

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 5, Changes in Organizations;
- West Virginia University Board of Governors Policy 6, Naming of Buildings;
- West Virginia University Board of Governors Policy 36, Separation of Programs and Personnel at Admin. Linked Institutions;
- West Virginia University Board of Governors Policy 37, Board of Governors Meetings;
- West Virginia University Board of Governors Policy 38, Emeritus Status;
- West Virginia University Board of Governors Policy 44, Policy Regarding Discrimination, Harassment, Sexual Harassment, Sexual & Domestic Misconduct, Stalking, and Retaliation;
- West Virginia University Board of Governors Policy 49, Children on Campus; and
- West Virginia University Board of Governors Policy 55, West Virginia Freedom of Information Act.

Additionally, Notice of Proposed Rulemaking for two new Rules:

- West Virginia University Board of Governors Governance Rule 1.2 – Administration; and
- West Virginia University Board of Governors Governance Rule 1.9 – President and Staff Emeritus Status.

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:

Current BOG Policy	Proposed Change	New BOG Rule	Brief Description
BOG Policy 5 – Changes in Organization	Relocate & Repeal	BOG Governance Rule 1.2 – Administration	<ul style="list-style-type: none"> • Incorporates substance of BOG Policy 5 into new BOG Governance Rule 1.2.
BOG Policy 6 – Naming of Buildings	Relocate & Repeal	BOG Governance Rule 1.2 – Administration	<ul style="list-style-type: none"> • Incorporates substance of BOG Policy 6 into new BOG Governance Rule 1.2.
BOG Policy 36 – Separation of Programs and Personnel at Admin. Linked Institutions	Repeal	N/A	<ul style="list-style-type: none"> • Policy involved separating out programs and employees from community college originally part of WVU Tech; thus, no longer relevant.
BOG Policy 37 – Board of Governors’ Meeting	Repeal	N/A	<ul style="list-style-type: none"> • Meeting requirements contained within BOG By-Laws. • No statutory requirement to have a separate Rule on this topic.
BOG Policy 38 – Emeritus Status	Partial Repeal & Relocate	BOG Governance Rule 1.9 – President and Staff Emeritus Status	<ul style="list-style-type: none"> • Incorporates substance relating to President and Administrator Emeritus status into new BOG Governance Rule 1.9. • Portion of BOG Policy 38 regarding the ability to grant faculty Emeritus status is not being repealed. However, that portion will eventually be incorporated into a new BOG Faculty Rule in 2018.
BOG Policy 44 – Policy Regarding Discrimination, Harassment, Sexual Harassment, Sexual & Domestic	Amend & Approve	BOG Governance Rule 1.6 – Rule Regarding Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking,	<ul style="list-style-type: none"> • Re-organizes and streamlines text for clarity, especially sections on Consent and Confidentiality. • Substantive changes include: <ul style="list-style-type: none"> ○ Updates definition of terms to comply with recent W. Va. Code changes. ○ Clarifies that criminal violations may (as opposed to must) be referred to prosecuting authority to better address a victim’s wishes.

Current BOG Policy	Proposed Change	New BOG Rule	Brief Description
		Retaliation, and Relationships	<ul style="list-style-type: none"> ○ Adds “threat or intimidation, express or implied, that the aggressor will retaliate or cause damage to the victim’s reputation if the victim does not give into the aggressor’s sexual advances” to definition of Forcible Compulsion under Consent. ○ Clarifies certain relationships are prohibited when one individual has authority or control over the other individual. ○ Adds that failure to disclose certain consensual relationship could lead to discipline. ○ Broadens definition of “Members of the University Community.”
BOG Policy 49 – Children on Campus	Amend & Approve	BOG Governance Rule 1.7 – Rule on Child Protection	<ul style="list-style-type: none"> ● Re-organizes and streamlines text for clarity. ● Substantive changes include: <ul style="list-style-type: none"> ○ Centralizes responsibility and development of appropriate guidelines to Title IX Coordinator; however, individual Units maintain obligation to notify Title IX Coordinator of events involving children and to implement the guidelines Title IX Coordinator develops for that program. ○ Clarifies that background checks for those participating in programs involving children must be conducted a minimum of every 3 years. ○ Adds that failure to abide by Rule can result in discipline. ○ Streamlines definitions of terms for clarity to reader, but references W. Va. Code.

Current BOG Policy	Proposed Change	New BOG Rule	Brief Description
BOG Policy 55 – West Virginia Freedom of Information Act	Amend & Approve	BOG Governance Rule 1.10 – West Virginia Freedom of Information Act	<ul style="list-style-type: none"> • Re-organizes and re-formats text into Rule format. • Streamlines text for clarity and to reflect current University structure.
N/A	Approve	BOG Governance Rule 1.2 – Administration	<ul style="list-style-type: none"> • Combines BOG Policies 5 and 6 into new Rule. • Incorporates statutory requirements to develop a University Master Plan that is submitted bi-annually to Legislative Oversight Committee and HEPC. • Substantive changes to text of BOG Policy 5 – <u>Change in Organization</u>: <ul style="list-style-type: none"> ○ Removes requirement to inform HEPC of major organization changes. ○ Provides BOG the right to take action on any significant organization change. • Substantive changes to BOG Policy 6 – <u>Naming of Building</u>: <ul style="list-style-type: none"> ○ Provides additional guidelines and restrictions for naming facilities or academic units.
N/A	Approve	BOG Governance 1.9 – President and Staff Emeritus Status	<ul style="list-style-type: none"> • Incorporates substance relating to President and Administrator Emeritus status from BOG Policy 38 • Amends version to include ability to grant Emeritus status to retired staff. • Portion of BOG Policy 38 regarding the ability to grant faculty Emeritus status is not being repealed. However, that portion will eventually be incorporated into a new BOG Faculty Rule in 2018.

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 October 30, 2017 until November 28, 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.