

## Board of Governors Rule

Finance and Administration  
Authorizations and Delegation of Authority  
Responsible Unit: Strategic Initiatives /  
Finance and Administration  
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### **BOG FINANCE AND ADMINISTRATION RULE 5.1 AUTHORIZATIONS AND DELEGATIONS OF AUTHORITY FOR FINANCIAL AND ADMINISTRATIVE MATTERS**

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

- 1.1 The University seeks to detail a transparent, concise, and efficient system of governance and delegation relating to the financial and administrative functions of the University.
- 1.2 This Rule outlines the guiding principles for the financial and administrative matters of the University, including matters requiring Board authorization, matters requiring consultation with and reporting to the Board, and matters delegated to the President.

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#### **SECTION 2: DELEGATION OF FINANCIAL AND ADMINISTRATIVE MATTERS TO THE PRESIDENT AND BEYOND; RELATIONSHIP OF OBLIGATIONS OF AND TO BOARD.**

- 2.1 ***Bylaws Delegation.*** To enable the University to function in a proper and expeditious manner and to advance the University's mission and objectives, the Board in Section 6.02 of the Bylaws specifically delegated to the President the power and control over the day-to-day business affairs and operations of West Virginia University, including the divisional campuses, as set forth in this Rule. Additionally, the Board empowered the President to perform all acts and execute all documents to effectuate the actions of the Board and to exercise sound management of the financial and administrative aspects of the University.
- 2.2 ***Further Delegation by President.*** The Board also authorized the President to make further delegations of this authority to other University administrators as the President may deem necessary for the day-to-day management of the financial and administrative affairs and operations of the University, including the authority to execute documents on behalf of the University and effect actions of the Board.
- 2.3 ***Obligation of President to Board.*** This delegation of authority requires that the Board rely on the judgment and decisions of those who operate under its authority. However, this

reliance of the Board must be based upon its continuing awareness of the operations of the University. Therefore, at least quarterly, the President shall provide to the Board a thorough and forthright report on the financial affairs of the University.

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### **SECTION 3: MATTERS REQUIRING BOARD AUTHORIZATION**

3.1 The following financial and administrative matters require authorization by the Board:

3.1.1 *Transfer of Title or Ownership of Any Real Property.*

3.1.1.1 The full transfer of title or ownership of any real property or transfer of title or ownership of mineral rights.

3.1.1.2 The grant of an easement or right of way by the University if the easement or right away will result in a long-term and material limit on the anticipated future uses of the property subject to the right of way or easement.

3.1.2 *Lease, License, or Use of Real Property.* The lease, license, or entry of an agreement to use any real property (but not including agreements involving the license or use of real property relating to wireless communications or other utilities):

3.1.2.1 for a term of more than five (5) years;

3.1.2.2 in which the annual payment exceeds \$100,000 annually;

3.1.2.3 of more than 10,000 square feet of building space;

3.1.2.4 of more than five (5) acres of unimproved land;

3.1.2.5 when the University is lessor and the anticipated use of the real property by the lessee would fundamentally transform the real property and/or alter the purposes for which the University may use it at a later date;

3.1.2.6 which raises significant questions of policy, such as privatization of a major University function; or

3.1.2.7 which requires a commitment by the University to make payments which are based, in whole or in part, on the debt or other obligations owed by a party to the agreement to a third party and become payable by the University if a party to the agreement generates insufficient revenues to satisfy that debt or other obligation.

- 3.1.3 *Capital Improvements.* Any contract or series of related contracts for the construction, renovation, or other capital improvement of buildings or other real property of the Board when:
- 3.1.3.1 the construction cost, excluding architectural, engineering, design and other pre-construction services, is projected to be greater than \$1 million; or
  - 3.1.3.2 the use of the land as a result of the proposed construction is inconsistent with any applicable master plan approved by the Board.
- 3.1.4 *Bonds and Indebtedness.* Issuing any bonds or borrowing funds whether secured by the pledge of a revenue stream or property of the Board.
- 3.1.5 *Major Contracts.* Any contract for goods or services (but not including personnel contracts or contracts specifically authorized through the approval of the operating budget or capital budget) if the contract:
- 3.1.5.1 Would provide for more than \$2 million in annual revenues or payments in any year, but not including:
    - 3.1.5.1.1 maintenance agreements for building systems, computer hardware, software, and software systems;
    - 3.1.5.1.2 utilities contracts; and
    - 3.1.5.1.3 pricing agreements which do not obligate the University to purchase a specific value or quantity of goods;
  - 3.1.5.2 has a term of more than five (5) years and is exclusive for a particular area of the University; or
  - 3.1.5.3 raises significant financial, educational, or other policy issues, such as privatization of a major University function.
- 3.1.6 *Operating Budget, Capital Budget, and Master Plans.* The University's operating and capital budget and master planning documents for capital improvements, including facilities and housing.
- 3.1.7 *Tuition and Fees.* Tuition and fees, including but not limited to auxiliary and capital fees.
- 3.1.8 *Joint Venture.* Joint Ventures with a non-university affiliated, for-profit entity.
- 3.1.9 *Other Unique Transactions.*

- 3.1.9.1 Entering into a transaction that is beyond the mission of the University that is intended to serve as a significant increased source of revenues for the University.
- 3.1.9.2 Entering into an agreement with any BOG Member or any Affiliate Board Member or any entity in which it is known that a BOG Member or an Affiliate Board Member is an executive officer or owns or controls more than 15% of the contracting entity or parent organization of the contracting entity if the agreement (a) would not be considered in the ordinary course of business or (b) is for the purchase or lease of real property.
- 3.2 *Aggregation of Related Transactions.* In considering whether a threshold has been satisfied for purposes of whether Board authorization is required for a transaction subject to this rule, separate but related transactions that relate to a single project are to be aggregated.
- 3.3 *Other Significant Matters.* If a matter does not require the authorization of the Board pursuant to subsections 3.1.1 through 3.1.8 of this section but is nonetheless anticipated to have a significant and long-term financial impact on the University, the President shall consult with the Chair of the Board as to whether the matter should be presented for authorization by the Board.
- 3.4 *Emergency Matters.* If the University is faced with an emergency situation such that it requires an action that would require authorization of the Board pursuant to this Rule but the nature of the emergency requires that the University act prior to the ability of the Board to consider such action, the President may take such action but only to the extent necessary to address the emergency. The President shall promptly notify the Chair of the Board of the emergency action taken.
- 3.5 *Presentation of Information Relating to Matters Requiring Board Authorization.* In general, matters requiring authorization by the Board under this rule should be presented at the stage at which the Board can be presented with a reasonably accurate description of the matter, its likely costs and risks, and its impact on the University. In some cases, this may involve submission of the matter before any required competitive process is undertaken. In other cases, this requirement may best be met by submission only after a competitive selection process has occurred but prior to execution of the relevant contracts or other agreements. The President, in consultation with the Chair, shall determine at what stage a particular matter should be presented. Information should be presented in sufficient detail to allow Board members to make informed decisions as to whether any actual or perceived conflicts of interest exist and any disclosures and recusals are appropriate as consistent with obligations of Board members as stated in the Bylaws.

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**SECTION 4: AMENDMENTS AND VARIATIONS TO BOARD AUTHORIZED MATTERS**

- 4.1 Board authorization is required for any significant amendments or modifications to any agreement or project for which Board authorization is required pursuant to this Rule.
- 4.2 A significant amendment or modification is one that either:
- 4.2.1 increases the dollar value of the agreement or project by more than 20% or \$3 million, whichever is less: Provided, That authorization is not required unless the dollar value of the increase exceeds \$300,000;
  - 4.2.2 for leases or related agreements for the license or use of real property, extends the length (term) of the agreement by 20%; or
  - 4.2.3 substantially alters the risks under the agreement or project to the University.
- 4.3 A significant amendment or modification to an agreement does not include the mere exercise of an option to extend the agreement unless the term of the option, considered on its own terms, requires Board authorization pursuant to this Rule.

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**SECTION 5: DELEGATION OF FINANCIAL AND ADMINISTRATIVE MATTERS.**

- 5.1 The Board delegates to the President the authority to adopt internal financial and administrative policies and procedures to effectuate the implementation of this Board Rule or in furtherance of any other authority that the Board has specifically delegated to the President.
- 5.2 The Board further delegates to the President the authority to take actions on any matter referenced in this Rule below any thresholds established for Board authorization and in the following matters:
- 5.2.1 The authority to contract on behalf of the Board in accordance with laws of the State including the authority to execute documents necessary for contracts, real property, and related matters;
  - 5.2.2 The authority to solicit and utilize or expend voluntary support for the University;
  - 5.2.3 The authority to communicate and collaborate with state, federal, and local officials on matters related to university affairs;

- 5.2.4 The authority to prepare budget requests related to the University's missions, goals and objectives;
  - 5.2.5 The authority to transfer and expend appropriated funds as permitted by law for the purposes appropriated;
  - 5.2.6 The authority to acquire necessary legal, accounting, and consulting services;
  - 5.2.7 The authority to manage all auxiliary enterprises of the University;
  - 5.2.8 The authority to advance the interests of the University by acting as its primary spokesperson;
  - 5.2.9 The authority to seek charitable funds and other contributions, and federal and private support for University programs and other services;
  - 5.2.10 The authority to represent the University on its Affiliates' boards and on the boards of partnerships and other enterprises that directly or indirectly fulfill the mission of the University, all without compensation other than expenses related to such service;
  - 5.2.11 The authority to supervise the administration of all laws and policies related to the University affairs, including those governing the University's strategic plan and master plan;
  - 5.2.12 The authority to sign, authorize, and endorse any document relating to the registration of University trademarks, including, but not limited to, those documents which originate from the federal government, from the state government, or from the local government; and
  - 5.2.13 The authority to take any and all actions necessary to do the foregoing.
- 5.3 Any actions taken pursuant to this delegation must be consistent with State and Federal law, any other Rule adopted by the Board, and the guidelines provided by this Rule.
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**SECTION 6: FISCAL RESPONSIBILITY: INTERNAL CONTROLS, BEST PRACTICES, AND REPORTING.**

- 6.1 The University shall maintain procedures for implementing internal controls and best business practices to ensure the highest levels of fiscal accountability and oversight, including, but not necessarily limited to:

- 6.1.1 Complying with Generally Accepted Accounting Principles of the Governmental Accounting Standards Board (“GAAP”) and the Generally Accepted Government Auditing Standards of the Government Accountability Office (“GAGAS”);
  - 6.1.2 Operating without material weakness in internal controls as defined by GAAP, GAGAS and, where applicable, Circulars of the Office of Management and Budget (“OMB”);
  - 6.1.3 Maintaining annual audited financial statements with an unqualified opinion;
  - 6.1.4 Presenting annual audited financial statements to the Board for approval;
  - 6.1.5 Any other fiscally responsible practices, including complying with state rules and requirements, as may be determined, from time to time, by the University’s administration as prudent and warranted.
- 6.2 At least quarterly, the President shall provide the Board with the following reports for activities during the previous quarter (unless otherwise indicated):
- 6.2.1 Unaudited financial statements;
  - 6.2.2 All leases and transfers of real property;
  - 6.2.3 All capital improvement projects authorized by the Board (providing an update on projects from authorization through completion);
  - 6.2.4 Other items of a similar nature which would provide strategic insight to the Board and assist the Board in exercising its authorities and responsibilities.

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**SECTION 7: DEFINITIONS FOR ALL BOARD OF GOVERNORS FINANCE & ADMINISTRATION RULES.**

- 7.1 “Affiliate” means West Virginia University Research Corporation – or its subsidiaries, West Virginia University Innovation Corporation or its subsidiaries, West Virginia University Hospital System or any of its subsidiaries or affiliates, West Virginia University Foundation, West Virginia University Alumni Association, and other entities created by West Virginia University to serve the institution’s mission.
- 7.2 “Affiliate Board Member” means a person who is or has been a member of the board of an Affiliate within the past five calendar years.
- 7.3 “BOG Member” means a person who is or has been a member of the Board of Governors within the past five calendar years.

- 7.4 “Joint Venture” means any joint ownership of a legal entity through which there is an agreement to jointly undertake a specific business enterprise, investment, or activity without regard to:
- 7.4.1 whether the university controls the venture or arrangement;
  - 7.4.2 the legal structure of the venture or arrangement; or
  - 7.4.3 whether the venture or arrangement is treated as a partnership for federal income tax purposes, or as an association, or corporation for federal income tax purposes.
- 7.5 “President” means the President of the University or the President’s designee.

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**SECTION 8: AUTHORITY.**

- 8.1 W. Va. Code §18B-2A-4; §18B-2A-7; §18B-2A-8; §18B-3-1; §18B-4-4; §18B-10-1 et seq.; and §18B-19-1 et seq.

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**SECTION 9: SUPERSEDING PROVISIONS.**

- 9.1 This Rule supersedes and replaces any rule of the Higher Education Policy Commission which relates to the subject matter contained within this Rule. This Rule also repeals and supersedes WVU BOG Policy 40 – Fiscal Responsibility, originally adopted on June 2, 2006, and any previous delegation or other internal financial and administrative policy or procedure which relates to the subject matter contained within this Rule.