style-type: none"> ▪ Outlines what compensation elements can be considered for individual Employees' pay. ▪ Eliminates point factor method for job change adjustments. ▪ Establishes new factors to evaluate when a job change adjustment is appropriate, which shifts focus on growing individual compensation towards performance and away from re-evaluation of individual job descriptions.

Current BOG Policy	Proposed Change	New BOG Rule	Brief Description
N/A	Approve New Rule	BOG Talent and Culture Rule 3.8 – Performance Management	<ul style="list-style-type: none"> ▪ Outlines additional compensation adjustments supervisors may use to increase an Employee's pay when applicable. ▪ Establishes periodic reviews of market data to assess competitiveness of compensation. ▪ Incorporates and replaces current BOG policies: <ul style="list-style-type: none"> ○ BOG Policy 29 – Salary Policy ○ BOG Policy 53 – Emergency Call-In
N/A	Approve New Rule	BOG Talent and Culture Rule 3.9 – Reduction in Force (RIF)	<ul style="list-style-type: none"> ▪ Provides guiding principles for performance management for Classified and Non-Classified Employees. ▪ Requires all supervisors of Classified and Non-Classified Employees to complete a written performance evaluation for each Employee. ▪ Requires all supervisors of Classified and Non-Classified Employees to undergo training on performance management. ▪ Standardizes six-month performance reviews for new Classified and Non-Classified Employees. ▪ Allows Classified and Non-Classified Employees the opportunity to respond in writing to performance evaluation. ▪ Requires a performance improvement plan for all Classified and Non-Classified Employees who are rated below expectations.
N/A	Approve New Rule	BOG Talent and Culture Rule 3.9 – Reduction in Force (RIF)	<ul style="list-style-type: none"> ▪ Outlines guiding principles for reduction in Classified workforce due to budget reductions, loss of funding, reorganization, material changes to the duties or responsibilities of a position, program change/elimination, or an emergency that curtails operations.

Current BOG Policy	Proposed Change	New BOG Rule	Brief Description
			<ul style="list-style-type: none"> ▪ Unit supervisor must prepare a RIF plan and seek approval from Vice President for Talent & Culture or a Review Committee, depending on the number of Classified Employees involved. ▪ Review Committee will consist of senior leaders from Provost's Office, Strategic Initiatives, and Talent and Culture with advice from General Counsel's Office. ▪ Position eliminations determined based the following factors: performance (would include discipline in past 24 months), skills/qualifications, and seniority. ▪ Classified Employees will receive 60-day notice of elimination and may be offered a severance package based on years of service, not to exceed one year's base pay. ▪ Severance payment requires a waiver and release of claims, and Classified Employees will have 45 days to consider the agreement, with a 7 day revocation period. ▪ Certain positions are not applicable for severance, including but not limited to temporary positions and grant/contract funded positions (hired after 7/1/2017). ▪ Severance payments end if re-employed by WVU or a University Affiliate. ▪ Recall rights if individual impacted position is filled within 12 months of original decision to eliminate the position, and impacted employee left in good standing.

A copy of the current Policies can be found at <http://bog.wvu.edu/policies> and a copy of the proposed Rules and this Notice of Proposed Rulemaking can be found at <http://policies.wvu.edu/>. Additionally, copies of both are available at the President's Office in Room 103 of Stewart Hall.

There will be a 30-day public comment period from July 18, 2017 until August 17, 2017 for the submission of written comments. Comments should be submitted using the online submission form for each Rule, which can be found by clicking on the link to the Rule located at: <http://policies.wvu.edu/>. If there are any questions about the submission process, they can be directed to Valerie Lopez, Special Assistant to the Governing Board, at Valerie.Lopez@mail.wvu.edu or Valerie Lopez, Office of the President, West Virginia University, PO Box 6201, Morgantown, West Virginia 26506-6201.

Once the comment period has ended, all public comments received will be posted on the University's policy website. The Rules may be changed, subject to comments received.

West Virginia University Board of Governors By-Laws

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Article I. The Board and Its Members

Section 1.01 Name, Authorization and Mission

The West Virginia University Board of Governors (the “Board”) was created by the West Virginia Legislature as the governing body of the West Virginia University system, including West Virginia University, West Virginia University Potomac State College, and West Virginia University Institute of Technology (collectively the “University”). The Board has the mission of general supervision and control over the academic and business affairs of the University.

Section 1.02 Collective Authority and Action

The authority of the members is conferred upon the group as a Board, and individual members can only bind the Board and the University by acting together through a majority vote of the Board.

Except as permitted by act of the Board or otherwise provided by law, no individual member may commit the Board to any policy, declaration, directive, or action without prior approval of the majority of the Board.

Section 1.03 Membership by Election or Appointment

The Board consists of seventeen members:

- one full-time member of the faculty with the rank of instructor or above duly elected by the faculty;
- one full-time faculty member representing the extension service or the health sciences, selected by the faculty senate;
- one member of the student body in good academic standing, enrolled for college credit work, and duly elected by the student body;
- one member of the University’s classified employees duly elected by the classified employees;
- the chairperson of the Board of Visitors at West Virginia University Institute of Technology; and
- twelve lay members appointed by the Governor with the advice and consent of the Senate.

Except in the case of a vacancy, all member elections shall be held and all appointments shall be made no later than the thirtieth day of June preceding the commencement of the term.

Section 1.04 Qualifications

Of the twelve members appointed by the Governor, no more than seven may be of the same political party. At least seven of the members shall be residents of the state.

No lay person shall be eligible for appointment to membership on the Board who is:

- an officer, employee, or member of any other board of governors;
- an employee of any institution of higher education;

- an officer or member of any political party executive committee;
- the holder of any other public office or public employment under the government of West Virginia or any of its political subdivisions;
- an employee of the West Virginia University Research Corporation or the West Virginia University Innovation Corporation;
- an employee of the West Virginia University Foundation;
- a member of the West Virginia Higher Education Policy Commission (HEPC); or
- a member of the West Virginia Council for Community and Technical College Education.

Section 1.05 Terms of Appointment

The student member serves for a term of one year. The faculty members and the classified staff member serve for terms of two years. The terms of the student, faculty, and classified staff members begin each year on the first day of July. Faculty and classified staff members may serve up to a total of four terms, but cannot exceed a total of eight consecutive years.

The appointed lay members serve terms of four years each and are eligible to succeed themselves for no more than one additional term. Lay members who are appointed to fill unexpired terms are eligible to succeed themselves for two full terms after completing an unexpired term.

The member representing WVUIT serves as an ex-officio, voting member during the time he/she serves as the chair of WVUIT's Board of Visitors.

Section 1.06 Oath of Office

Before exercising any authority or performing any duties as a member of the Board of Governors, each member shall qualify as such by taking and subscribing to the oath of office prescribed by Article IV, §5 of the Constitution of West Virginia. The certificate thereof shall be appropriately filed with the Secretary of State.

Section 1.07 Training and Development for Board Members

(a) Initial Requirements

Within six months of beginning service, each new Board member shall complete at least three hours of training and development. The training and development shall address the following topics: (1) state goals, objectives, and priorities for higher education; (2) the accountability system for higher education; (3) the general powers and duties of members; and (4) ethical considerations arising from Board membership.

(b) Ongoing Requirements

With the exception of the student member of the Board, each member shall complete at least six hours of training and development related to his or her duties within two fiscal years of beginning service and within every two fiscal years thereafter.

(c) Certification

By July 31 each year, the Chair of the Board shall certify to HEPC, the number of hours of training and development that each member received during the preceding fiscal year. HEPC may coordinate and offer training opportunities for Board members.

(d) Disqualification and Replacement

If the certification indicates that a member has not completed the required training and development, HEPC shall send a notice to the Governor and the Secretary of State or to the institutional appointing entity that the member is disqualified from continued service. HEPC shall request the Governor or appointing entity to appoint a replacement for that Board member.

Section 1.08 Continuation

Other than in the case of written resignation submitted to the Board, each member shall remain in office until a successor has been established by the required process. Nevertheless, pursuant to these By-Laws and the West Virginia Code, a member who does not complete the required training and development is disqualified from continued service.

Section 1.09 Removal

(a) Members Appointed by the Governor

A member of the Board appointed by the Governor may not be removed as a Board member except for official misconduct, incompetence, neglect of duty, or gross immorality and then only in the manner prescribed by law for the removal of the state elective officers by the Governor.

(b) All Members

All members who are disqualified as described in Section 1.07(d) of these By-Laws may be removed in the manner prescribed herein and by law.

Section 1.10 Vacancies

A vacancy in an unexpired term of a member shall be filled for the unexpired term in the same manner as the original appointment or election.

Section 1.11 Compensation

The members of the Board serve without compensation, but are reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties upon presentation of an itemized sworn statement of expenses.

Article II. Code of Conduct and Conflict of Interest

Section 2.01 Code of Conduct

Members of the Board have an obligation to fulfill their responsibilities in a manner that fosters the public's respect, trust, and confidence. Accordingly, Board members shall comply with the West Virginia Governmental Ethics Act, applicable law, and the highest standards of integrity.

Each member must recognize his or her personal fiduciary responsibility for protecting and advancing the integrity, interests, and assets of the University. Members of the Board shall refrain from placing themselves in situations in which their duty or loyalty to, or stewardship of, the University may be compromised.

The Board oversees and supports the management, academic, and administrative operations of the University. Members of the Board recognize the role of the President as the chief executive officer and primary spokesperson for the University and the role of the Chair of the Board as the primary spokesperson for the Board.

Board members shall participate actively in the duties of the Board, exercise critical and independent judgment, and communicate promptly to the Chair or the President any significant concern regarding the operations of the Board or University. Each member of the Board shall vote in a manner the member reasonably believes to be in the best interests of the University.

Section 2.02 Conflicts of Interest

Members of the Board shall perform their responsibilities in a manner that avoids conflicts of interest, or the appearance of such conflicts or of impropriety. Board members shall not use the authority, title, influence, or prestige of their positions, or any confidential information gained as a result of their membership, to solicit business for themselves or others or otherwise obtain any private financial, social, or political benefit. The standards set out in this policy are intended to supplement, not replace, applicable law and must be applied using the good judgment of each Board member.

While the University benefits from a Board whose members come with broad and varied experience and successful involvement in business, industry, education, the professions, and government, such a membership also brings broad exposure to interests and influences that may directly or indirectly affect their obligations to the University. It is further possible that, from time to time, the University's best interests, objectively determined, may be served by entering into an appropriate business transaction with a member of the Board, or an entity in which the member has an interest. Recognizing that the potential for such conflicts of interest cannot be entirely avoided, it is the purpose of this section to set forth appropriate standards for identifying, managing and, where possible, resolving such conflicts with a member in a manner that protects the University's public mission and integrity.

Accordingly, each Board member shall comply with the West Virginia Governmental Ethics Act and shall execute an annual conflict of interest statement and provide a copy to the Secretary of the Board. In addition, each member of the Board has an ongoing obligation to disclose at the

earliest practicable time all conflicts and potential conflicts and appearances of impropriety, and any such actual or potential conflicts must be addressed pursuant to applicable law and these By-Laws. An interested member shall fully disclose in writing any such conflict or potential conflict, including all pertinent facts, to the Chair or, in the case of the Chair, to the University's General Counsel promptly after becoming aware of such a conflict or potential conflict.

Whenever a Board member is in doubt as to whether a conflict might exist, he or she is encouraged to consult with the Chair, who may, in his or her discretion, confer in turn with the University's General Counsel. Any information so presented shall, to the extent permitted by law, be held in confidence except when it is determined that a conflict does in fact exist or that it will be in the best interest of the University to disclose the information in executive session to the Board or a committee of the Board. Such disclosure will be made only after informing the Board member concerned.

In the event of a conflict or potential conflict, the interested member shall neither participate in nor be present during any discussion by the Board regarding the matter in conflict; provided, however, that the Board may elect in its discretion to seek information or clarification from the interested member. The interested member shall abstain from all votes on any such matter and the disclosure of such a conflict and the member's recusal shall be recorded in the minutes of the affected meeting.

Article III. Board Officers

Section 3.01 Officers

The officers of the Board of Governors shall be: Chair, Vice Chair, and Secretary.

An Assistant Secretary may be appointed by the Chair to facilitate Board activities. The Assistant Secretary shall not be considered an officer of the Board and need not be a member of the Board.

Section 3.02 Election and Tenure

The Board shall elect the officers of the Board for a one-year term at its regular meeting in June. The Chair and Vice Chair shall be elected from among the twelve lay members of the Board. No member may serve as Chair for more than four consecutive years, except as specified below under Vacancies.

Section 3.03 Resignation

A Board member may resign their officer position at any time by giving written notice to the Chair and to the President of the University. The Board member will remain a member of the Board unless they fully resign from the Board.

Section 3.04 Removal

Any officer may be removed by the Board at any time by majority vote of the members of the Board.

Section 3.05 Vacancies

In the event of a vacancy in the office of Chair, the Vice Chair shall succeed to the office of Chair for the rest of that fiscal year (July 1 – June 30), and shall remain eligible to serve as chair in the following fiscal years (maximum of 48 consecutive months). In the event of a vacancy in the offices of Vice Chair or Secretary, the members shall elect the new officer at the next meeting following the occurrence of the vacancy. No limitation shall apply as to the consecutive years of service as Vice Chair or Secretary.

Section 3.06 Offices

The principal offices of the Board of Governors shall be the Office of the President, West Virginia University, Stewart Hall, P.O. Box 6201, Morgantown, West Virginia, 26506.

Section 3.07 Duties of the Officers

(a) Chair

The Chair shall have the following duties:

- Preside, with right to vote, at all meetings of the Board of Governors and the Executive Committee;
- Be an ex officio member, without vote, on all committees unless appointed as a regular voting member of a committee;
- Sign, on behalf of the Board or University, any documents or instruments that the Board has authorized to be executed;
- Appoint the members of all committees, subject to approval by the Board;
- Serve as the spokesperson for the Board; and
- Perform all duties incident to the office of the Chair, including setting meeting agendas, submitting the training and development certification to HEPC, and such other duties as may be prescribed by the Board from time to time.

(b) Vice Chair

The Vice Chair shall have the following duties:

- Perform all the duties and exercise the powers of the Chair during the Chair's absence or incapacity; and
- Perform such other duties as may be assigned to the Vice Chair by the Chair

(c) Secretary

The Secretary shall have the following duties:

- Keep the minutes of all meetings of the Board and assure that such minutes are filed with the records of the University, and made available to the members of the Board, officers of the University, and the public consistent with the provisions of these By-laws;
- Prepare and assure distribution of reports of the Executive Committee to each member of the Board;
- Give or cause to be given appropriate notices in accordance with these By-laws or as required by law;
- Distribute the agenda for all Board meetings; and
- Perform all duties incident to the office of the Secretary and such other duties as may be assigned from time to time by the Chair.

The Secretary may delegate to the Assistant Secretary or other University personnel any or all of those duties associated with the taking or distribution of minutes, the providing of notices, or other similar administrative duties.

(d) Assistant Secretary

The Assistant Secretary shall perform such duties as may be assigned by the Secretary or the Chair. If the Assistant Secretary is not a member of the Board, the Assistant Secretary shall not be entitled to vote or otherwise participate in meetings as a voting member of the Board.

A Special Assistant may also be appointed by the Chair or Assistant Secretary to facilitate Board activities. The Special Assistant or, in the absence of a Special Assistant, the Assistant Secretary, is designated as the Board's official agent for service of process.

Article IV. Board Meetings

Section 4.01 Frequency

The Board of Governors shall meet in regular sessions not less than six times in each fiscal year. The schedule of meetings will be determined by the Chair, in consultation with the Board.

Section 4.02 Notification & Access

The date, time, place, and agenda of all regularly scheduled meetings and the date, time, place, and purpose of all special meetings shall be announced in advance, as prescribed by the West Virginia Open Governmental Proceedings Act. Meetings of the Board shall follow the West Virginia Open Governmental Proceedings Act.

Section 4.03 Emergency Meetings

In the event of an emergency, the Chair may file an emergency meeting notice at any time prior to the meeting. The emergency meeting notice shall state the date, time, place, purpose of the meeting, and the facts and circumstances of the emergency. The meeting shall be limited to the emergency agenda identified in the notice.

Section 4.04 Meeting Location

Meetings will ordinarily be held on the campus of West Virginia University, at the Erickson Alumni Center in Morgantown, but may be held at such other places as the Board may determine.

Section 4.05 Quorum

A majority of members (9) shall constitute a quorum to do business, but a smaller number may meet and adjourn to some other time or until a quorum is obtained. Telephonic or other electronic means of attending the meeting shall qualify toward the quorum.

Section 4.06 Parliamentary Procedure

The business at each meeting shall be conducted under general parliamentary rules set forth in Robert's Rules of Order as modified or interpreted by the Board.

Section 4.07 Agendas

The agenda for every meeting of the Board shall be prepared by the Chair with the assistance of the President. Any member of the Board may present to any meeting of the Board any item for information or discussion whether or not it is on the agenda of the meeting. However, no final action shall be taken on an item that is not consistent with the agenda or purpose of the meeting.

Section 4.08 Minutes

Minutes of each meeting of the Board shall be prepared, approved by the Board, and recorded permanently with the signature of the Secretary.

Subject to the exceptions set forth under the West Virginia Open Governmental Proceedings Act, minutes of all meetings shall be available to the public within a reasonable period of time after the meeting and shall include, at least, the following information:

- The date, time, and place of the meeting;
- The name of each member of the Board, present and absent;
- All motions, proposals, resolutions, orders, and measures proposed, the name of the person proposing the same, and their disposition; and
- The results of all votes and, upon the request of a member, pursuant to the rules of the Board for recording roll call votes, the vote of each member by name.

Section 4.09 Voting

(a) Manner of Voting

Votes on all matters coming before the Board or any of its committees shall be taken by voice vote. But, a roll call vote shall be taken upon the request of any member for a roll call vote.

(b) Off-Site Voting

When any member participates in a Board meeting by telephone or any other means when not physically present at the meeting location, such member(s) may be individually polled as to each vote of the Board.

(c) Proxy Voting

No member may vote by proxy.

(d) Consent Agenda

The Board may vote on multiple matters contained within a consent agenda at one time. However, at the request of any Board member, an item can be removed from the consent agenda and voted on separately.

Section 4.10 Executive Session

By vote of a majority of the members present at any meeting of the Board, and in accordance with the West Virginia Open Governmental Proceedings Act, portions of a meeting, including committee meetings, may be closed to the public.

No minutes shall be taken of executive sessions and no decision may be made during an executive session. No person not a member of the Board shall be in attendance at such executive session except at the direction of the Chair of the Board or the Committee Chair.

Section 4.11 Protocol for Meetings

All those in attendance at meetings of the Board may be asked to identify themselves before addressing the Board or in appropriate circumstances upon entry to the meeting. Only members of the Board, the President, those recognized by the Chair, or by majority vote of the members present may address the Board.

If space is limited in the meeting room, those with business before the Board and the members of the press shall have priority over those who are visitors.

The Board may remove from the meeting any member of the public who is disrupting the meeting to the extent that orderly conduct of the meeting is compromised.

Section 4.12 Appearances before the Board

Persons who desire to have an item placed on the Board's regular or special meeting agenda may submit a request in writing to the Chair or to the President at least fifteen (15) business days in advance of any scheduled meeting. After consultation with the President, the Chair may either place the requested item on an upcoming agenda or reject it, notifying the person of the reasons for the decision. The Chair may also refer the item to a committee of the Board. Such a request may include a request to address the Board in relation to the proposed agenda item.

Persons who wish to address the Board must inform the Assistant Secretary at least fifteen (15) minutes prior to the start of the scheduled meeting. It is the Chair's discretion to recognize those who wish to address the Board. The Chair is not required to recognize any individual who wishes to speak.

When deemed proper, a majority of the Board may waive these rules and hear any person on any subject, before either the Board or any committee of the Board.

Article V. Board Committees

Section 5.01 Formation and Operating Procedures of Board Committees

The Board may appoint committees and prescribe their duties and functions. All committees shall keep a record of their proceedings and shall report to the Board as required. The delegation of Board authority to any committee shall not operate to relieve the Board or any member of any responsibility imposed by law.

Committees serve the Board primarily as work groups to study the complex issues related to the University's mission and operations and allow the members to develop a foundation of knowledge necessary to carry out their fiduciary duties. In the event action must be taken by a committee, all resolutions offered that involve matters for record in the minutes shall be made in writing and follow the West Virginia Open Government Proceedings Act.

Section 5.02 Standing Committees

The Board of Governors may have the following Standing Committees:

- Executive Committee;
- Strategic Plans and Initiatives Committee;
- Accreditation and Academic Affairs Committee;
- Finance and Facilities Committee;
- Divisional Campus Committee; and
- Audit Committee.

Section 5.03 Special or Ad Hoc Committees

Additional Committees, such as a Nominating Committee, may be established from time to time and for such period as required to complete their mission. Members and chairs of such committees shall be appointed by the Board Chair.

Section 5.04 Committee Appointments

All committee members shall be appointed by the Chair of the Board, who shall also designate a member of each committee to serve as its chair. The chair of each committee may from time to time appoint subcommittees from the committee's membership and designate the chair of each subcommittee.

Section 5.05 Executive Committee

(a) Membership

The Executive Committee shall be chaired by the Chair of the Board and shall consist of the Board's Officers, the chairs of the Board's Standing Committees, (or the vice chairs in the chair's absence), and the Immediate Past Chair of the Board, if still a member of the Board.

(b) Duties and Operating Procedures

The duties of the Executive Committee shall include acting on behalf of the Board when so directed by the Board, and if requested by the Chair to assist in setting the agenda or preparing for Board deliberations.

When Board action is required between scheduled meetings of the Board, and a special meeting of the Board is not practicable, the Chair may convene the Executive Committee to act on the Board's behalf, subject, as appropriate, to vote by the full Board at its next regular meeting.

All members of the Board shall be notified of any meeting of the Executive Committee.

Article VI. Relationship of the Board and the President

Section 6.01 President's Duties and Responsibilities

The President shall be the chief executive officer of the University and the official advisor to and executive agent of the Board of Governors and its Executive Committee. The President shall be appointed by the Board and serves at the will and pleasure of the Board, as may be further delineated in his or her contract. The Board shall time to time evaluate the President in the performance of his or her duties and responsibilities. The President shall, as educational and administrative head of the University, exercise a general superintendence over all the affairs of the institution, and bring such matters to the attention of the Board as are appropriate to keep the Board fully informed in meeting its rulemaking responsibilities. The President shall be the spokesperson for the University.

Section 6.02 Delegation to President of Day-to-Day Operations.

The Board of Governors specifically delegates to the President the power and control over the day-to-day business affairs and operations of West Virginia University, including the divisional campuses. Additionally, the President shall have power to perform all acts and execute all documents to make effective the actions of the Board. In making this delegation of authority, the Board authorizes the President, in turn, to make further delegations of this authority to other University administrators as the President may deem necessary for the day to day management of the business affairs and operations of the University, including to execute documents on behalf of the University and make effective actions of the Board. In the exercise of this delegated authority, the Board expects and requires the President to function as the chief executive officer of the University and to exercise sound management of the academic, financial, and operational aspects of the University.

The Board may rescind all or part of this delegation or other delegations of authority at any time that it deems such rescension to be in the best interests of the University. Additionally, the Board may, in its discretion, delegate additional authority to the President or other University administrators as appropriate through a Delegation of Authority Resolution or through individual Board of Governor Rules. The Board may also, through individual Board of Governors Rules, delineate actions that specifically require Board approval before that action is implemented by the President.

Section 6.03 Board and Committee Meetings

Unless otherwise determined by the Board, the President shall attend all meetings of the Board and its committees, and have the right to speak, offer advice and otherwise participate in such meetings, except that the President shall not vote on any Board matter.

Section 6.04 Incapacitation of President

The Board designates the Provost as chief executive officer of the University in the event of the President's death, disability, or unavailability. The Provost serves as the University's chief academic officer and chair of its major budget and planning committees.

Article VII. **Relationship of Board and Divisional Campus Presidents**

Section 7.01 **Divisional Campuses**

Administratively, the University includes two fully integrated divisions: West Virginia University Potomac State College and West Virginia University Institute of Technology. Both of these divisions are under the supervision and direction of divisional campus presidents who shall serve at the will and pleasure of the President or Provost, if so designated by the President.

Section 7.02 **Reports to Board**

The Board may require annual and periodic reports from divisional campus presidents, at its discretion. Further, the Board shall take up for discussion and decision such matters as are presented to it by divisional campus presidents, subject to the establishment of such topics as agenda items by the Board Chair.

Section 7.03 **Delegation to University President**

The Board authorizes and directs the President of West Virginia University to oversee the recruitment of divisional campus presidents, subject to applicable law. Additionally, the Board authorizes and directs the President of West Virginia University to oversee the work of the divisional campus presidents as part of the work previously delegated to the President as chief executive officer of the University.

The President may require that divisional campus presidents report to the Provost on a day-to-day basis in order to provide for maximum coordination of the work of all units and divisions of the University.

Article VIII. Amendments

These By-Laws may be amended or repealed at any meeting of the Board by an affirmative vote of a majority of the Board, provided that copies of such amendments or notices of repeal are submitted in writing to each member at least ten (10) days in advance of such meeting.

This Board recognizes that certain of these By-Laws are intended to accurately reflect current applicable State law and that whenever any change in State law occurs, whether by change in statute or judicial interpretation, such change shall take precedence over and be deemed to be an amendment to the conflicting procedure.

(Adopted by BOG on September 6, 2002; Modified on July 8, 2008; Modified April 23, 2009; Modified October 9, 2009; Modified May 1, 2015; Last Modified and Title Changed from Operating Procedures to By-Laws on July 10, 2017)