

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS
POLICY 45**

**ADOPTION OR AMENDMENT OF RULES
West Virginia University and its Regional Campuses**

Section 1. General

- 1.1 Scope - This Rule governs the adoption or amendment of Rules of the West Virginia University Board of Governors.
- 1.2 Authority - West Virginia Code § 18B-1-6, 18B-2A-4; Higher Education Policy Commission Series 4, 133 CSR 4; Council for Community and Technical College Education Series 4, 135 CSR 4.
- 1.3 Effective Date – September 8, 2006.

Section 2. Purpose

- 2.1 It is the purpose of the Board to encourage and facilitate, to the greatest reasonable degree, an active participatory governance process for the institution. To that end, this Rule shall be implemented to encourage and foster notice and an opportunity for comment on all institutional Rules that come before the Board for review and adoption.

Section 3. Definitions

- 3.1 Rule – Subject to Section 3.1.1, the name used for any regulation, policy, procedure, guideline, directive, standard, statement of policy or interpretation of general application and future effect that also has institution-wide effect or affects the rights, privileges or interests of employees, students or citizens.
 - 3.1.1 The term “Rule” shall not apply to (a) any regulation, policy, procedure, guideline, directive, standard, statement of policy or interpretation of general application and future effect established for an individual unit, division, department or school of the institution which deals solely with the internal management or responsibilities of that unit, division, department or school, or (b) an academic curricular policy that does not constitute a mission change for the institution.
- 3.2 Administrative Procedure – Any regulation, policy, procedure, guideline, directive, standard, statement of policy or interpretation of general application and future effect described in Section 3.1.1, above.

- 3.3 Chancellor – The Chancellor of the Higher Education Policy Commission for Rules that apply to West Virginia University and its divisions and, through June 30, 2007, to West Virginia University Institute of Technology; and the Chancellor of the Community and Technical College System for Rules that apply to West Virginia University at Parkersburg and the Community and Technical College at West Virginia University Institute of Technology.

Section 4. Application

- 4.1 This Rule shall apply to the adoption, amendment, or repeal of any Rule of the West Virginia University Board of Governors. This Rule shall also apply to the adoption, amendment or repeal of any Administrative Procedure solely as it relates to the posting requirements set forth in Section 6.1. This Rule does not apply to subject-matter not included within the scope of Series 4 of the West Virginia Higher Education Policy Commission, 133 CSR 4, and/or Series 4 of the West Virginia Community and Technical College Council, 135 CSR 4.
- 4.2 Unless otherwise stated, all Rules of the West Virginia University Board of Governors apply to all institutions under the Board's jurisdiction, which consist of West Virginia University and its divisions, West Virginia University at Parkersburg, the Community and Technical College at West Virginia University Institute of Technology and, until it becomes a division of West Virginia University effective July 1, 2007, West Virginia University Institute of Technology.

Section 5. Rulemaking Process

- 5.1 Every adoption, amendment or repeal of a Rule must be approved by the Board. Without limiting the foregoing, the Board delegates to the President the authority to initiate the procedures under this Rule.
- 5.2 If the President or Board determines that the institution should draft, amend or repeal a Rule, a notice of proposed rulemaking shall be provided to the Board, the Chancellor, representatives of students, faculty and classified employees at the affected institution(s), and other interested parties as identified by the President or his or her designee. Notice shall also be provided to students, faculty and employees through email and/or intranet announcements, or as otherwise deemed appropriate in the discretion of the President or his or her designee, and posted on the web-page of the Board of Governors. A copy of the notice will also be available at the Office of the President of the affected institution(s).
- 5.2.1 The notice shall specify that there shall be a public comment period of no less than thirty (30) days for the receipt of written comments. The notice shall contain a brief description of the subject matter of the rule, a copy of the proposed new or amended Rule or of the Rule to be repealed, as applicable, and an explanation of how to provide comments for consideration, including the deadline for submission of comments and contact information for the person or office designated to receive public comments. Copies of the notice shall be made available at no cost to any requester.

- 5.3 Following the passage of the public comment period, the President may, at his or her discretion, either present further drafts for additional comment or proceed with submission of a proposal to the Board of Governors for review and possible Board action pursuant to Section 5.4 or 5.5, below.
- 5.4 If the notice of proposed rulemaking was approved by the Board at a previous meeting and no comments are received during the comment period, the proposed rule, amendment or repeal shall take effect without further vote by the Board, but only if the Board, at the time of approving the notice, explicitly authorized such adoption, amendment or repeal without further Board action.
- 5.5 Except as set forth in Section 5.4, above, all proposals for adoption, amendment or repeal of a Rule shall require final Board action after passage of the public comment period before the adoption, amendment or repeal may take effect.
 - 5.5.1 At least ten (10) days prior to a meeting in which the Board is to consider final approval to the adoption, amendment or repeal of a Rule, the final draft Rule, along with a copy of all written comments and evidence received and determinations made, shall be posted on the Board's web site and provided to the persons identified in Section 5.2 using the same methods of notice as described in that section.
 - 5.5.2 Comments received shall be summarized and proposed responses prepared by the President or his or her designee for submission to the Board for consideration at the meeting. The Board may amend a proposed rule as a result of the comments or evidence received without an additional notice period.
- 5.6 Within thirty days of the adoption, amendment or repeal of a Rule by the Board, copies of the Rule, or notice of the repeal, will be forwarded to the Chancellor.
 - 5.6.1 Except as set forth in Section 5.6.2, any adoption, amendment or repeal of a Rule by the Board shall not take effect until approved by the Chancellor or his or her designee under the procedures specified in Higher Education Policy Commission Series 4 and/or Council for Community and Technical College Education Series 4, as applicable.
 - 5.6.2 Any adoption, amendment or repeal by the Board of a Rule which relates to any subject matter over which the Legislature of the State of West Virginia has authorized the Board to act without further approval of the Commission or its Chancellor shall take effect upon Board approval or as otherwise specified by the Board.
- 5.7 Approved Rules shall be assigned a number to assist in identification of each such Rule. Rules adopted or amended by the Board will be posted prominently on the Board web site, and copies shall be made available, at no cost to the requester, in the Office of the President of the affected institution(s). Rules which have been repealed by the Board shall be marked "Repealed" on the Board web site. All written comments, evidence received and determinations made will be preserved

and made available for inspection and copying in the Office of the President for a period of five years from the date of the final Board action.

Section 6. Administrative Procedures

- 6.1 Each Administrative Procedure shall be posted prominently on the appropriate web site of the unit, division, department or school issuing the Administrative Procedure in a manner maximizing accessibility to affected persons, and shall be available at the main administrative office of the unit, division, department or school.

Section 7. Emergency Action

- 7.1 If it is determined that an emergency exists under which immediate action is necessary to adopt, amend or repeal a Rule, the Board may approve such an emergency adoption, amendment or repeal of a Rule without first following the procedures set out in this Rule. Emergency rules approved by the Board will be posted prominently on the Board's web site.
- 7.2 For purposes of this Section 7, an emergency exists when the adoption, amendment or repeal of a Rule is necessary for the immediate preservation of the public peace, health, safety or welfare, or is necessary to comply with a time limitation established by state or federal law or regulation or a directive or rule of the Higher Education Policy Commission or the Council for Community and Technical College Education, or to prevent substantial harm to the public interest, or to deal with financial exigency. The facts constituting an emergency shall be communicated in writing in advance to the Chancellor, who may disapprove the action of the Board if the Chancellor, or his/her designee, disagrees that an emergency existed.
- 7.3 Any emergency policy shall remain in effect no longer than three (3) months, and shall expire unless a final policy has been approved under the normal process set out in this policy.

Section 8. Reporting Requirements

- 8.1 No later than October 1 of each year, the Board shall file with the Higher Education Policy Commission and with the Council for Community and Technical College Education a list of all Board Rules that were in effect on July 1 of that year, as well as a list of Board Rules repealed during the preceding year. The list shall include the most recent date on which the Rule was adopted, amended or repealed, and a statement by the Chair of the Board certifying that the Board complied with the provisions of Section 18B-1-6 of the West Virginia Code and with Higher Education Policy Commission Series 4 and/or Council for Community and Technical College Education Series 4, as applicable, in the adoption of the Rule.