



Fairmont State University Board of Governors

Policy 1.1

Effective Date: **TBC**

TITLE: ADOPTION, AMENDMENT OR REPEAL OF BOG POLICIES

SECTION 1: PURPOSE & SCOPE.

- 1.1. This BOG Policy establishes the process for adoption, amendment, or repeal of Fairmont State University Board of Governors' policies. It also outlines the procedures for posting and publication of rules and administrative procedures, public comments, and administrative procedures. The Fairmont State University Board of Governors (the "Board") does not, and shall not, delegate responsibility for approving BOG Policies to the President.
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SECTION 2: RULEMAKING PROCESS.

- 2.1. If the Board determines that a policy concerning a subject matter under the Board's jurisdiction should be adopted, amended, or repealed, the Board may direct the President to assign an appropriate University unit to evaluate and draft or amend proposed Board Policy language. Interested stakeholder groups should be consulted before a proposed Policy is presented to the Board.
- 2.2. A draft BOG Policy should be recommended by the President after consultation with executive leadership and interested stakeholder groups before it is presented to the Board.
- 2.3. After a draft policy is recommended by the President, the BOG Bylaws committee will review, and may revise, the proposed policy, and may refer the recommended policy to the Board. The Board shall review the draft Policy and, if approved, the Board shall proceed to issue a Notice of Proposed Rulemaking, which must include the following:
 - 2.3.1. A copy of the proposed Policy, if adoption or amendment is proposed, or a copy of the current Policy, if repeal is proposed;
 - 2.3.2. A brief description of the subject matter of the Policy;
 - 2.3.3. An explanation of how comments will be received;
 - 2.3.4. The deadline for receiving comments; and
 - 2.3.5. Contact information for the person designated to receive comments.
- 2.4. Notices of Proposed Rulemaking shall be provided directly to the Chancellor, representatives of students, faculty, and staff, and other interested parties. Notices of Proposed Rulemaking shall be posted prominently on the Board website and made available in the Office of the President. Copies shall be available at no cost to any requester.



- 2.5. The Chancellor shall provide any comments within fifteen (15) days of the notice of proposed rulemaking. Should the Chancellor provide comments to the proposed policy, those comments shall be placed on the Board's agenda and recorded in the minutes.
 - 2.6. A Notice of Proposed Rulemaking must provide for a public comment period of at least thirty (30) calendar days during which written comments may be received. Public comments may be submitted to publiccomment@fairmontstate.edu. The Board or the President may also provide for a public hearing, but a public hearing is not required.
 - 2.7. If public comments are received during the public comment period, all proposals for the adoption, amendment, or repeal of a BOG Policy require final Board action before the Policy will be effective. Any public comment received during the public comment period must be distributed to the Board of Governors at least ten (10) calendar days prior to the meeting requiring final Board action. If written comments are received or a public hearing is held during the thirty (30) day comment period, the Board shall summarize all comments received and/or made and make a determination of each issue raised.
 - 2.8. The Board of Governors may amend a proposed BOG Policy, or the President may recommend amendment of a proposed BOG Policy as a result of the comments received. If a proposed BOG Policy is amended as a result of comments received, the Board may approve the proposed BOG Policy as final without an additional notice or public comment period.
 - 2.9. The Board of Governors shall furnish the Chancellor with a copy of the final BOG Policy within fifteen (15) days of the adoption of the final Policy.
 - 2.10. All approved and final BOG policies shall be published on the Board of Governors' website for public accessibility.
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SECTION 3: EMERGENCY RULEMAKING.

- 3.1. The Board of Governors may adopt a new BOG Policy, or amend or repeal a current BOG Policy, as an Emergency BOG Policy without first following the formal rulemaking procedures set forth in Section 2 of this BOG Policy provided the Board follows the provided the procedures outlined in this BOG Policy and state laws are followed.
- 3.2. An Emergency BOG Policy may be adopted when such action is necessary:
 - 3.2.1. To immediately preserve public peace, health, safety, or welfare;
 - 3.2.2. To comply with a time limitation established by state or federal law or regulation;
 - 3.2.3. To prevent substantial harm to the public interest; or
 - 3.2.4. To address a financial exigency.
- 3.3. Within fifteen (15) days of the adoption of an Emergency BOG Policy, the facts



constituting an emergency, along with a copy of the adopted BOG Policy shall be communicated in writing to the Chancellor, who shall disapprove the action of the Board if the Chancellor disagrees that an emergency existed.

- 3.4. Any Emergency BOG Policy approved by the Board shall be immediately posted on the Board of Governors website. Additionally, appropriate notice of the Emergency BOG Policy shall be given to University faculty, staff, and students.
- 3.5. Any Emergency BOG Policy shall remain in effect no longer than three (3) months and shall expire unless a final BOG Policy has been approved under the formal rulemaking procedures set forth in Section 2 of this BOG Policy.

SECTION 4: DELEGATION.

- 4.1. The Board of Governors delegates to the President the authority to adopt administrative policies and/or administrative procedures to effectuate the implementation of this BOG Policy, or in furtherance of any other authority that the Board of Governors has expressly delegated to the President; provided, however, the President shall:
 - 4.1.1. Continue to bring to the Board all matters required by state or federal statute or policy; or BOG Policy, and
 - 4.1.2. Continue to advise the Board of all matters not specifically required by law; but which, as a matter of sound management practice, should be brought to the Board's attention.
- 4.2. Nothing in this BOG Policy should be construed as delegating to the President the authority or responsibility for approving the adoption, amendment, or repeal of BOG Policies, nor to relieve the President of the duty to keep the Board of Governors informed on adoption of or changes to administrative policies and/or administrative procedures affecting more than one single unit, division, department, or school.

SECTION 5: DEFINITIONS.

- 5.1. "BOG Policy" means any regulation, directive, standard, statement of policy or interpretation of general application which has institution-wide effect or that affects the rights, privileges, or interests of employees, students, or citizens. BOG Policy does not include:
 - 5.1.1. Regulations, guidelines, or policies established for individual units, divisions, departments, or schools of Fairmont State University that deal solely with the internal management or responsibilities of a single unit, division, department, or school; or



- 5.1.2. Academic curricular policies that do not constitute a mission change for Fairmont State University.
- 5.2. “Administrative policies and/or administrative procedures” means any regulation, guideline, directive, standard, statement of policy, or interpretation of general application that does not constitute a BOG Policy.
- 5.3. “Chancellor” means the West Virginia Higher Education Policy Commission Chancellor or the Chancellor’s designee.
- 5.4. “President” means the President of Fairmont State University or their designee.

SECTION 6: AUTHORITY.

W. Va. Code § 18B-1-6(c) (3); and §18B-2A-4.

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SECTION 7: SUPERSEDING PROVISIONS.

- 7.1. This BOG Policy repeals, supersedes, and replaces any other administrative policy or administrative procedure which relates to the subject matter contained within this BOG Policy.