

## Board of Governors Rule

Governance  
Child Protection  
Responsible Unit: Division of Diversity,  
Equity and Inclusion and Talent and Culture  
Adopted: January 24, 2018  
Effective: February 13, 2018  
Revision History: Prior BOG Policy 49  
(Originally effective April 4, 2008 with title  
changes and amendments occurring on  
February 21, 2014  
Review Date: December, 2022

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### **BOG GOVERNANCE RULE 1.7 RULE ON CHILD PROTECTION**

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#### **SECTION 1: PURPOSE & SCOPE.**

- 1.1 West Virginia University is committed to providing for protection of children on the University's premises or involved in University sponsored programs at all geographic locations by providing guidance on reporting requirements for Child Abuse or Neglect; providing guidelines for appropriate supervision of children; and ensuring that the University complies with all federal and state laws and regulations regarding the employment of children.
- 1.2 This Rule applies to West Virginia University, including West Virginia University Institute of Technology and West Virginia University Potomac State College (collectively the "University"), and all Members of the University Community.

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#### **SECTION 2: REPORTING CHILD ABUSE OR NEGLECT.**

- 2.1 If any Member of the University Community observes, or has reasonable cause to suspect, any type of Child Abuse or Neglect, including physical or Sexual Abuse, he or she must immediately report the circumstances to the Title IX Coordinator at:

Title IX Coordinator  
Division of Diversity, Equity and Inclusion  
Equity Assurance Office  
1085 Van Voorhis Road Suite 250 | P.O. Box 6202

Morgantown, WV 26506-6202  
Phone: 304-293-5600 | Fax: 304-293-8279  
Email: [titleIX@mail.wvu.edu](mailto:titleIX@mail.wvu.edu)

- 2.2 Under West Virginia state law, some individuals are considered Mandatory Reporters. Mandatory Reporters are required by West Virginia law to report any type of Child Abuse or Neglect, including physical or Sexual Abuse, in accordance with W. Va. Code §§ 49-2-801 to -814 (2017).
- 2.2.1 In cases involving a Mandatory Reporter, reports of Child Abuse or Neglect should be immediately reported to each of the following:
- 2.2.1.1 West Virginia Department of Health and Human Resources or by contacting the Child Abuse and Neglect Hotline (1-800-352-6513), seven days a week, twenty-four hours a day;<sup>1</sup>
- 2.2.1.2 West Virginia State Police at 304-293-6400 (Crimes Against Children Unit);
- 2.2.1.3 West Virginia University Police Department at 304-293-2677 or other appropriate law enforcement agency; and
- 2.2.1.4 If the Reporter is a Member of the University Community, the Title IX Coordinator in the Division of Diversity, Equity and Inclusion at 304-293-5600.
- 2.3 Upon receiving a report, the University's Title IX Coordinator shall take immediate action in order to protect children present on the University campus or participating in University sponsored programs.
- 2.4 The University's reporting requirements within this Rule do not supersede the requirements placed on individuals by law. West Virginia's mandatory reporting obligations can currently be found at W. Va. Code §§ 49-2-801 to -814 (2017), which can be found at: <http://www.legis.state.wv.us/WVCODE/Code.cfm>.
- 2.5 Under West Virginia law, an individual that reports an incident of Child Abuse or Neglect in good faith is immune from civil or criminal liability.

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<sup>1</sup> Please see the following website for more information: <http://www.dhhr.wv.gov/bcf/Services/Pages/Centralized-Intake-for-Abuse-and-Neglect.aspx>

- 2.5.1 Additionally, no individual may retaliate against any person who makes a good faith report of Child Abuse or Neglect, any person who assists in the investigation of a report of Child Abuse or Neglect, or a witness to Child Abuse or Neglect.

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**SECTION 3: VISITING CHILDREN INVOLVED IN PROGRAMS SPONSORED BY THE UNIVERSITY OR ON UNIVERSITY PREMISES.**

- 3.1 All University Units shall notify the University's Title IX Coordinator when a University sponsored program, whether on or off campus, will involve Visiting Children participating in that program or whether Visiting Children will otherwise be on University premises.
- 3.2 Upon notification of a program involving Visiting Children, the University's Title IX Coordinator shall develop, in conjunction with the Unit, appropriate guidelines, trainings, and protocols to ensure the appropriate supervision of Visiting Children.
- 3.2.1 The Title IX Coordinator may develop one set of guidelines and protocols for a Unit that apply to all sponsored programs involving Visiting Children coordinated by that particular Unit or when that particular Unit hosts Visiting Children on University premise.
- 3.2.2 All guidelines and protocols developed pursuant to this Rule shall be have an expiration date. On or before such expiration date, the Title IX Coordinator shall review, in conjunction with the Unit, the previously established guidelines and protocols to ensure that no changes are necessary.
- 3.2.3 The length of time between the development and the expiration of the developed guidelines and protocols may vary from Unit to Unit; however, at a minimum, guidelines and protocols shall be reviewed at least every three years by the Title IX Coordinator.
- 3.3 In developing appropriate guidelines, at a minimum, the University's Title IX Coordinator must:
- 3.3.1 Inform all adults participating in the program who have contact with Visiting Children about this Rule and West Virginia law on reporting incidents of Child Abuse or Neglect;
- 3.3.2 Require all adults who have Direct Contact with Visiting Children be subject to an adequate and timely background check, which means completion of a background check before an individual's initial participation in a program and then again a minimum of once every three (3) years;

- 3.3.3 Require adequate training for all adults who will have Direct Contact with Visiting Children, which, at a minimum, means once every three (3) years;
- 3.3.4 Ensure facilities accessible to Visiting Children are adequately supervised and properly secured when not in use;
- 3.3.5 Ensure that the Unit has protocols in place to adequately monitor certain circumstances with Visiting Children and adults, as applicable, including: (i) private one-on-one contact, unless critical to the program as in the case of licensed medical professionals and counselors providing services to children; (ii) shared private space between children and adults, including housing, locker rooms, and bathrooms; and (iii) a minimum adult to child ratio depending on age and activity.
- 3.3.6 Ensure that the Unit has taken reasonable measures to prevent: (i) any sexual or inappropriate behavior between or in the presence of children; (ii) verbal or otherwise abusive behavior toward children; (iii) inappropriate electronic communication with children; and (iv) inappropriate visitation by adults who do not serve as the child's legal guardian
- 3.3.7 Develop written documents to be distributed to University Faculty and Staff, volunteers, and parents or legal guardians for: (i) dealing with emergencies; (ii) allowing parents or legal guardians to contact Visiting Children during the program; (iii) to whom and how Visiting Child will be released to an appropriate parent or legal guardian; (iv) medical authorizations or other special needs; (v) access to emergency services; (vi) appropriate disciplinary measures, if necessary; and (vii) necessary transportation.

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**SECTION 4: EMPLOYMENT OF CHILDREN BY THE UNIVERSITY.**

- 4.1 Employment with the University is available to any qualified person who has reached eighteen (18) years of age.
- 4.2 Employment of any person who is under eighteen (18) years of age is restricted. Prior to extending an offer to a prospective employee under eighteen (18) years of age, all hiring supervisors must contact the Talent and Culture – Talent Strategy Unit in order to receive approval to proceed with the hire.
- 4.3 Supervisors are ultimately responsible for adhering to the conditions of employing a child, as outlined and communicated during the approval process.

- 4.4 The Talent and Culture – Talent Strategy Unit will advise on the application of all federal and state laws related to the employment of children, and it is responsible for providing final approval to hire a person under eighteen (18) years of age.
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**SECTION 5: DISCIPLINE OR CORRECTIVE ACTION.**

- 5.1 Any faculty, staff, or University volunteer who fails to abide by the requirements within this Rule shall be subject to appropriate disciplinary action, including warning, suspension, termination, or other disciplinary action as may be appropriate.
- 5.2 Any student who fails to abide by the requirements within this Rule shall be subject to appropriate disciplinary action, including, in accord with the Student Code of Conduct, suspension, expulsion, or other disciplinary action as may be appropriate.
- 5.3 Other Members of the University Community (excluding faculty, staff, students, and University volunteers which are discussed above) who fail to abide by the requirements within this Rule shall be subject to appropriate corrective action, including but not limited to issuance of trespass or cancellation of relationship with the University.
- 5.4 In addition, any Member of the University Community whose conduct constitutes a criminal law violation will be referred to the appropriate authorities for prosecution.
- 5.5 Furthermore, although conduct may not violate this Rule, it may still be prohibited by the University under a different rule, policy, or standard of behavior. Accordingly, in such cases, the University reserves the ability to take any necessary action.
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**SECTION 6: DEFINITIONS.**

- 6.1 The definitions contained within this Section are applicable to this Rule. However, these definitions do not supersede or supplant the definitions of these terms provided under West Virginia law, including those used within the West Virginia Child Welfare Act, Chapter 49 of the West Virginia Code. This Act may provide other obligations upon individuals.
- 6.2 “Child” means any person under the age of eighteen (18) years.
- 6.3 “Child Abuse or Neglect” means Sexual Abuse, physical injury, mental or emotional injury, sale or attempted sale, negligent treatment or maltreatment of a child by an adult, any other act that endangers or attempts to endanger the health, safety, or well-being of a child, or anything else that is otherwise prohibited by a West Virginia law intended to protect children.

- 6.4 “Direct Contact” means when an adult’s interaction with a Visiting Child involves the care, supervision, guidance, or control of a Visiting Child.
- 6.5 “Faculty” means all faculty classifications as defined in current BOG Policy 2 (or successor BOG Rule).
- 6.6 “Mandatory Reporters” means any individual obligated by West Virginia law to report any type of Child Abuse or Neglect, including physical or Sexual Abuse. Under West Virginia law, this includes: Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, humane officer, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect Child Abuse or Neglect or observes the child being subjected to conditions that are likely to result in Child Abuse or Neglect. *See* W. Va. Code § 49-2-803 (2017).
- 6.6.1 Furthermore, under West Virginia law, any person over the age of eighteen who receives a disclosure from a credible witness or observes any Sexual Abuse of a child is also a Mandatory Reporter. Any school teacher or other school personnel who receives a disclosure from a witness, which a reasonable prudent person would deem credible, or personally observes any sexual contact, sexual intercourse or sexual intrusion, as those terms are defined in article eight-b [ §§ 61-8B-1 et seq.], chapter sixty-one, of a child on school premises or on school buses or on transportation used in furtherance of a school purpose is also a Mandatory Reporter; Provided, that this subsection will not impose any reporting duty upon school teachers or other school personnel who observe, or receive a disclosure of any consensual sexual contact, intercourse, or intrusion occurring between students who would not otherwise be subject to section three [ § 61-8B-3], five [ § 61-8B-5], seven [ § 61-8B-7] or nine [ § 61-8B-9] of article eight-b, chapter sixty-one of the West Virginia Code. *See* W. Va. Code § 49-2-803 (2017).
- 6.6.2 However, for the purposes of this Rule, all University Faculty and Staff are considered Mandatory Reporters.
- 6.7 “Member of the University Community” means (i) an individual engaged in any University activity or program, whether on or off campus; (ii) any individual lawfully on University property; (iii) any individual that is a University Student, Faculty, Staff, University official, University volunteer, or a University visitor; and (iv) any vendor or contractor, including

that vendor's or contractor's employees and independent contractors, who are working on campus.

- 6.8 "President" means the President of the University or his or her designee.
- 6.9 "Sexual Abuse" is a form of Child Abuse or Neglect and means any wrongful or otherwise illegal act that involves the sexual molestation or exploitation of child or is otherwise sexual in nature, whether physical injuries are sustained or not.
- 6.10 "Staff" means any Classified or Non-Classified Employee as defined in Board of Governors Talent & Culture Rule 3.1, and any individual employed as a Mountaineer Temporary Employee.
- 6.11 "Student" means an individual subject to the West Virginia University Board of Governors Policy 31 (or its successor Rule), University Student Conduct and Discipline Policy.
- 6.12 "Title IX Coordinator" means the University's Title IX Coordinator or his or her designee.
- 6.13 "Unit" means any department, budget unit, college, other identifiable employee group, or combination thereof.
- 6.14 "Visiting Child" means any person under the age of eighteen (18) years who is attending a WVU program or activity or any person under the age of eighteen (18) years who is on University premises. However, this definition does not include children at general public events where parents or guardians are invited and expected to provide supervision of children. Additionally, it does not include any person under the age of eighteen (18) years who is enrolled as a WVU student.

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## SECTION 7: DELEGATION.<sup>2</sup>

- 7.1 The Board of Governors delegates to the President the authority to adopt additional internal policies and procedures to effectuate the implementation of this Board of Governors Rule or in furtherance of any other authority that the Board of Governors has specifically delegated to the President pursuant to this Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.

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<sup>2</sup> The Board of Governors specifically delegates the authority to the Title IX Coordinator to update any contact information for specific University units or outside entities listed within this Rule without going through the Board's formal rulemaking procedures. The same applies equally to any website links contained within this Rule.

**SECTION 8: AUTHORITY.**

- 8.1 W. Va. Code §§ 18B-1-6, 18B-2A-4, 49-1-101 through 49-8-6; 61-8D-1 to 10; 29 U.S.C. § 212; 29 C.F.R. §§ 570, 575, 579; W. Va. Code §§ 21-6-1 to 11; W. Va. Code R. § 42-9-1 to -12.
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**SECTION 9: SUPERSEDES.**

- 9.1 This Rule supersedes and replaces former Board of Governors Policy 49, which was originally adopted on April 4, 2008, and amended on February 21, 2014.
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