WEST VIRGINIA CODE CHAPTER 18B ARTICLE 2A

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§18B-2A-1. Findings; composition of boards; terms and qualifications of members; vacancies; eligibility for reappointment.

(a) Findings.

The Legislature finds that the State of West Virginia is served best when the membership of each governing board is informed by the following:

(1) The academic expertise and institutional experience of faculty members and a student of the institution governed by the board;

(2) The technical or professional expertise and institutional experience of a classified or non-classified employee of the institution governed by the board;

(3) An awareness and understanding of the issues facing the institution governed by the board; and

(4) The diverse perspectives that arise from a membership that is balanced and representative of West Virginia and its citizens; and

(5) For West Virginia's land grant institutions at West Virginia University and West Virginia State University, focused on serving the needs of West Virginia and its citizens.

(b) Boards of governors established.

A board of governors is continued at each of the following institutions: Bluefield State University, Blue Ridge Community and Technical College, BridgeValley Community and Technical College, Concord University, Eastern West Virginia Community and Technical College, Fairmont State University, Glenville State University, Mountwest Community and Technical College, Marshall University, New River Community and Technical College, Pierpont Community and Technical College, Shepherd University, Southern West Virginia Community and Technical College, West Liberty University, West Virginia Northern Community College, the West Virginia School of Osteopathic Medicine, West Virginia State University, West Virginia University and West Virginia University at Parkersburg.

(c) Board membership.

(1) An appointment to fill a vacancy on the board or reappointment of a member who is eligible to serve an additional term is made in accordance with the provisions of this section.

(2) The Board of Governors for Marshall University consists of 16 persons. The Board of Governors for West Virginia University consists of 19 persons. The boards of governors of the other state institutions of higher education consist of 12 persons.

(3) Each board of governors includes the following members:

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(A) A full-time member of the faculty with the rank of instructor or above duly elected by the faculty of the respective institution, who shall serve as a nonvoting, advisory member;

(B) A member of the student body in good academic standing, enrolled for college credit, and duly elected by the student body of the respective institution, who shall serve as a nonvoting, advisory member; and

(C) A member from the institutional classified or non-classified employees duly elected by the classified or non-classified employees of the respective institution, who shall serve as a nonvoting, advisory member.

(4) For the Board of Governors at Marshall University, 13 lay members appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section;

(5) For the Board of Governors at West Virginia University, 15 lay members appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section, and a full-time faculty member representing the extension service at the institution or a full-time faculty member representing the health sciences, selected by the faculty senate, who shall serve as a nonvoting, advisory member.

(6) For each board of governors of the other state institutions of higher education, nine lay members appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section.

(A) Of the nine members appointed by the Governor, no more than five may be of the same political party. Of the 13 members appointed by the Governor to the governing board of Marshall University, no more than eight may be of the same political party. Of the 15 members appointed by the Governor to the governing board of West Virginia University, no more than nine may be of the same political party.

(B) Of the nine members appointed by the Governor, at least five shall be residents of the state. Of the 13 members appointed by the Governor to the governing board of Marshall University, at least eight shall be residents of the state. Of the 15 members appointed by the Governor to the governing board of West Virginia University, at least eight shall be residents of the state.

(C) Of the 15 members appointed by the Governor to the governing board of West Virginia University, one shall be specifically designated as a representative of agriculture, forestry, or the agricultural or silvicultural sciences and shall have a background in one or more such fields. One shall be a graduate of the West Virginia University Institute of Technology. One shall be a graduate of Potomac State College of West Virginia University.

(D) Of the nine members appointed by the Governor to the governing board of West Virginia State University, one shall be specifically designated as a representative of agriculture, forestry, or the agricultural or silvicultural sciences and shall have a background in one or

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more such fields.

(7) In making lay appointments, the Governor shall consider the institutional mission and membership characteristics including the following:

(A) The need for individual skills, knowledge and experience relevant to governing the institution;

(B) The need for awareness and understanding of institutional priorities, opportunities, and challenges, including those related to research, teaching and outreach;

(C) The value of gender, racial and ethnic diversity;

(D) The value of achieving balance in gender and diversity in the racial and ethnic characteristics of the lay membership of each board; and

(E) The needs of the State of West Virginia and its citizens.

(d) Board member terms.

(1) The student member serves for a term of one year. Each term begins on July 1.

(2) The faculty member serves for a term of two years. Each term begins on July 1. Faculty members are eligible to succeed themselves for one additional term, not to exceed a total of four consecutive years.

(3) The member representing classified or non-classified employees serves for a term of two years. Each term begins on July 1. Members representing classified or non-classified employees are eligible to succeed themselves for one additional term, not to exceed a total of four consecutive years.

(4) The appointed lay citizen members serve terms of four years each and are eligible to succeed themselves for no more than one additional term, except that citizen members who are appointed to fill unexpired terms are eligible to succeed themselves for two full terms after completing an unexpired term.

(5) A vacancy in an unexpired term of a member shall be filled for the unexpired term within thirty days of the occurrence of the vacancy in the same manner as the original appointment or election. Except in the case of a vacancy, all elections are held and all appointments are made no later than June 30 preceding the commencement of the term. Each board of governors shall elect one of its appointed lay members to be chairperson in June of each year. A member may not serve as chairperson for more than four consecutive years.

(6) The appointed members of the boards of governors serve staggered terms of up to four years except that four of the initial appointments to the governing boards of community and technical colleges that became independent July 1, 2008, are for terms of two years and five

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of the initial appointments are for terms of four years.

(e) Board member eligibility, expenses.

(1) A person is ineligible for appointment to membership on a board of governors of a state institution of higher education under the following conditions:

(A) For a baccalaureate institution or university, a person is ineligible for appointment who is an officer, employee or member of any other board of governors within this state; an employee of any institution of higher education within this state; an officer or member of any political party executive committee; the holder of any other public office or public employment under the government of this state or any of its political subdivisions; an employee of any affiliated research corporation created pursuant to article twelve of this chapter; an employee of any affiliated foundation organized and operated in support of one or more state institutions of higher education; or a member of the council or commission: *Provided*, That if an appointee is an employee or board member of an out-of-state higher education institution, there is no apparent conflict of interest caused by the individual serving in both capacities. This subsection does not prevent the representative from the faculty, classified or non-classified employees, students, or the superintendent of a county board of education from being members of the governing boards.

(B) For a community and technical college, a person is ineligible for appointment who is an officer, employee or member of any other board of governors within this state; a member of a board of visitors of any public institution of higher education; an employee of any institution of higher education within this state; an officer or member of any political party executive committee; the holder of any other public office, other than an elected county office, or public employment, other than employment by the county board of education, under the government of this state or any of its political subdivisions; an employee of any affiliated research corporation created pursuant to §18B-12-1 *et seq*. of this code; an employee of any affiliated foundation organized and operated in support of one or more state institutions of higher education; or a member of the council or commission: *Provided*, That if an appointee is an employee or board member of an out-of-state higher education institution, there is no apparent conflict of interest caused by the individual serving in both capacities. This subsection does not prevent the representative from the faculty, classified or non-classified employees, or students from being members of the governing boards.

(2) Before exercising any authority or performing any duties as a member of a governing board, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article IV of the Constitution of West Virginia and the certificate thereof shall be filed with the Secretary of State.

(3) A member of a governing board appointed by the Governor may not be removed from office by the Governor except for official misconduct, incompetence, neglect of duty or gross immorality and then only in the manner prescribed by law for the removal of the state elective officers by the Governor.

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(4) The members of the board of governors serve without compensation, but are reimbursed for all reasonable and necessary expenses actually incurred in the performance of official duties under this article upon presentation of an itemized sworn statement of expenses.

(5) The president of the institution shall make available resources of the institution for conducting the business of its board of governors. All expenses incurred by the board of governors and the institution under this section are paid from funds allocated to the institution for that purpose.

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§18B-2A-2. Meetings.

(a) The boards of Governors shall hold at least six meetings in every fiscal year, including an annual meeting each June for the purpose of electing officers. (b) One more than half the number of voting members currently serving on an institutional board of Governors shall constitute a quorum. A quorum being present, a majority vote shall be necessary to pass upon matters properly before the institutional board of Governors. (c) The boards of Governors may set aside time as they consider appropriate to afford administrators, faculty, students and classified staff an opportunity to discuss issues affecting these groups.

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§18B-2A-3. Oversight of governing boards; promulgation of rules; data collection and dissemination.

(a) The governing boards are subject to the oversight of the commission or the council, as appropriate, except that the authority of the commission relating to the exempted schools is limited to the specific authorities granted under this chapter.

(b) The Chancellor for Higher Education and the Chancellor for Community and Technical College Education, under the supervision of their respective boards, are responsible for the coordination of policies, purposes and rules of the governing boards except the exempted schools and shall provide for and facilitate sufficient interaction among the governing boards and between the governing boards and the State Board of Education to meet the goals and objectives provided in the compacts and in section one-a, article one and article one-d of this chapter.

(c) The governing boards and the State Board of Education shall provide all information requested by the commission and the council, whether the request is made separately or jointly, in an appropriate format and in a timely manner.

(d)(1) Each governing board shall cooperate with the West Virginia Network for Educational Telecomputing (WVNET) in designing appropriate interfaces with the databases of institutions under its jurisdiction and shall grant WVNET direct access to these databases.

(2) WVNET, on behalf of the commission or council or both, shall generate reports from the data accessed for the purposes set forth in section five, article one-a and sections eight and ten, article one-d of this chapter.

(3) All data accessed or received from an institution shall be treated in a manner consistent with the privacy protections outlined in section ten, article one-d of this chapter.

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§18B-2A-4. Powers and duties of governing boards generally.

Each governing board separately shall:

(a) Determine, control, supervise, and manage the financial, business, and education policies and affairs of the state institution of higher education under its jurisdiction;

(b) Develop a master plan for the institution under its jurisdiction.

(1) The ultimate responsibility for developing and updating each master plan at the institution resides with the governing board, but the ultimate responsibility for approving the final version of each master plan, including periodic updates, resides with the commission or council, as appropriate: *Provided*, That commission approval is not required for master plans of exempted schools.

(2) Each master plan shall include, but is not limited to, the following:

(A) A detailed demonstration of how the master plan will be used to meet the goals, objectives, and priorities of the compact;

(B) A well-developed set of goals, objectives, and priorities outlining missions, degree offerings, resource requirements, physical plant needs, personnel needs, enrollment levels, and other planning determinates and projections necessary in a plan to assure that the needs of the institution's area of responsibility for a quality system of higher education are addressed;

(C) Documentation showing how the governing board involved the commission or council, as appropriate, constituency groups, clientele of the institution, and the general public in the development of all segments of the master plan.

(3) The plan shall be established for periods of not fewer than three nor more than five years and shall be revised periodically as necessary, including adding or deleting programs. The commission may review and comment upon the master plan of an exempted school. The commission may review, but may not approve or disapprove, additions or deletions of degree programs, except as expressly provided for in §18B-1B-4(a)(39) of this code.

(4) For the exempted schools, the master plan shall be updated at least bi-annually and include the steps taken to meet the legislatively established policies contained in §18B-1D-1 *et seq*. of this code and reports on each of the data elements identified in §18B-1D-1 *et seq*. of this code, including progress that the exempted schools are making relating to retention and graduation rates for resident students by organization and each college within the organization. The exempted schools shall provide copies of their respective master plan to the Legislative Oversight Commission on Education Accountability and the commission.

(c) Develop a 10-year campus development plan in accordance with §18B-19-1 *et seq*. of this code;

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(d) Prescribe for the institution, under its jurisdiction, in accordance with its master plan and compact, specific functions and responsibilities to achieve the goals, objectives, and priorities established in §18B-1-1 *et seq*. and §18B-1D-1 *et seq*. of this code to meet the higher education needs of its area of responsibility and to avoid unnecessary duplication;

(e) Direct the preparation of an appropriation request for the institution under its jurisdiction, which relates directly to missions, goals and projections found in the master plan and the compact;

(f) Consider, revise, and submit for review and approval to the commission or council, as appropriate, an appropriation request on behalf of the institution under its jurisdiction, including the exempted schools;

(g) Review, at least every five years, all academic programs offered at the institution under its jurisdiction. The review shall address the viability, adequacy, and necessity of the programs in relation to established state goals, objectives and priorities, the master plan, the compact, and the education and workforce needs of its responsibility district. As a part of the review, each governing board shall require the institution under its jurisdiction to conduct periodic studies of its graduates and their employers to determine placement patterns and the effectiveness of the education experience. Where appropriate, these studies should coincide with the studies required of many academic disciplines by their accrediting bodies;

(h) Ensure that the sequence and availability of academic programs and courses offered by the institution under its jurisdiction is such that students have the maximum opportunity to complete programs in the time frame normally associated with program completion. Each governing board is responsible to see that the needs of nontraditional college-age students are appropriately addressed and, to the extent it is possible for the individual governing board to control, to assure core course work completed at the institution is transferable to any other state institution of higher education for credit with the grade earned;

(i) Subject to §18B-1B-1 *et seq*. of this code, approve the teacher education programs offered in the institution under its control. In order to permit graduates of teacher education programs to receive a degree from a nationally accredited program and in order to prevent expensive duplication of program accreditation, the commission may select and use one nationally recognized teacher education program accreditation standard as the appropriate standard for program evaluation;

(j) Involve faculty, students, and classified employees in institution-level planning and decision making when those groups are affected;

(k) Subject to federal law and pursuant to §18B-7-1 *et seq*., §18B-8-1 *et seq*., §18B-9-1 *et seq*., and §18B-9A1 *et seq*. of this code and to rules adopted by the commission and the council, administer a system for the management of personnel matters, including, but not limited to, discipline for employees at the institution under its jurisdiction: *Provided*, That any rules adopted by the commission and the council do not apply to exempted schools;

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(l) Administer a system for hearing employee grievances and appeals. Notwithstanding any other provision of this code to the contrary, the procedure established in §6C-2-1 *et seq*. of this code is the exclusive mechanism for hearing prospective employee grievances and appeals;

(m) Solicit and use or expend voluntary support, including financial contributions and support services, for the institution under its jurisdiction;

(n) Appoint a president for the institution under its jurisdiction, subject to §18B-1B-6 of this code;

(o) Conduct written performance evaluations of the president, pursuant to §18B-1B-6 of this code;

(p) Employ all faculty and staff at the institution under its jurisdiction. The employees operate under the supervision of the president, but are employees of the governing board;

(q) Submit to the commission or council, as appropriate, any data or reports requested by the commission or council within the time frame set by the commission or council;

(r) Enter into contracts or consortium agreements with the public schools, private schools, or private industry to provide technical, vocational, college preparatory, remedial, and customized training courses at locations either on campuses of the state institutions of higher education or at off-campus locations in the institution's responsibility district. To accomplish this goal, the boards may share resources among the various groups in the community;

(s) Provide and transfer funds and property to certain corporations pursuant to §18B-12-10 of this code;

(t) Delegate, with prescribed standards and limitations, the part of its power and control over the business affairs of the institution to the president in any case where it considers the delegation necessary and prudent in order to enable the institution to function in a proper and expeditious manner and to meet the requirements of its master plan and compact. If a governing board elects to delegate any of its power and control under this subsection, it shall enter the delegation in the minutes of the meeting when the decision was made and shall notify the commission or council, as appropriate. Any delegation of power and control may be rescinded by the appropriate governing board, the commission or council, as appropriate, at any time, in whole or in part, except that the commission may not revoke delegations of authority made by the governing board of the exempted schools.

(u) Unless changed by the commission or the council, as appropriate, continue to abide by existing rules setting forth standards for accepting advanced placement credit for the institution under its jurisdiction. Individual departments at a state institution of higher education, with approval of the faculty senate, may require higher scores on the advanced

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placement test than scores designated by the governing board when the credit is to be used toward meeting a requirement of the core curriculum for a major in that department;

(v) Consult, cooperate, and coordinate with the State Treasurer and the State Auditor to update as necessary and maintain an efficient and cost-effective system for the financial management and expenditure of appropriated and non-appropriated revenue at the institution under its jurisdiction. The system shall ensure that properly submitted requests for payment are paid on or before the due date but, in any event, within 15 days of receipt in the State Auditor's Office;

(w) In consultation with the appropriate chancellor and the Secretary of the Department of Administration, develop, update as necessary, and maintain a plan to administer a consistent method of conducting personnel transactions, including, but not limited to, hiring, dismissal, promotions, changes in salary or compensation, and transfers at the institution under its jurisdiction. Each personnel transaction shall be accompanied by the appropriate standardized system or forms, as appropriate, which shall be submitted to the respective governing board and the Department of Administration:

(1) Not later than July 1, 2012, the Department of Administration shall make available to each governing board the option of using a standardized electronic system for these personnel transactions.

(2) The Secretary of the Department of Administration may suspend a governing board's participation in the standardized electronic system if he or she certifies to the Governor that the governing board has failed repeatedly and substantially to comply with the department's policies for administering the electronic system;

(x) Notwithstanding any other provision of this code to the contrary, transfer funds from any account specifically appropriated for its use to any corresponding line item in a general revenue account at any agency or institution under its jurisdiction as long as the transferred funds are used for the purposes appropriated;

(y) Transfer funds from appropriated special revenue accounts for capital improvements under its jurisdiction to special revenue accounts at agencies or institutions under its jurisdiction as long as the transferred funds are used for the purposes appropriated in accordance with §18B-19-1 *et seq*. of this code;

(z) Notwithstanding any other provision of this code to the contrary, acquire necessary legal services, including representation of the governing board, its institution, employees, and officers before any court or administrative body. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the governing board may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

(aa) Contract and pay for disability insurance for a class or classes of employees at a state

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institution of higher education under its jurisdiction; and

(bb) Contract and pay for any supplemental employee benefit, at the governing board's discretion: *Provided*, That if such supplemental benefit program incurs institutional expense, then the board may not delegate the approval of the supplemental employee benefit program.

(cc) On or after July 1, 2024, nothing in this section authorizes a governing board to restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this code.

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§18B-2A-5. Public school service program.

[Repealed].

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§18B-2A-6. University status for public baccalaureate institutions of higher education.

(a) The purpose of this section is to redesignate certain existing public baccalaureate institutions as universities and to provide a mechanism for other public baccalaureate institutions to become universities. The change in name is based on each institution's ability to meet minimum standards developed and adopted by the commission.

(b) Each governing board of a public baccalaureate institution is authorized to make changes which would further its eligibility to attain university status:

(1) If the college meets the eligibility requirements established by the commission to attain university status and if the commission grants university status, then the governing board shall determine the effective date on which the public baccalaureate institution becomes a university; and

(2) On and after the effective date designated by the governing board, the baccalaureate institution shall be designated a university.

(c) Concord college, Fairmont state college, Shepherd college and West Virginia state college, having met the eligibility requirements established by the commission to attain university status, are hereby designated as universities on the effective date of this section.

(d) Glenville state college having met the eligibility requirements established by the commission to attain university status, is hereby designated as a university on the effective date of the amendment of this section.

(e) An institution may not request or seek additional state appropriations as a result of the redesignation provided for in this section. No consequences, including the need to meet future accreditation requirements in order to maintain university status, which arise as a result of designating an existing state college as a university, provide sufficient justification for an institution to request or in any way seek additional state funds.

(f) Notwithstanding any provision of this code to the contrary, Marshall university and West Virginia University are, and remain, the only research and doctoral degree-granting public institutions of higher education in this state.

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§18B-2A-7. Transfer of orders, resolutions, policies and rules, obligations, etc.; division of assets and liabilities; financial audits.

[Repealed].

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§18B-2A-7a. Transfer of orders, resolutions, policies and rules, obligations, etc.

[Repealed].

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§18B-2A-8. Additional powers and duties of governing boards.

(a) The governing board of a state institution of higher education is granted the additional powers and assigned the associated duties pursuant to this section previously granted and assigned to the governing boards of Marshall University and West Virginia University, ifthe commission or council, as appropriate, approves granting the powers and assigning the duties to that governing board.(b) The powers and duties that may be granted and assigned pursuant to this section are the following:(1) Sections five, six and seven, article three, chapter twelve of this code;

(2) Section two, article three of this chapter;

(3) Sections five, six and seven, article four of this chapter;

(4) Section seven, article five of this chapter; and

(5) Section six-a, article ten of this chapter.

(c) Additional powers and duties related to purchasing -- The powers and duties granted and assigned to the governing boards of Marshall University and West Virginia University by section four, article five of this chapter are extended to the governing boards of all other state institutions of higher education under the following conditions:

(1) The commission and council shall conduct a study to determine the capacity of each governing board under their respective jurisdictions to implement the additional powers and carry out the additional assigned duties related to purchasing;

(2) Based upon the findings of the study, the commission and council shall approve the governing boards under their respective jurisdictions that they determine have the capacity to exercise the powers and carry out the assigned duties pursuant to section four, article five of this chapter; and

(3) The commission and council shall report their findings together with a list of the governing boards they each have approved to the Legislative Oversight Commission on Education Accountability by December 1, 2011.

(d) The commission and council have the power and the duty to monitor participation and provide technical assistance, as requested or required, to governing boards under their respective jurisdictions and to limit or rescind exercise of the powers, in whole or in part, granted by this section to a governing board if, in the sole determination of the commission or council, as appropriate, that action is warranted.

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