

# WEST VIRGINIA CODE: §18b-12-4

## **§18B-12-4. Agreement; required provisions.**

(a) With respect to entities engaged in activities contemplated by the provisions of §18B-12-3(2)(a) and (b) of this code and notwithstanding §12-3-10 of this code or any other provision of law to the contrary, each governing board is hereby authorized to enter into an agreement with one or more private corporations, which agreement shall be for the benefit of the state institution of higher education and contain the following provisions, subject to further specification as is mutually agreed upon by the governing board and the corporation:

(1) On the effective date of the agreement, the corporation is charged with the responsibility of serving as fiscal agent for sponsored projects conducted by the faculty, staff and students of the state institution of higher education, and grants shall be accepted by the corporation on behalf of the institution and assigned to the corporation for fiscal management.

(2) The corporation shall provide evaluation, development, patenting, licensing, management, and marketing services for inventions, processes, trademarks, except institutional trademarks an institution's governing board elects to retain, copyrights or any other intellectual property developed by faculty, staff, and students of any state institution of higher education.

(3) The corporation may determine the application of the proceeds from any invention, process, trademark, except institutional trademarks an institution's governing board elects to retain, copyright or any other intellectual property developed by the faculty, staff, or students of an institution among the corporation, the inventor or developer, and the institution.

(4) The corporation may receive, purchase, hold, lease, use, sell, and dispose of real and personal property of all classes subject to the provisions of section ten of this article.

(5) The corporation has such additional responsibilities related to the administration of research and development at the institution or the fostering of economic development as are necessary or desirable.

(b) With respect to entities engaged in activities contemplated by the provisions of §18B-12-3(2)(c) of this code: Notwithstanding §12-3-10 of this code or any other provision of law to the contrary, each governing board is hereby authorized to enter into an agreement with one or more private corporations, which agreement shall be for the benefit of the state institution of higher education, to conduct operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs and shall contain the following provisions, subject to further specification as is mutually agreed upon by the governing board and the corporation:

(1) On the effective date of the agreement, the corporation is charged with the responsibility of serving as the operational and fiscal agent for the athletics-related endeavors or other educational development activities as specified by the state institution of higher education.

(2) The corporation shall provide services for the benefit of the state institution of higher education as outlined in the agreement.

(3) The corporation may receive, purchase, hold, lease, use, sell, and dispose of real and personal property of all classes; may own membership or ownership interests in legal entities; and has all powers and authorities to undertake any activities allowable by corporations organized pursuant to §31E-1-101 *et seq.* of this code.

(4) The corporation has such additional responsibilities related to conducting operational, economic, fiscal, and educational development activities and services related to intercollegiate athletics' programs of the state institution of higher education, as are necessary or desirable.

(c) Upon termination of the agreement, the funds or grants paid or held by the corporation, and all other property held by the corporation, shall be transferred to the institution or its designee as the governing board directs.

(d) A corporation may utilize both corporation employees and personnel of the institution. The corporation may pay the costs incurred by the institution including personnel funded on grants and contracts, fringe benefits of personnel funded on grants and contracts, administrative support costs and other costs which may require reimbursement. The corporation may include as costs any applicable overhead and fringe benefit assessments necessary to recover the costs expended by the institution, pursuant to the terms of the agreement, and that a board may be reimbursed for expenses incurred by it pursuant to the agreement.