

NOTICE OF PROPOSED RULEMAKING

Notice of Proposed Rulemaking is submitted for these current Board of Governors Policies:

- BOG Policy 4 – Travel (proposed to be amended as BOG Finance and Administration Rule 5.8 – Travel)
- BOG Policy 11 – Freedom of Expression & Use of Facilities (substance incorporated into new BOG Governance Rule 1.8 Freedom of Expression and BOG Finance and Administration Rule 5.5 – Use of University Facilities)
- BOG Policy 16 – Use of Institutional Facilities (substance incorporated into BOG Finance and Administration Rule 5.5 – Use of University Facilities)
- BOG Policy 18 – Alcoholic Beverages on the Campus (substance incorporated into BOG Finance and Administration Rule 5.5 – Use of University Facilities)
- BOG Policy 19 – Rule on Credit Card Solicitation and Marketing (substance incorporated into BOG Finance and Administration Rule 5.5 – Use of University Facilities)
- BOG Policy 28 – Regulation of Parking & Transportation (proposed to be amended as BOG Finance and Administration Rule 5.7 – Parking and Transportation)
- BOG Policy 48 – Textbook Affordability (proposed to be amended as BOG Governance Rule 1.12 – Educational Materials)

Additionally, the following new Rules are proposed: BOG Governance Rule 1.5 – Intellectual Property Rule for Patent, Copyright, and Trademark Rights; BOG Governance Rule 1.8 Freedom of Expression; and BOG Finance and Administration Rule 5.5 – Use of University Facilities.

The proposed changes are 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, this Notice of Proposed Rulemaking will result in additions, amendments, or repeals as set forth below:

New BOG Rule	Current BOG Policy (if applicable)	Recommended Action	Comments
Governance Rule 1.5 – Intellectual Property Rule for Patent, Copyright, and Trademark Rights	N/A	Approve	<ul style="list-style-type: none"> • Creates a new, comprehensive Rule concerning Intellectual Property for patents, copyright, and trademark rights. • Incorporates current University policy and practice that Intellectual Property created by Employees during the scope of their employment or involving More than Incidental Use of University Resources is owned by the University. • Defines when Intellectual Property created by Undergraduate and Graduate Students is owned by the University and when it is owned by the Student. • For Undergraduate Students. Intellectual Property created by an Undergraduate Student for a credited course or part of an extracurricular activity and without More than Incidental Use of University Resources is owned by the Undergraduate Student. Intellectual Property created by an Undergraduate Student in the following circumstances is owned by the University: <ul style="list-style-type: none"> ○ An Undergraduate Student collaborates with faculty or staff to create Intellectual Property as part of internal, third-party, or sponsored research or development activities regardless of whether the collaboration is for a credited course; ○ An Undergraduate Student creates Intellectual Property as a Student-Employee of the University within the course and scope of the Undergraduate Student’s employment; ○ An Undergraduate Student creates Intellectual Property with More than Incidental Use of University Resources not associated with a credited course for which the Undergraduate Student is enrolled; or ○ As otherwise agreed to in writing by the University and the Undergraduate Student. • For Graduate Students. Intellectual Property created by a Graduate Student in the following circumstances is owned by the Graduate Student: <ul style="list-style-type: none"> ○ Intellectual Property created for a credited course, excluding courses for thesis and dissertation hours when the thesis or dissertation is sponsored pursuant to an agreement between an external sponsor and the University or an internal University sponsorship agreement;

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			<ul style="list-style-type: none"> ○ Intellectual Property created in connection with the Graduate Student’s self-funded research, thesis, or dissertation, in the absence of a separate written agreement between the Graduate Student and University specifying Intellectual Property ownership; or ○ Intellectual Property created as part of an extracurricular activity and without More than Incidental Use of University Resources is owned by the Graduate Student. ● Intellectual Property created by a Graduate Student in the following circumstances is owned by the University: <ul style="list-style-type: none"> ○ Intellectual Property created in connection with such Graduate Student’s research, thesis, or dissertation that is sponsored pursuant to an agreement between an external sponsor and the University or an internal University sponsorship agreement, regardless of whether the research, thesis, or dissertation is for a credited course; ○ Intellectual Property created as part of internal, third-party, or sponsored research or development activities; ○ A Graduate Student creates Intellectual Property with More than Incidental Use of University Resources not associated with a credited course for which the Graduate Student is enrolled; ○ A Graduate Student creates Intellectual Property as a Student-Employee of the University within the course and scope of the Graduate Student’s employment, including teaching responsibilities; or ○ As otherwise agreed to in writing by the University and the Graduate Student. ● “More than Incidental Use of University Resources” is defined to mean the use of University Resources that is important to the creation of the Intellectual Property and that is not normally provided to the public without charge, or the use of funds administered by the University towards the creation of the Intellectual Property. More than Incidental Use of University Resources is use of specialized, research-related facilities, equipment or supplies provided by the University for academic purposes and use of on-the-job time. The occasional and infrequent use of the following would typically not constitute “More than Incidental Use of

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			<p>University Resources”: routinely available, office-type equipment, including desktop computers and commercially available software, as well as use of reference materials or other resources collected on the University campus which are generally available in non-University locations.</p> <ul style="list-style-type: none"> • Carves out exceptions to University ownership for Intellectual Property conceived and first actually reduced to practice by a Student during the Student’s use of University Innovation Centers. • Provides that Employees and Students shall retain copyright in scholarly, pedagogical, or artistic works, including, without limitation, textbooks, course materials, papers, journal articles, dissertations, novels, poems, musical compositions, works of popular nonfiction, dramatic works and other works of artistic expression, but not including computer software, to the extent such works are not Institutional Works. • Incorporates current University policy and practice regarding the requirements for the disclosure of Intellectual Property to the University, guidelines for the review of those disclosures by the Office of Technology Transfer, and distribution of revenue to Inventors from the University’s ownership interest in Intellectual Property. • Discusses the University’s ownership and protection of its trademarks.
Governance Rule 1.8 – Freedom of Expression	BOG Policy 11 – Freedom of Expression and Use of Facilities	Approve	<ul style="list-style-type: none"> • Incorporates the substances relating to the University’s commitment to the First Amendment right of free speech and assembly from current BOG Policy 11. • Confirms that freedom of expression is a campus right and subject only to reasonable content-neutral time, place and manner restrictions. • References to reservation procedures and other matters which relate more to the use of University facilities, than to First Amendment rights, have been removed from this Rule and incorporated into proposed BOG Finance & Administration Rule 5.5. • Expressly prohibits interference with any other person or group’s lawful assembly or expressive activity, regardless of viewpoint.
Governance Rule 1.12 – Educational Materials	BOG Policy 48 – Textbook Affordability	Amend & Approve	<ul style="list-style-type: none"> • Amends, re-organizes, and streamlines the substance of current BOG Policy 48. • Current Policy 48 was focused on the affordability of “textbooks”; the new Rule is more expansive and focuses on the affordability of Educational

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			<p>Materials which means “textbooks and other supplementary course materials that come at a cost to the student, regardless of format.”</p> <ul style="list-style-type: none"> Requires the President to appoint a Committee to, among other things, advise the President and the Board on affordability issues and initiatives and to establish formal selection guidelines for the selection of Educational Materials. Sets forth certain statutorily requirements related to the operation of bookstores.
<p>Finance and Administration Rule 5.5 – Use of University Facilities</p>	<p>BOG Policy 16 – Use of Institutional Facilities</p> <p>BOG Policy 18 – Alcoholic Beverages on the Campus</p> <p>BOG Policy 19 – Rule on Credit Card Solicitation and Marketing</p>	<p>Approve</p>	<ul style="list-style-type: none"> Incorporates the substance from current BOG Policies 16, 18, and 19. Establishes minimum requirements for any policy and procedure relating to the public’s use outdoor grounds, including the ability to reserve space in advance for assemblies. Addresses use of indoor locations for assemblies and distribution of materials by students, faculty, staff, and campus recognized organizations and departments. Permits, subject to a reasonable reservation process and other content-neutral criteria, the use of facilities which may provide benefits otherwise not available in the community. Permits the use of facilities by recognized campus units to conduct educational or cultural programs, including youth camps, for which fees are charged and from which staff members may be paid beyond their regular annual salary in certain specific circumstances. Consistent with current Policy 18, this Rule outlines guidelines for the possession or sale Alcoholic Beverages on or in University facilities. Prohibits on the University property all commercial aales, solicitations, advertising, and other commercial activity including, credit card activities, except by organizations and groups directly connected with the University and upon written approval of the President, or pursuant to a written contract or agreement with the University.
<p>Finance and Administration Rule 5.7 – Regulations for Parking, Transportation, and Fleet Management</p>	<p>BOG Policy 28 – Regulation of Parking & Transportation</p>	<p>Amend & Approve</p>	<ul style="list-style-type: none"> Amends, re-organizes, and streamlines the substance of current BOG Policy 28. Establishes that the President is responsible for the oversight, management, and enforcement of parking at the University. <ul style="list-style-type: none"> Authorizes, in accordance with the law, the issuance citations and collection of fines, as well as towing and impounding, for violations of parking regulations.

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			<ul style="list-style-type: none"> ○ Provides that parking rates and fines shall be established by the President. ○ Requires that certain information relating to parking management be publicly available. ● Establishes that the President is responsible for the oversight and management of University provided transportation, including the PRT and University buses, and requires transportation services to be made available for Members of the University Community that have a qualified disability as defined in the ADA. ● Establishes that the President is responsible for the oversight and management of all University Owned Vehicles and shall establish related policies and procedures.
Finance and Administration Rule 5.8 – Travel	BOG Policy 4 – Travel	Amend & Approve	<ul style="list-style-type: none"> ● This Rule amends the current BOG policy, which has been in effect since 2003. ● The amendment modernizes the Rule while seeking to design and administer a travel program that promotes safe and economical University travel while ensuring accountability and appropriate use of funds. ● The Rule delegates to the President the authority to manage, approve or disapprove travel and travel related expenses. ● The President shall also analyze emerging trends and changing circumstances that impact travel to keep the travel program consistent with best practices; provided, that approval will be obtained from the Board prior to implementing any change that would make fundamental, systemic changes to the overall travel program. ● The Rule requires the development and maintenance of a University Travel Manual to: <ul style="list-style-type: none"> ○ Provide additional, detailed guidance to Employees and others traveling on behalf of the University. ○ Set the internal control structure for the Travel program, including allowable and unallowable expenses and the processes to be followed when booking and expensing travel ● The Rule provides that Travelers are strongly encouraged to make reservations through the University’s contracted Travel Management Company.

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			<ul style="list-style-type: none"> The Rule sets forth certain requirements related to air travel, ground transportation, lodging, meals and incidentals, as well as registration fees or charges for attendance at conferences, meetings and seminars. The Rule establishes that Travelers should use the University PCard and/or other designated University card products as the payment method for all Travel expenses except for individual Traveler's meal expenses and fuel for personal vehicles and that all expenses paid must be reconciled using the University's expense management system.
N/A	BOG Policy 11 – Freedom of Expression and Use of Facilities	Repeal & Relocate	<ul style="list-style-type: none"> Substance incorporated into new BOG Governance Rule 1.8 – Freedom of Expression
N/A	BOG Policy 16 – Use of Institutional Facilities	Repeal & Relocate	<ul style="list-style-type: none"> Substance incorporated into new BOG Finance and Administration Rule 5.5 – Use of University Facilities
N/A	BOG Policy 18 – Alcoholic Beverages on the Campus	Repeal & Relocate	<ul style="list-style-type: none"> Substance incorporated into new BOG Finance and Administration Rule 5.5 – Use of University Facilities
N/A	BOG Policy 19 – Rule on Credit Card Solicitation and Marketing	Repeal & Relocate	<ul style="list-style-type: none"> Substance incorporated into new BOG Finance and Administration Rule 5.5 – Use of University Facilities

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 April 15, 2019 through May 14, 2019 for the submission of written comments. Comments should be submitted using the online submission form for each Rule or Policy, which can be found by clicking on the link to the Rule or Policy 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.