

WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS

April 20, 2018

The one hundred fifty eighth meeting of the West Virginia University Board of Governors was held on April 20, 2018 in Morgantown, WV. Board members in attendance/participating by telephone included David Alvarez, Marty Becker, Elmer Coppoolse, Thomas Flaherty, Thomas Heywood, Dr. Stanley Hileman, Blake Humphrey, J. Thomas Jones, Lisa A. Martin, Taunja Willis Miller, J. Robert (J.R.) Rogers, Benjamin Statler, Dr. Matthew Valenti, Dr. Kimberly Weaver and William Wilmoth. Board member, Ed Robinson, was absent and excused.

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

President, E. Gordon Gee;
Vice President for Strategic Initiatives, Rob Alsop;
General Counsel, Stephanie Taylor;
Deputy General Counsel, Gary G. Furbee, II;
Vice Provost, John Campbell;
Vice President for University Relations, Sharon Martin;
Vice President for Finance and Chief Financial Officer, Paula Congelio;
Associate Vice President for Finance, Anjali Halabe;
Associate Provost for Undergraduate Education, Paul Kreider;
Dean of Students, Corey Farris;
Vice President for Talent and Culture, Cris DeBord;
Vice President for Diversity, Equity and Inclusion, Meshea Poore;
Executive Officer and Assistant Board Secretary, Jennifer Fisher;
President, WVU Institute of Technology at Beckley, Carolyn Long;
Director of Internal Audit, Bryan Shaver;
Associate Vice President for Academic Affairs, WVU Health Sciences,
 Louise Veselicky;
Associate VP for Planning & Treasury Operations, Elizabeth Reynolds;
Assistant Vice President for Strategic Action, Elizabeth Hamilton;
Director of Scientific Development, WV Clinical & Translational Science Institute,
 Julie Lockman;
WVU ACCE Representative, Shirley Robinson;
Associate Vice President for Facilities and Services, Randy Hudak;
Assistant Vice President for Student Life Communications, Sabrina Cave;
Associate Provost for Academic Personnel, C. B. Wilson;
Assistant Vice President James A. Morris;
Senior Executive Director of Communications, University Relations,
 John Bolt;
Special Assistant to the Board of Governors, Valerie Lopez.

Members of the Press were also present.

CALL TO ORDER

The meeting was called to order by the Chairman William Wilmoth at 8:30 a.m. A roll call was taken to determine who was in attendance and a quorum established,

EXECUTIVE SESSION

Chairman Wilmoth requested a motion that the Board go into Executive Session, under authority in West Virginia Code §§6-9A-4(b)(2)(A), (b)(9), and (b)(12) to discuss legal, personnel, and deliberative matters; matters not considered public records; matters related to construction planning, commercial competition matters, the purchase, sale or lease of property, and/or the investment of public funds. The motion was made by Thomas Heywood, seconded by J. Thomas Jones, and passed. Following the conclusion of Executive Session, Marty Becker moved that the Board rise from Executive Session. This motion was seconded by David Alvarez, and passed. Board members

DISCUSSIONS/ACTIONS EMANATING FROM EXECUTIVE SESSION

Chairman Wilmoth stated that there were no actions emanating from today's Executive Session discussions.

BOARD PRESENTATION ACADEMIC AFFAIRS UPDATES

Vice Provost, John Campbell, provided the following Academic Affairs updates:

Demo Day

- Vice Provost Campbell thanked members of the board for engaging in Demo Day. WVU's Inaugural Demo Day was held April 19th at Evansdale Crossing. Students, faculty, and staff demonstrated how innovation, design, and entrepreneurship can be applied campus-wide at WVU and showcased their creative ideas, inventions and unique business ventures.

Emma Harrison named Truman Scholar and Newman Civil Fellow

- Junior Political Science major and Honors student Emma Harrison has been named both a Truman Scholar and a Newman Civic Fellow for 2018. The Truman Scholarship is the country's top award for students who aspire to careers in public service and will award Emma \$30,000 for graduate study. The Newman Civic Fellowship is awarded to students committed to civic responsibility. Harrison will use both awards to continue her passionate and tireless advocacy for prison education.

Foundation Outstanding Teachers Announced

- Six faculty members have been selected for the 2018 Foundation Award for Outstanding Teaching. This year's honorees are:
 - Malayna Bernstein, Learning Sciences

- Edward Flagg, Physics and Astronomy
- Todd Hamrick, Fundamentals of Engineering
- David Martinelli, Civil Engineering
- Carrie Rishel, Integrated Mental & Behavioral Health
- Dana Voelker, Sport & Exercise Psychology

Karen Diaz award/special recognition

- WVU Libraries Interim Dean Karen Diaz is among 17 top academic library directors selected from a national pool as Library Senior Fellows at UCLA for the fall of 2018. The international cohort will travel to UCLA in August for a three-week residential program featuring lectures, guest speakers, case studies, and field trips to combine practical and theoretical approaches to confronting issues facing academic institutions and their libraries.

**BOARD PRESENTATION AND POSSIBLE ACTION:
NOTICE OF PROPOSED RULEMAKING**

Chairman Wilmoth called upon General Counsel, Stephanie Taylor – who introduced Deputy General Counsel, Gary G. Furbee, II – to provide the following overview related to the Notice of Proposed Rulemaking.

This Notice of Proposed Rulemaking is issued pursuant to West Virginia University Board of Governors Governance Rule 1.1.

The proposed changes to current Board of Governors Policies are to:

West Virginia University Board of Governors Policy 40 – Fiscal Responsibility

Additionally, this Notice of Proposed Rulemaking is for one new Rule:

West Virginia University Board of Governors Finance & Administration Rule 5.1 - Authorizations and Delegations of Authority for Financial and Administrative Matters

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 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 policy above will result in additions, amendments, or repeals as set forth in detail in the table located in the Notice of Proposed Rulemaking.

Following the issuance of the Notice of Proposed Rulemaking, the proposed changes to the Policy will be posted for the required thirty (30) day public comment period from April 23,

2018 through May 22, 2018. The Board of Governors is asked to approve the issuance of the Notice of Proposed Rulemaking, as presented.

Deputy General Counsel Furbee provided an overview of the new rule – detailing the additions, amendments or repeals resulting from the proposed changes to the BOG policies, and stated that 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 from April 23, 2018 through May 22, 2018 for the submission of written comments. Once the comment period has ended, all public comments received will be posted on the University’s policy website. The Rule may be changed, subject to comments received.

Following this presentation, 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 Marty Becker, and unanimously approved. **NOTE:** The approved Notice of Proposed Rulemaking is attached hereto, made a part hereof, and incorporated herein by reference. It is further noted that the proposed changes to the BOG policies will result in the additions, amendments, or repeals as outlined by Deputy General Counsel Furbee during his presentation, all of which are summarized on the chart incorporated within the Notice of Proposed Rulemaking attached hereto.

**BOARD PRESENTATION AND POSSIBLE ACTION:
APPROVAL OF FINAL RULES AND REPEAL/OR AMENDMENT OF CURRENT
BOARD OF GOVERNORS POLICIES**

Chairman Wilmoth called upon General Counsel, Stephanie Taylor – who introduced Deputy General Counsel, Gary G. Furbee, II – to provide the following overview: At the Board’s February 16, 2018 meeting, it issued a Notice of Proposed Rulemaking for the existing Policies and new Rules addressed today. 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. Additional specific changes were set forth in detail in the table that was included in the February 16, 2018 Notice of Proposed Rulemaking, attached hereto and incorporated herein by reference.

The proposed changes to the existing Policies and the new Rules were posted for the required thirty (30) day public comment period. Eight comments were received. These comments and the University’s response to these comments are summarized in the chart attached hereto and incorporated herein by reference.

The revised final amended Rules and the summary of all comments received have been posted for at least ten (10) calendar days, as required under BOG Governance Rule 1.1 – Adoption, Amendment, and Repeal of Rules.

Deputy General Counsel Furbee then covered the items listed on said chart and answered any questions regarding any of the proposed rules.

Following a brief discussion, Lisa A. Martin moved that (a) the Board of Governors approves the final draft of the Rules listed below (as contained in today’s meeting agenda materials), namely:

BOG Governance Faculty Rule 4.1 – Academic Freedom; Academic & Professional Responsibility

BOG Governance Faculty Rule 4.2 – Appointment, Promotion, Tenure, and Dismissal for Cause

BOG Governance Faculty Rule 4.3 – Sabbatical Leave

BOG Governance Faculty Rule 4.4 – Faculty Salary Policy and Salary Enhancement for Continued Academic Achievement

BOG Governance Faculty Rule 4.5 – Modification of Duties for Certain Full-Time Faculty; Extension of the Tenure Clock

BOG Governance Faculty Rule 4.6 – Adjunct Faculty

and (b) the Board of Governors approves the repeal and/or amendment of the current Board of Governors policies listed below:

West Virginia University Board of Governors Policy 22 – Faculty and Administrative Productivity

West Virginia University Board of Governors Policy 30 – Salary Enhancement for Continued Academic Achievement

West Virginia University Board of Governors Policy 38 – Emeritus Status

Said motion was seconded by Thomas Heywood, and passed.

APPROVAL OF MINUTES

J. Robert (J.R.) Rogers moved that the minutes of the February 16, 2018 regular meeting and the March 6, 2018 special be approved. The motion was seconded by Thomas Heywood, and passed.

COMMITTEE REPORTS

April 19, 2018 Audit Committee Meeting: Audit Committee Chair, David Alvarez, reported on yesterday’s Audit Committee meeting - during which committee members received a report from the Chief Financial Officer; voted to accept the West Virginia University

Research Corporation Financial Statements and Single Audit Compliance Report for FY 2017, as presented; and retroactively approved an engagement letter from Dixon Hughes Goodman, after which the committee moved to executive session – during which they received reports from our General Counsel and the Director of Internal Audit. Chair Alvarez advised that there were no actions emanating from said Executive Session.

April 19, 2018 Joint Finance and Facilities and Revitalization/Strategic Plans and Initiatives Committee Meeting: Finance and Facilities and Revitalization Committee Chair, J. Thomas Jones, reported on this joint committee meeting, during which several updates were made, and discussions occurred relative a lease with the hospital, as well as other financial matters. Committee Chair Jones advised that there were no actions emanating from said joint committee's Executive Session.

ANNUAL REPORT OF THE CLASSIFIED STAFF REPRESENTATIVE TO THE BOARD OF GOVERNORS

Lisa A. Martin, the classified staff representative on the Board of Governors, along with members of her constituency representing the WVU Beckley campus, provided an annual classified staff presentation. The report clarified what a classified staff employee is; detailed the reduction in workforce in that 622 positions have been eliminated since 2014; reported on the numbers of classified staff at WVU main campus (2052), WVU Beckley (94) and WVU Keyser (95); and provided a myriad of examples of the types of positions filled by classified staff (e. g. Academic Lab Managers, Campus Service Workers, Police Officers, Facilities Workers, and Teachers.) Also of interest is that the average age of a classified employee is 49; many have bachelors and masters degrees; and it is projected that as of April 1, 2020 38 percent of classified staff will be eligible to retire. In conclusion, it was noted that WVU continues to grow yet classified positions have steadily decreased due to budget cuts, difficulty in filling open positions, and now a select few are being converted to non-classified positions. Barbara Boyd and Michael Sheldon talked about the campus move of the WVU Institute of Technology to the Beckley campus and student programming and organizations. There were also brief presentations from Nancy Bremar, Chair of WVU's Staff Council, and Michael Torries, Vice Chair of WVU's Staff Council. Ms. Martin recognized all classified staff members present during today's meeting and introduced former classified staff representative, Dixie Martinelli, who echoed the sentiment that this constituency is a valued part of West Virginia University, and that everyone involved will continue to do great things in the future. At the end of this presentation Chair William Wilmoth presented outgoing board member (and former classified staff representative) Dixie Martinelli with a gift to acknowledge her service on the West Virginia University Board of Governors.

ANNUAL REPORT OF THE STUDENT GOVERNMENT REPRESENTATIVE TO THE BOARD OF GOVERNORS

Blake Humphrey, current student representative on the Board of Governors, presented his annual report. He talked about members of "his team"; provided details on SGA's Executive Branch (comprised of the President, Vice President, Chief of Staff, CFO, Attorney

General and other executive officers – who are appointed by the President and confirmed by the Student Assembly); and touched on the 27 senators and representatives serving in the newly-structured Student Assembly (formerly known as the Student Board of Governors.) Blake then discussed highlights and changes in the reorganization of the Student Government Association (SGA), namely that the executive branch was streamlined to be more efficient and effective, organizational optimization was improved to hold executives accountable, the development of internal standards of performance measurement for executives, and changes made to create a more lean executive administration.

Mr. Humphrey stated the mission, vision and purpose of the SGA as follows:

- **Mission:** We, the students of West Virginia University, desire to preserve within our University and the Student Government Association, an atmosphere that helps to foster an open exchange of ideas with civil discussion, inquiry, and self-expression to help ensure that the personal freedoms and general welfare of the students within our University are protected, and to promote the principles of diversity and responsible self-governance.
- **Vision:** To be a Student Government Association that serves the students, West Virginia University, and the State of West Virginia by promoting inclusion, creating a campus that can accommodate everyone, actively engaging all 55 counties in West Virginia, supporting economic development, enhancing environmental stewardship, participating in meaningful community service, fostering healthy lifestyles, and developing innovative partnerships with students, faculty, staff and other key stakeholders.
- **Purpose:** To be a student government association that works expediently, passionately, and purposefully to transform West Virginia University's student body in order to help transform the State of West Virginia and the world.

Blake then provided examples of the SGA highlights, including the Student Government Information One-Stop Guide; Open Education Week 2018 with WVU Libraries; Lectures on Leadership (a student government lecture series); and a look back at the transformative year for SGA and the student body.

Mr. Humphrey provided details on strategic initiatives of this year's SGA, including Big XII Engagement and Open Educational Resources (OER)/Open Textbooks. He further provided examples of a number of efforts to promote strategic initiatives of WVU SGA, including Commitment to the Land Grant Mission of WVU, Leading on National Issues Impacting Students, and Statewide Student Leadership and Collaboration with WVU's Regional Campuses. He also touched upon rebranding and communications within his administration, Finances and Grants, The Student Assembly, as well as Outreach and Elections.

Blake then introduced the newly elected SGA President, Isaac Obioma, and Vice President, Abbi Yachini, who, along with other new officers, provided their perspective for the upcoming year within the SGA, including an overview of Unity and the 2018 election,

Inclusion, Student Organization Outreach and the Bureau of Finance, Local Government Outreach, as well as planned Restructuring and Accountability.

PRESIDENT'S REPORT

President Gee offered the following as today's president's report:

The president expressed his appreciation for today's presentations by members of classified staff and the student government association. He voiced his anticipation in participating in all upcoming commencement activities, stated that his summer plans included many trips on behalf of the university, and acknowledged the hard work being done on recruitment efforts for WVU.

President Gee concluded his remarks by sharing a national honor for a prestigious faculty member, namely, Lisa Di Bartolomeo, professor in the department of World Languages, Literatures, and Linguistics and senior advisor in the Office of Global Affairs, has been named an American Council on Education Fellow. Dr. Di Bartolomeo, who coordinates our Russian Studies and Slavic and Eastern European Studies programs and is a former member of this board, was one of only 45 people selected for the fellowship, which prepares emerging leaders for senior positions in college and university administration. The one-year program will place her at another higher education institution to observe and work with senior officers, attend decision-making meetings, and execute projects. At its conclusion, she will return to the Mountaineer family with increased knowledge and skills, along with a network of peers across the country and abroad.

INFORMATION ITEMS

There were no questions or concerns expressed by any Board members pertaining to the Information Items contained within the today's meeting agenda.

CONSENT AGENDA

Chairman Wilmoth called for any discussion of today's Consent Agenda items, and asked whether any items needed to be pulled for a separate discussion/vote. There being none, Marty Becker moved that the Board accept the Consent Agenda items as presented in today's agenda booklet. This motion was seconded by Blake Humphrey, and passed.

Thereupon, the following Consent Agenda items were approved:

1. Approval of New Major: Environmental and Community Planning

Resolved: That the West Virginia University Board of Governors approves the creation of a BS in Environmental and Community Planning in the College of Agriculture Natural Resources and Design.

- 2. Approval of New Major: Physical Activity and Well-Being**
Resolved: That the West Virginia University Board of Governors approves the creation of a BS in Physical Activity and Well-Being in the College of Physical Activity and Sports Sciences.
- 3. Approval of New Certificate: Artist Diploma in Music Performance**
Resolved: That the West Virginia University Board of Governors approves the creation of the Artist Diploma in Music Performance Certificate in the College of Creative Arts.
- 4. Termination of Certificate Program: Post-MSN Certificate**
Resolved: That the West Virginia University Board of Governors approves the termination of the Post-MSN Certificate in the School of Nursing.
- 5. Approval of New Certificate: Program Evaluation**
Resolved: That the West Virginia University Board of Governors approves the creation of the Certificate in Program Evaluation in the College of Education and Human Services.
- 6. Approval of New Major: Child Development and Family Studies within the Master of Arts in Educational Psychology**
Resolved: That the West Virginia University Board of Governors approves the creation of the Child Development and Family Studies major within the Master of Arts in Educational Psychology in the College of Education and Human Services.
- 7. Approval of New Degree Program: Master of Science in Biomedical Engineering and New Major with the PhD in Engineering: Biomedical Engineering**
Resolved: That the West Virginia University Board of Governors approves the creation of the Master of Science in Biomedical Engineering and a major in Biomedical Engineering within the PhD in Engineering in the Benjamin M. Statler College of Engineering and Mineral Resources.
- 8. Approval of New Degree Program: Master of Science in Energy Environments**
Resolved: That the West Virginia University Board of Governors approves the creation of the Master of Science in Energy Environments in the Davis College of Agriculture, Natural Resources, and Design.
- 9. Approval of New Degree Program: Master of Health Science – Physician Assistant**
Resolved: That the West Virginia University Board of Governors approves the creation of the Master of Health Science – Physician Assistant program in the School of Medicine.
- 10. Appointment to County Extension Committees**
Resolved: That the West Virginia University Board of Governors approves the nominees and alternates for positions on the County Extension Service Committees in West Virginia, as presented.

11. Authorization to submit a proposal and acquire property from the Federal Government located adjacent to the campus of WVU Tech in Beckley

Resolved: That the West Virginia University Board of Governors authorizes the Campus President of the West Virginia University Institute of Technology (“WVU Tech”) to take all actions necessary to submit an application for and to acquire from the Federal Government the Robert C. Byrd Federal Building and U.S. Courthouse, Beckley, West Virginia, a 19,922 square feet facility located on a 0.457-acre parcel at 400 Neville Street, Beckley West Virginia (“Beckley Federal Building”) adjacent to the current administrative building of WVU Tech on Neville Street.

12. Authorization to enter into a Lease with WVU Hospitals, Inc. Relating to the Demolition of the Medical Center Apartments near the Erickson Alumni Center for Additional Parking for the Hospital

Resolved: That the West Virginia University Board of Governors authorizes the Vice President for Strategic Initiatives to take all actions necessary to enter into a lease agreement with WVU Hospitals to lease the real property currently underlying the buildings formerly known as the Medical Center Apartments and adjacent area (“Medical Center Land”) to WVU Hospitals for the purposes of creating a new surface parking lot and using the Medical Center Land for parking for a period not to exceed fifteen years.

NOMINATING COMMITTEE

Chairman Wilmoth stated that he would like to appoint the following board members to serve on a nominating committee to prepare and present a slate of officers during the June 22, 2018 board meeting. J. Robert (J.R.) Rogers (to serve as chairman) and Dr. Kimberly Weaver, Blake Humphrey, Tom Jones, Tom Heywood and Marty Becker to serve as committee members. Dr. Stanley Hileman moved to ratify these appointments and the motion was seconded by Taunja Willis Miller and passed.

ADJOURNMENT

Chairman Wilmoth announced that the Board will conduct its next regular meeting on June 22, 2018 in Morgantown. There being no further business to come before the Board, Marty Becker moved to adjourn the meeting. The motion was seconded by Blake Humphrey, and passed. The meeting was adjourned at 1:35 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 Governance Rule 1.1. The proposed changes to current Board of Governors Policy West Virginia University Board of Governors Policy 40 – Fiscal Responsibility. Additionally, Notice of Proposed Rulemaking for one new Rule: West Virginia University Board of Governors Finance & Administration Rule 5.1 – Authorizations and Delegations of Authority for Financial and Administrative Matters.

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 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 Policy above will result in additions, amendments, or repeals as set forth below:

New BOG Rule	Current BOG Policy (if applicable)	Recommended Action	Comments
BOG Finance & Administration Rule 5.1 – Approvals and Delegations of Authority for Financial and Administrative Matters	BOG Policy 40 – Fiscal Responsibility	Approve	<ul style="list-style-type: none"> ▪ Reaffirms delegation to President to manage and exercise authority relating to day to day matters of the University. ▪ Provides that the sale or acquisition of full title to real property or mineral interests require Board authorization as well as material easements and rights of way. ▪ Provides that long-term and financially significant lease, use, and license agreements require Board authorization. ▪ Reaffirms that capital improvements in excess of \$1 million dollars or those inconsistent with any master plan required Board authorization. ▪ Reaffirms that the issuance of debt or other indebtedness requires Board authorization. ▪ Provides that certain major contracts in excess of \$2 million in annual value require Board authorization. ▪ Reaffirms that capital and operating budgets and tuition and fee rates are require Board authorization. ▪ Provides that certain unique and related party transactions require Board authorization. ▪ Provides emergency transaction authority to the President. ▪ Provides thresholds for required Board authorization to significant amendments to Board authorized transactions. ▪ Reaffirms the authority of the President to take action on a broad array of matters relating to the financial and administrative management of the University.

New BOG Rule	Current BOG Policy (if applicable)	Recommended Action	Comments
N/A	BOG Policy 40 – Fiscal Responsibility	Relocate & Repeal	<ul style="list-style-type: none"> ▪ Incorporates the substance of current BOG Policy 40 without any significant revisions and adds in financial reporting requirements. ▪ Incorporated within BOG Finance & Administration Rule 5.1.

A copy of the current Policy can be found at <http://bog.wvu.edu/policies> and a copy of the proposed Rule 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 April 23, 2018 until May 22, 2018 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 Rule may be changed, subject to comments received.

NOTICE OF PROPOSED RULEMAKING

This Notice of Proposed Rulemaking is issued pursuant to West Virginia University Board of Governors Governance Rule 1.1. The proposed changes to current Board of Governors Policies are to:

- West Virginia University Board of Governors Policy 2 – Academic Freedom, Professional Responsibility, Promotion, and Tenure;
- West Virginia University Board of Governors Policy 3 – Sabbatical Leave;
- West Virginia University Board of Governors Policy 12 – Adjunct Faculty;
- West Virginia University Board of Governors Policy 22 – Faculty and Administrative Productivity;
- West Virginia University Board of Governors Policy 30 – Salary Enhancement for Continued Academic Achievement;
- West Virginia University Board of Governors Policy 38 – Emeritus Status; and
- West Virginia University Board of Governors Policy 51 – Extension of Tenure Track.
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Additionally, Notice of Proposed Rulemaking for two new Rules:

- West Virginia University Board of Governors Faculty Rule 4.1 – Academic Freedom; Academic & Professional Responsibility; and
- West Virginia University Board of Governors Governance Rule 4.4 – Faculty Salary Policy and Salary Enhancement for Continued Academic Achievement.

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 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:

New BOG Rule	Current BOG Policy (if applicable)	Recommended Action	Comments
BOG Faculty Rule 4.1 – Academic Freedom; Academic & Professional Responsibility	BOG Policy 2 – Academic Freedom, Professional Responsibility, Promotion, and Tenure (Section 2)	Approve	<ul style="list-style-type: none"> Restates the substance removed from Section 2 of the current BOG Policy 2 without any significant revisions.
BOG Faculty Rule 4.2 – Appointment, Promotion, Tenure, and Dismissal For Cause	BOG Policy 2 – Academic Freedom, Professional Responsibility, Promotion; Tenure; BOG Policy 22 – Faculty and Administrative Productivity; and BOG Policy 38 - Emeritus Status.	Amend and Approve	<ul style="list-style-type: none"> Re-organizes and streamlines for clarity a majority of the substance of current BOG Policy 2. <ul style="list-style-type: none"> Increases to 15%, from 10%, the total number of full-time teaching-track appointments that there may be on any one of the University's campuses at a given time. Removes references to Community and Technical Colleges. Authorizes appointments for Teaching-Track faculty to terms of up to six (6) years upon promotion to or appointment at the rank of Teaching Associate Professor and terms of up to nine (9) years upon promotion to or appointment at the rank of Teaching Professor. Incorporates and restates, pursuant to W. Va. Code § 18B-8-6(b), the substance from BOG Policy 22, Faculty and Administrative Productivity. Incorporates BOG Policy 38, Emeritus Status as it relates to faculty. Section 2, regarding academic freedom and professional responsibility, has been removed and is the subject of proposed BOG Faculty Rule 4.1. Sections 13, regarding termination because of reduction or discontinuation of an existing program, and Section 14, regarding termination due to

New BOG Rule	Current BOG Policy (if applicable)	Recommended Action	Comments
BOG Faculty Rule 4.3 – Sabbatical Leave	BOG Policy 3 – Sabbatical Leave	Amend and Approve	<p>financial exigency, have been removed and are the subject of proposed BOG Faculty Rule 4.7.</p> <ul style="list-style-type: none"> ▪ Re-organizes and streamlines for clarity text of current BOG Policy 3. <ul style="list-style-type: none"> ○ Removes procedures and delegates to the Provost the ability to develop additional internal policy and procedures regarding requests for sabbatical leave. ○ Defines “Sabbatical Leave” to mean a leave of absence for no more than one contract year to pursue research, writing, or other activity calculated to contribute to the professional development of a faculty member and their overall value to the University.
BOG Faculty Rule 4.4 – Faculty Salary Policy and Salary Enhancement for Continued Academic Achievement	WVU BOG Policy 29 – Salary Policy; WVU BOG Policy 30 – Salary Enhancement for Continued Academic Achievement	Approve	<ul style="list-style-type: none"> ▪ Removes references to HEPC Salary Guidelines. ▪ Empowers the Provost to design and administer a Faculty compensation program that aligns with the University’s mission, vision, and values and meets the clearly defined objectives. ▪ Incorporates concepts from current BOG Policy 30 – Salary Enhancement and requires the Provost to maintain a salary enhancement program for Faculty Members at the rank of professor or the equivalent who, at a minimum, continue to perform at or above the standard required to achieve promotion to the rank of professor or the equivalent. ▪ Establishes and authorizes specific methods of compensation adjustments for current faculty.

New BOG Rule	Current BOG Policy (if applicable)	Recommended Action	Comments
BOG Faculty Rule 4.5 – Modification of Duties for Certain Full-Time Faculty; Extension of the Tenure Clock	BOG Policy 51 – Extension of Tenure Track	Amend and Approve	<ul style="list-style-type: none"> ▪ Authorizes the Provost to modify the assigned duties of full-time Faculty Members in response to certain personal circumstances that may arise. ▪ Re-organizes and streamlines for clarity current BOG Policy 51, regarding the extension of the tenure clock. <ul style="list-style-type: none"> ○ Defines the personal and professional circumstances which may permit extension of the Tenure-Track Period. ○ Establishes the parameters for extensions to the tenure-track period to be requested and expectations regarding performance review in light of granted extensions.
BOG Faculty Rule 4.6 – Adjunct Faculty	WVU BOG Policy 12 – Adjunct Faculty	Amend and Approve	<ul style="list-style-type: none"> ▪ Re-organizes and streamlines for clarity text of current BOG Policy 3. ▪ Sets forth that balance between remunerated full-time faculty and remunerated Adjunct Faculty shall not exceed the national average for institutions with similar missions based on US Department of Education data.
N/A	BOG Policy 22 – Faculty and Administrative Productivity	Relocate & Repeal	▪ Incorporated within BOG Faculty Rule 4.2
N/A	WVU BOG Policy 30 – Salary Enhancement for Continued Academic Achievement	Relocate & Repeal	▪ Incorporated within BOG Faculty Rule 4.4
N/A	WVU BOG Policy 38 – Emeritus Status	Relocate & Repeal	<ul style="list-style-type: none"> ▪ This policy was partially repealed, as to President and Administrator Emeritus Status only, at the January 20, 2018 special meeting. ▪ Incorporated within BOG Faculty Rule 4.2

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 February 19, 2018 until March 20, 2018 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.

WVU BOARD OF GOVERNORS – PROPOSED RULES OFFICIAL COMMENTS & DETERMINATIONS MADE

Date Received	Proposed Rule	Comment	Determinations Made
3/19/2018	WVU BOG Faculty Rule 4.2 – Appointment, Promotion, Tenure, and Dismissal for Cause	<p>Section 2.1 states "Faculty members holding Academic Rank are assigned one of the following classifications:" and then there are four categories listed in that Section: 2.1.1 "Tenured", 2.1.2 "Tenure-Track", 2.1.3 "Clinical-Track", and 2.1.4 "Teaching-Track". Then, in Section 2.3, a fifth possible category for those holding Academic Rank is provided: "Other Non-Tenure-Track" (such faculty would have a prefix "Research-" or "Service-"), which is listed in Section 2.4.1.1 (as an aside, the numbering of the subsections of section 2.3 is off). The organization of section 2 is confusing because it appears that 2.1 is an exhaustive list of categories for faculty that [h]old academic rank, but then section 2.3 throws in one more such category. A possible solution would be to add one more subsection to section 2.1: "2.1.5 Other Non-Tenure Track Holding Academic Rank. As described in section 2.3.1.1, non-tenure track faculty with the prefix "Research-" or "Service-" may hold academic rank."</p> <p>I also had the following comment, but it is only editorial: Check the capitalization, spacing, and hyphenation in Section 6.1. For instance "clinical-track" should be "Clinical-Track" per 2.1.3, "librarian-track" should be "Librarian-Track", "Teaching -Track" should be "Teaching-Track" (close the track before the hyphen), "Other Non-Tenure-Track" should</p>	<p>In response to this comment, Section 2 of BOG Faculty Rule 4.2 has been edited, rearranged, and renumbered as follows:</p> <p>2.1 Faculty Members holding Academic Rank are <u>may be</u> assigned one of the following classifications:</p> <p>The text regarding "Other Non-Tenure-Track" (formerly Section 2.3 and its related subsections) has been moved and is now numbered as Section 2.4. As result of this move, several other sections and subsections required renumbering.</p> <p>Additionally, edits were made in Section 6 in response to the editorial comment such that "clinical-track," "librarian-track," and "teaching-track" are only capitalized when such terms appear in a heading:</p> <p>6.1 When a full-time Faculty Member is appointed on other than a clinical-track, librarian-track, Teaching <u>Teaching</u>-teaching-track, Other <u>other</u>-Non-Tenure <u>Non-Tenure</u>-Track <u>Track</u> or tenured basis, the appointment shall be Tenure <u>Tenure</u>-Track <u>Track</u>.</p> <p>***</p>

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		be "Other Non-Tenure-Track" (close the space before "Track").	<p>6.3 The maximum period of tenure-track status normally shall not exceed seven (7) years.</p> <p>6.3.1 During the Critical Year of a tenure-track appointment, each Tenuretenure-Track-track Faculty Member shall be given written notice of tenure, or offered a one-year written terminal contract of employment.</p> <p>***</p> <p>6.4 Faculty appointed at times other than the beginning of the academic year may choose to have those periods of appointment equal to or greater than half an academic year considered as a full year of the Tenure-tenure-Track-track Periodperiod. Such decision should be made at the time of the appointment, and must be made by the end of the fiscal year in which the appointment began.</p> <p>6.5 Tenure-track appointments for less than half an academic year may not be as part of the Tenuretenure-Track-track period.</p> <p>6.6 During said Tenuretenure-Track-track Period, notices of non-reappointment may be issued for any reason that is not arbitrary, capricious, or without factual basis. Any documented information relating to the decision for non-reappointment or dismissal shall be provided promptly to the Faculty Member upon request.</p>

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3/8/18	WVU BOG Faculty Rule 4.2 – Appointment, Promotion, Tenure, and Dismissal for Cause	<p>The language in 8.1.4 of this rule pertaining to Dismissal for Cause states that a faculty member may be dismissed due to a "Disability for which no reasonable accommodation can be made." This should be rephrased to reflect the Americans with Disabilities Act. The new statement could state "Disqualification per the Americans with Disabilities Act." We should avoid any statements that impart that a person can be dismissed due to the presence of a disability.</p> <p>A person can only be removed from a position if they are no longer "qualified" (per the ADA) to perform the essential functions of their job, with or without reasonable accommodations.</p>	<p>In response to this comment, WVU BOG Faculty Rule 4.2 has been amended as follows in response to some portions of this comment:</p> <p>8.1.4 <u>Disqualification per the Americans with Disabilities Act</u>Disability for which no reasonable accommodation can be made;</p>
3/13/2018	WVU BOG Faculty Rule 4.2 – Appointment, Promotion, Tenure, and Dismissal for Cause	<p>BOG defines clinical faculty as follows:</p> <p>2.1.3 Clinical-Track: Those Faculty Members who have been appointed by the President and have been designated as being in a clinical-track position in the Health Sciences Schools. Their appointment may be full-time or part-time. Faculty Members in the clinical-track shall be appointed with an applicable HSC Designation.</p> <p>However, there may be units other than the HSC that have a faculty member defined as a clinical professor or clinical instructor. We happen to be one of those units. Could the HSC designation be removed from this definition or another definition created for clinical faculty outside of the HSC?</p>	<p>It was determined that a modification to WVU BOG Faculty Rule 4.2 was not needed in response to this comment.</p>
3/15/2018	WVU BOG Faculty Rule 4.2 – Appointment,	With regard to proposed Faculty Rule 4.2, section 2: Faculty Classification, subsection 2.3, Other Non-Tenure Track, I am writing to make a comment. As a	It was determined that a modification to WVU BOG Faculty Rule 4.2, Subsection 2.3 regarding

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	Promotion, Tenure, and Dismissal for Cause	<p>current Clinical Associate Professor of Leadership Studies, I do not believe the name "service" faculty appropriately identifies the work by those of us who will be required take on this new title by virtue of the adoption of this rule.</p> <p>While I completely understand the need to reserve the "clinical track" title for those in the Health Sciences Center, I do not agree with the proposed title of "service faculty" for those of us whose prefix would be changing. Again, I appreciate the work that is being done to identify a new title. However, by identifying myself as a "service faculty," as opposed to teaching, tenured or research faculty, I do not believe that it accurately reflects my role.</p> <p>I ask that one or more different names be (re)considered rather than the new prefix of "service." Perhaps one such designation could be "administrative" faculty, which clearly delineates that my prefix incorporates the function of my administrative duties. I currently serve as the Director of Leadership Studies, which accounts for the primary service that I do as a Clinical Associate Professor. Just as most current administrators at the University do not take on the title of "service personnel," I do not believe that "service faculty" is an appropriate name for the role that I perform. Both are considered administrative positions and I kindly request that this title be weighed as an option.</p> <p>Finally, near the end there is a statement about this policy relative to free speech policy - please list the exact policies you are referencing by number.</p>	Other Non-Tenure Track was not needed in response to this comment.

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3/19/2018	WVU BOG Faculty Rule 4.2 – Appointment, Promotion, Tenure, and Dismissal for Cause	<p>My understanding is that this rule (section 2.1.4.2 of it) will increase the percentage of teaching track professors from 10% to 15%. This strikes me as a very poor idea. If WVU is a research institution, it should not be hiring more teaching track professors. It should hire as many faculty who produce research as possible. This change also strikes me as odd in that it is at odds with the University's strategic plan to improve its research profile.</p> <p>Over the last several years, the University has accommodated teaching track professors, allowing them to earn tenure and to increase their wages. I think that this is a good thing. If WVU hires teaching track professors, they should be treated as professionals and be able to earn a good living and provide for a family. At the same time, WVU should not be hiring many teaching track professors for the reason I articulate above. Are we turning into a teaching college? If so, why is this not reflected in the strategic plan? I am strongly opposed to this proposed change.</p> <p>The final thing I would note is that someone might respond to my concerns by stating that WVU has no plans to hire 15%. But this just gives the University flexibility. My concern is that this plan may reflect underlying preferences within the administration to increase teaching track professors-and changing the rules in this way makes it possible to pursue these preferences. So I would prefer not to change the rule. If anything, change the rule and make it 5%.</p>	<p>It was determined that a modification to WVU BOG Faculty Rule 4.2, Subsection 2.1.4.2, regarding the percentage of teaching track professors, was not needed in response to this comment.</p> <p>Increasing the percentage of teaching track professors from 10% to 15% will not have an adverse impact on the University's R-1 status. Hiring additional teaching faculty, particularly to teach large undergraduate classes, will free up time for the research-active faculty to be increasingly research-productive, thus enhancing our reputation.</p> <p>WVU is committed to maintaining its R-1 status, and does not intend to damage that position in any way.</p>
3/19/2018	WVU BOG Faculty Rule 4.2 – Appointment,	<p>The shift from 10% to 15% teaching faculty in rule 2.1.4.2 seems to run counter to WVU's goals as an R1 institution. I appreciate that separate calculations</p>	<p>It was determined that a modification to WVU BOG Faculty Rule 4.2, Subsection 2.1.4.2, regarding the percentage of teaching track</p>

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	Promotion, Tenure, and Dismissal for Cause	will be prepared for Potomac State College, WVU Institute of Technology, and the Morgantown Campus, but think this rule change may better serve Potomac State College and WVU-IT. I would prefer exempting WVU - Morgantown Campus from this rule change and maintaining a 10% cap on teaching faculty.	<p>professors, was not needed in response to this comment.</p> <p>Increasing the percentage of teaching track professors from 10% to 15% will not have an adverse impact on the University's R-1 status. Hiring additional teaching faculty, particularly to teach large undergraduate classes, will free up time for the research-active faculty to be increasingly research-productive, thus enhancing our reputation.</p> <p>WVU is committed to maintaining its R-1 status, and does not intend to damage that position in any way.</p>
3/19/2018	WVU BOG Faculty Rule 4.2 – Appointment, Promotion, Tenure, and Dismissal for Cause	<p>Subheading 2.1.4.2 should be deleted. Increasing the fraction of faculty who are teaching track faculty is a terrible idea for multiple reasons, but for the sake of time and space I'll only note a few of them. Most important among them - if WVU aims to be taken seriously as a research university, and aims to provide public goods that help our state prosper, this is a huge step backwards. Teaching faculty cannot contribute to the research mission of this university, the side of it most frequently used to justify its contributions to the growth of health and prosperity in WV. WVU will still be hiring - but not hiring people who can contribute to that core mission. Secondly, adding more of them, given their lack of research production, higher teaching loads, and lower salaries, will negatively impact WVU's national rankings across a host of measures. That will in turn lower our reputation, and lower the quality of people who will want to work at, and enroll in graduate programs within, WVU. I'm well aware of the fact that teaching-</p>	<p>It was determined that a modification to WVU BOG Faculty Rule 4.2, Subsection 2.1.4.2, regarding the percentage of teaching track professors, was not needed in response to this comment.</p> <p>Hiring additional teaching faculty, particularly to teach large undergraduate classes, will free up time for the research-active faculty to be increasingly research-productive, thus enhancing our reputation.</p> <p>WVU is committed to maintaining its R-1 status, and does not intend to damage that position in any way.</p>

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3/19/2018	WVU BOG Faculty Rule 4.2 – Appointment, Promotion, Tenure, and Dismissal for Cause	<p>track faculty have been important to WVU hitting certain markers needed for accreditation and the like. But that should be seen as a band-aid, not the basis of new strategic vision for the future - unless one's vision is to lower WVU's reputation and innovative outputs. That this is even being presented leaves me depressed about our Provost's Office's vision and priorities. This is a terrible idea, and will harm this university if it is implemented.</p> <p>Section 2.1.4.2 of the proposed rule states that "Full-time appointments to the teaching-track shall not exceed fifteen percent (15%) of the total number of full-time faculty at any one of the University's campuses." My understanding is that the current percentage is 10%. To the best of my knowledge, faculty have received no justification for this change, and such a change has the potential to have significant negative consequences. It is likely that retaining R1 research institution status will become more difficult if the percentage of teaching-track faculty is increased. Moreover, such a change may have negative reputational effects. Third, this rule change could be used to justify hiring fewer research-active faculty as a way to cut costs, and this would damage the ability of the university to replenish its ranks and/or grow with the addition of high-quality tenure-track track hires. Lastly, many teaching-track faculty who make significant contributions to the university are not adequately compensated for their efforts, and the number of such faculty could grow if the 15% figure is enacted.</p>	<p>It was determined that a modification to WVU BOG Faculty Rule 4.2, Subsection 2.1.4.2, regarding the percentage of teaching track professors, was not needed in response to this comment.</p> <p>Increasing the percentage of teaching track professors from 10% to 15% will not have an adverse impact on the University's R-1 status. Hiring additional teaching faculty, particularly to teach large undergraduate classes, will free up time for the research-active faculty to be increasingly research-productive, thus enhancing our reputation.</p> <p>WVU is committed to maintaining its R-1 status, and does not intend to damage that position in any way.</p>