WEST VIRGINIA CODE: §18B-5-9

§18B-5-9. Higher education fiscal responsibility.

(a) The governing boards shall ensure the fiscal integrity of their operations using best business and management practices.

(1) The practices include at least the following:

(A) 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);

(B) Operating without material weakness in internal controls as defined by GAAP, GAGAS and, where applicable, the Office of Management and Budget (OMB) Uniform Guidance Audit requirements;

(C) Maintaining annual audited financial statements with an unqualified opinion;

(D) Preparing annual audited financial statements as coordinated and directed by the commission and council, respectively, and as the commission requires to complete the higher education fund audit;

(E) Maintaining quarterly financial statements certified by the chief financial officer of the institution; and

(F) Implementing best practices from Sarbanes-Oxley, or adopting the applicable tenets of Sarbanes-Oxley as best practices.

(2) Each governing board and any affiliated research corporation shall comply with the OMB Uniform Guidance Audit requirements and are exempt from section fourteen, article four, chapter twelve of this code.

(3) Within thirty days of the completion of the financial audit report, the governing boards shall furnish to the commission or council, respectively, copies of the annual audited financial statements.

(b) The commission and council, each, shall ensure the fiscal integrity of any electronic process conducted at its offices and by the governing boards under its respective jurisdiction by applying best business and management practices.

(c) To the maximum extent practicable, each higher education organization shall provide for its employees to receive their wages via electronic transfer or direct deposit.

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(d) Notwithstanding any other provision of this code to the contrary, a purchasing card may be used by the council, the commission or a governing board of a state institution of higher education to make any payment authorized by the Auditor, including regular routine payments and travel and emergency payments. Payments are set at an amount to be determined by the Auditor.

(1) Subject to approval of the Auditor, an emergency payment and a routine, regularly scheduled payment, including, but not limited to, utility payments, contracts and real property rental fees, may exceed this limit by an amount to be determined by the Auditor.

(2) The council, commission and a governing board of a state institution of higher education may use a purchasing card for travel expenses directly related to the job duties of the traveling employee. Where approved by the Auditor, the expenses may exceed $5,000 by an amount to be determined by the Auditor. Traveling expenses may include registration fees and airline and other transportation reservations, if approved by the president of the institution. Traveling expenses may include purchases of fuel and food.

(3) The commission, council, and governing boards each shall maintain one purchasing card for use only in a situation declared an emergency by the appropriate chancellor or the institution’s president. Emergencies may include, but are not limited to, partial or total destruction of a facility; loss of a critical component of utility infrastructure; heating, ventilation or air condition failure in an essential academic building; loss of campus road, parking lot or campus entrance; a technology breach; or a local, regional, or national emergency situation that has a direct impact on the campus.

(e) Notwithstanding section ten-f, article three, chapter twelve of this code, or any other provision of this code or law to the contrary, the Auditor shall accept any receiving report submitted in a format utilizing electronic media. The Auditor shall conduct any audit or investigation of the council, commission or governing board at its own expense and at no cost to the council, commission or governing board.

(f) The council and the commission each shall maintain a rule in accordance with article three-a, chapter twenty-nine-a of this code. The rule shall provide for governing boards individually or cooperatively to maximize their use of any of the following purchasing practices that are determined to provide a financial advantage:

(1) Bulk purchasing;

(2) Reverse bidding;

(3) Electronic marketplaces; and

(4) Electronic remitting.

(g) Each governing board may establish a consortium with at least one other governing board, in the most cost-efficient manner feasible, to consolidate the following operations and

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student services:

(1) Payroll operations;

(2) Human resources operations;

(3) Warehousing operations;

(4) Financial transactions;

(5) Student financial aid application, processing and disbursement;

(6) Standard and bulk purchasing; and

(7) Any other operation or service appropriate for consolidation as determined by the council or commission.

(h) A governing board may charge a fee to the governing board of each institution for which it provides a service or performs an operation. The fee rate shall be in the best interest of both the institution being served and the governing board providing the service.

(i) A governing board may provide the services authorized by this section for the benefit of any governmental body or public or private institution.

(j) Each governing board shall strive to minimize its number of low-enrollment sections of introductory courses. To the maximum extent practicable, governing boards shall use distance learning to consolidate the course sections. The council and commission shall report the progress of reductions as requested by the Legislative Oversight Commission on Education Accountability.

(k) A governing board shall use its natural resources and alternative fuel resources to the maximum extent feasible. The governing board:

(1) May supply the resources for its own use and for use by the governing board of any other institution;

(2) May supply the resources to the general public at fair market value;

(3) Shall maximize all federal or grant funds available for research regarding alternative energy sources; and

(4) May develop research parks to further the purpose of this section and to expand the economic development opportunities in the state.

(l) Any cost-savings realized or fee procured or retained by a governing board pursuant to this section is retained by the governing board.

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(m) Each governing board is authorized, but not required, to implement subsections (f), (g) and (h) of this section.

If a governing board elects to implement subsection (g) of this section, the following conditions apply:

(1) The governing board makes the determination regarding any additional operation or service which is appropriate for consolidation without input from the council or commission;

(2) The governing board sets the fee charged to the governing board of the institution for which it provides a service or performs an operation. The fee rate shall be in the best interest of both the institution being served and the governing board providing the service and is not subject to approval by the council or commission; and

(3) The governing board may not implement this subdivision in a manner which supersedes the requirements established in section twelve, article three-c of this chapter.

(n) The governing boards of the exempted schools, respectively, each shall promulgate a rule on purchasing procedures in accordance with section six, article one of this chapter.

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