

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 are to the following current Board of Governors Rules:

- West Virginia University Board of Governors Talent & Culture Rule 3.9 – Reduction in Force
- West Virginia University Board of Governors Faculty Rule 4.7 – Reduction in Force

The proposed changes are to amend current BOG Rules to clarify certain provisions and update the Rules to reflect changes that have occurred since their adoption. Substantively, the proposed changes to the BOG Rules above will result in additions and amendments as set forth below and in the attached redlines:

BOG Rule	Recommended Action	Comments
WVU BOG Tal. & Cult. Rule 3.9 – Reduction in Force	Amend & Approve	<ul style="list-style-type: none"> • An amendment to Section 2.9 provides a clear reference to the legal requirements around Equal Opportunity and Affirmative Action. • Amendments to Sections 3.1 and 3.2 provide a clear reference to the legal requirements relating to notice periods. • An amendment to Section 4.2 removes the requirement that severance packages be paid in installments, which will allow the University more flexibility in designing and paying out severance packages. • Amendments to Section 4.3 would ensure that any waiver in a severance agreement releases the University as well as current and former agents, employees, board members, servants, and representatives and to add a clarifying cross-reference. • Amendments to Sections 5.1, 5.1.3, and 5.1.4 clarify that voluntary reductions in FTE or appointment length do not trigger the provisions of this Rule.
WVU BOG Faculty Rule 4.7 – Reduction in Force	Amend & Approve	<ul style="list-style-type: none"> • Amendments to Section 2.2 clarify that faculty should be involved in the academic review process which could lead to a RIF plan for that program, as opposed to the formulation of a specific RIF plan, to ensure faculty input early in the process. • Amendments to Section 3.1 first eliminate the affirmative obligation to offer a first right of refusal to a RIF'd faculty member of another faculty position that becomes vacant that the RIF'd faculty for which the faculty member is qualified. The amendments replace with that language with the fact that RIF'd faculty members are encouraged to apply for any new or opened positions through the normal University hiring process. Next, the amendments to this Section eliminate any potentially implied obligation of the University to re-train faculty members to be qualified for other faculty positions. • Amendments to Section 3.2 first clarify the Dean's role and the Provost's Office role in the creation of the RIF plan (i.e., that the Dean's Office and Provost's Office will work together to create the RIF plan for a program). Amendments to this Section also clarify that a RIF determination is made based upon a holistic assessment of the three factors: performance, knowledge and qualifications, and seniority. Finally, these amendments clarify that seniority will be calculated by the length of service as defined by the rules

BOG Rule	Recommended Action	Comments
		<p>established for the calculation of years of service outlined in WVU BOG Tal. & Cult. R. 3.7 – Annual Increment.</p> <ul style="list-style-type: none"> • An amendment to Section 3.3 clarifies that all notifications will be communicated to Faculty through their WVU email account instead of regular mail. • An amendment to Section 3.5 is recommended as a clear reference to the legal requirements around Equal Opportunity and Affirmative Action. • An amendment to Section 4.1 is recommended to clarify the legal requirements around notice periods. • An amendment to Section 5.2 eliminates the following language: “Generally, the value of the severance package should be equivalent to one year of the Faculty Member’s annual base pay.” Amendment replaces that language with: “The amount of severance that a Faculty Member may be offered will be determined based upon a schedule approved by the Board.” The current language is permission and does not require the payment of a year’s severance. It also does not require any faculty feedback in setting the schedule. Under the new language, the faculty would have the opportunity through the public comment period to review and provide feedback to the severance package plan before it is approved by the Board. • An amendment to Section 5.2 also removes the requirement that severance packages be paid in installments, which will allow the University more flexibility in designing and paying out severance packages. • An amendment to Section 5.3 would ensure that any waiver in a severance agreement releases the University as well as current and former agents, employees, board members, servants, and representatives and to add a clarifying cross-reference. • A new Section 6.2 provides the definition of an “Affiliate,” which was previously absent from the Rule. • An amendment to Section 6.9 clarifies that Program Reduction may include reducing tenured, tenured-track, or certain faculty positions with multi-year contracts.

A copy of the current Rules can be found at <http://bog.wvu.edu/policies> and a copy of the proposed Amended Rules and this Notice of Proposed Rulemaking can be found at <http://policies.wvu.edu/>.

There will be a 30-day public comment period from May 22, 2023 until June 21, 2023, 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 Board of Governors, 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, or a summary thereof will be posted on the University's policy website. The Rules may be changed, subject to comments received.