

TO: Dr. J. B. Tuttle, Faculty Senate President  
Mr. Brian Hammond, Chair of Classified Staff Council  
Mr. Hunter Cutlip, President of Student Government Association

FROM: Sylvia Manning, Interim President 

DATE: January 14, 2016

SUBJECT: Notice of Board of Governors Policy Making

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Pursuant to Policy One of the Board of Governors and the direction of the Board at its meeting on December 3, 2015, I hereby give notice that the University is proposing to amend Board Policy 29, *Employment and Evaluation of the President*, and Policy 18, *Social Justice*.

The proposed changes in Policy 29 would provide a variety of technical changes designed to be in better synchrony with the current operational customs of the Board and the Executive Committee. This update would also address the change in Code which shifts the periodic formal evaluation cycle from four years to three years.

The proposed changes in Policy 18 include multiple adjustments appropriate to the staffing re-alignments of the University, including the establishment of a dedicated position of Title IX Compliance Officer. The provisions relating to formal investigations of complaints are revised to be in compliance with procedural expectations of the US Department of Education which have been evolving over the past four years.

You and any interested persons are invited to submit comments or suggestions to me in writing at any time prior to 12:00 pm, noon, on February 23, 2016. The Board of Governors may take up either or both of these policies for action at its meeting on April 9, 2015.

A copy of this Notice will also be posted on the Board's web page and will be available for anyone to obtain from my office.

cc: Dr. Paul Hill, Chancellor

**SHEPHERD UNIVERSITY  
BOARD OF GOVERNORS  
POLICY 29**

**TITLE: EMPLOYMENT AND EVALUATION OF THE PRESIDENT**

*SECTION 1. GENERAL*

- 1.1 Scope - This policy establishes rules relating to the terms and conditions of the employment of a president and the procedures relating to presidential evaluation.
- 1.2 Authority - West Virginia Code §18B-1-6, §18B-1B-6
- 1.3 Effective Date – \_\_\_\_\_, Replacing the March 10, 2005 version

*SECTION 2. EMPLOYMENT OF PRESIDENT*

- 2.1 The Board shall employ, at its will and pleasure, a President pursuant to WV Code §18B-1B-6.
- 2.2 The Board may review and approve the terms and conditions of the President's appointment or, by formal resolution, may delegate to either the Chair or the Executive Committee the authority to establish terms and conditions which will be included in an annual Letter of Appointment.
- 2.3 Upon initial appointment, the terms and conditions of appointment may include award of academic rank and tenure by the Board.
- 2.4 The Board will issue a Letter of Appointment for the President for each fiscal year of service, regardless of the length of employment offered by the Board.

*SECTION 3. DUTIES AND RESPONSIBILITIES*

- 3.1 The President is responsible to and reports to the Board. Within the policies and regulations of the Board and of other state and federal authorities, the President, as chief executive officer, has general authority and responsibility for the institution and for keeping the Board and its Executive Committee informed regarding the institution in a timely and appropriate manner.

- 3.2 The President is expected to demonstrate those leadership skills necessary for the vibrant, dynamic pursuit of the goals and objectives embodied in the mission of the institution. The President is also expected to understand the higher education needs of the institution's service region, work with the Board to develop proposals for meeting those needs, and provide leadership to foster cooperation between campus and community in fulfilling the institution's teaching, research, and public service responsibilities.
- 3.3 The President is expected to consult appropriately with faculty, students, classified staff and administrators in discharging the responsibilities of the office. The President is also expected to ensure that the policies, procedures and actions of the Board are communicated to appropriate constituencies of the institution in a timely manner.
- 3.4 As the chief executive of the institution, the President is charged with the following specific responsibilities:
  - 3.4.1 Exercising effective leadership in a joint effort to implement the mission of the institution, as delineated in the Mission Statement, planning documents of the institution, and any other role and scope statements approved by the Board.
  - 3.4.2 Providing effective leadership and support for an academic program that is consistent with the institutional mission, the needs of those being served, sound standards of quality, and available resources.
  - 3.4.3 Providing effective leadership and support for a program of student life that complements the academic program and recognizes as an institutional priority the diverse interests and needs of the student body.
  - 3.4.4 Developing a competent administrative organization and staff to ensure effective and efficient management of the institution.
  - 3.4.5 Maintaining lawful, equitable and efficient personnel programs, including appointment of qualified persons to the faculty and staff and promotion, retention or dismissal for cause of the same, with due regard for the best interests of the university.
  - 3.4.6 Direct and cause the annual operating and capital budgets and other plans, financial and otherwise, for realizing the institutional mission to be prepared, and providing sound management of the approved budgets and plans.

- 3.4.7 In coordination with the Board, communicating the needs of the university to the governor, legislators, other state and local officials, and citizens of the state.
- 3.4.8 Interacting with appropriate external bodies to achieve the mission of the institution in a manner consistent with Board policy, statutory and regulatory provisions, and sound academic principles.
- 3.4.9 Implementing assignments requested by the Board.
- 3.5 With regard to 3.4.5 above, the President has final institutional-level authority and responsibility for every personnel action at the institution, and the Board hereby delegates all authority for such decision-making, with the exception of decisions relating to his or her own employment and compensation.
- 3.6 The President is expected to consult, when appropriate, within the campus community on personnel decisions, but shall retain ultimate authority for such decisions.

*SECTION 4. PRESIDENTIAL REVIEW*

- 4.1 It is the responsibility of the Executive Committee, under the leadership of the Chair, to continually monitor and evaluate the performance of the President. Throughout the year, the Chair is responsible for informing the Executive Committee, or the entire Board when appropriate, of any concerns regarding the performance of the President.
- 4.2 **ANNUAL REVIEW**  
 The annual review may include one or more of the following components, as the Committee may choose: campus visits, discussions with the President, assessment of the quality of written information submitted by the President, assessment of the accomplishment of institutional and system goals, and/or discussions with members of the Board, as well as with students, faculty, staff, other administrators, legislators, and business and civic leaders associated with the institution. The annual review will specifically include direct and private conversations between the ~~Executive Committee~~Chair and the elected constituent representatives who are members of the Board. In addition, the President shall provide to the Chair near the end of each fiscal year, as an Annual Report, the President's goals and objectives for the ensuing twelve months and the progress made on accomplishing the goals and objectives of the previous twelve months.

The Chair shall complete the annual review of the President, following one or more of the above referenced consultation and processes and by adding any additional processes that the Executive Committee finds appropriate. At the conclusion, the President shall receive the annual evaluation in writing from the Chair.

#### 4.3 ~~QUADRENIAL~~ TRI-ENIAL EVALUATION

4.3.1 Consistent with the requirements of West Virginia Code 18B-1B-6, the process described below is designed to evaluate presidential performance in relation to criteria established by the Board. It seeks to identify both areas of strength and those in which improvement would appear to be appropriate in order to assist the President in improving his or her effectiveness. All of the actions to be taken by the Executive Committee or the Board in this process shall be in Executive Session.

4.3.2 The basis for assessing presidential performance shall be the "Duties and Responsibilities" listed in Section 3 of this document. This performance evaluation shall be conducted every ~~third~~fourth year, or within any shorter time span as directed by the Executive Committee and shall be structured as follows:

4.3.2.1 The Chair, after consultation with the President, shall establish a schedule for the performance evaluation activities. ~~In no case shall~~ ~~€~~The process should not exceed four (4) months. The on-site schedule shall be developed for a period during the regular academic year when the institution is in operation. However, preparatory or concluding activities may be completed during the summer months.

4.3.2.2 The President shall prepare and submit to the Chair at least four (4) weeks prior to the on-site visit a "Statement of Presidential Assessment" consisting of his/her assessment of his/her performance as President in relation to each of the "Duties and Responsibilities of the President". The statement should generally be no longer than fifteen (15) pages. The President may append necessary and appropriate materials, including such documents as the President's annual report and the current ~~North Central Association~~institutional accreditation self-study report.

4.3.2.3 The Chair shall form an Evaluation Team of three (3) individuals. One shall be a college or university president/chancellor, or comparably experienced peers selected by the Chair from a list of ~~four~~three nominees submitted by the President to the entire Executive Committee. Such persons shall be from outside West

Virginia, shall be free from conflict of interest, ~~and~~ and the Chair's selection shall chair the Evaluation Team. One shall be the immediate past Chair of the Board of Governors, and the third shall be the Board Chair. If either the Chair or the immediate past Chair of the Board shall be unable to serve on the Evaluation Team, the ~~Board shall elect a replacement from among the lay members.~~ Vice Chair shall serve in their stead.

4.3.2.4 The Evaluation Team shall be given the "Statement of Presidential Assessment" and such other documents deemed to be appropriate by the Evaluation Team.

4.3.2.5 The Chair of the Evaluation Team shall be responsible for arranging a schedule for the Evaluation Team, including interviews and meetings with campus personnel, that will assure a careful assessment of leadership and condition of the campus.

4.3.2.6 To obtain an accurate and objective impression of the performance of the President, the Evaluation Team shall visit the campus for up to two (2) days to talk with and receive the views of the President, members of the Board, and a representative number of administrators, faculty members, classified employees, students, alumni, and community leaders, including the elected leaders of each campus constituent group. For any session with such constituencies that is established by invitation rather than as an open session, the staff support for the Evaluation Team shall ensure that representatives are selected on a random basis. Evaluative information thus obtained, either in oral or written form, if included in the report, must be attributable. Confidentiality, beyond the Evaluation Team and the Executive Committee, of individual assessments of presidential performance shall be assured.

4.3.2.7 There shall be an oral report by the Evaluation Team to the President and the Executive Committee at the end of the on-site visit. The team chairperson shall have lead responsibility for drafting a written team report promptly after the on-site visit concludes and for coordinating such discussion among the team members as may be necessary to conclude the report. The team chair ~~should~~ submit the completed team report to the Chair within thirty (30) days of the on-site visit. The general approach and format for the report shall be similar to, but not identical with, ~~an accreditation-North Central~~ team visit and report, including commentary on the performance of the President in relation to each of the "Duties and Responsibilities of the President" in Section 3 herein.

- 4.3.2.8 The Chair shall forward a copy of the report to the members of the Executive Committee of the Board and to the President, inviting the latter to offer comments within two (2) weeks.
- 4.3.2.9 A copy of comments received from the President shall be promptly forwarded to the members of the Executive Committee of the Board.
- 4.3.2.10 The President shall be invited to discuss the process and results of the evaluation with the Executive Committee of the Board, in which areas of strength and those appearing to need improvement (if any) shall be identified for particular attention by the President prior to the next evaluation.
- 4.3.2.11 Following its review of the evaluation with the President, the Executive Committee shall report its conclusions to the Board. At all stages of the evaluation process, the President shall be involved and informed and be afforded an opportunity to respond as he/she deems appropriate. Confidentiality consistent with state laws shall be maintained throughout the evaluation process.
- 4.3.2.12 The Executive Committee shall thereafter submit the final ~~Quadrennial-Triennial~~ Evaluation Report to the President and to the ~~Chair of the~~ Higher Education Policy Commission, consistent with its requirements.

## *SECTION 5. RESIGNATION AND TERMINATION*

- 5.1 A president may resign appointment as President at any time, by written notice to the Chair of the Board.
- 5.2 The Board may terminate a presidential appointment at any time when, in the Board's judgment, such action is in the best interests of Shepherd University.
- 5.2.1 If the Board terminates a presidential appointment of a President, who has academic tenure, for reasons other than "For Cause" relating to faculty or instructional duties, as defined in Section 12 of Policy 19 of the Board, that individual shall be eligible to assume a tenured faculty position at the University at such salary as is indicated by the original notice of tenure.
- 5.2.2 If the board terminates a presidential appointment of a President for reasons other than "For Cause" as defined in Section 5.2.3

hereafter, that individual shall be eligible for such post-appointment compensation and/or benefits as may be provided for in the annual appointment(s). Academic tenure, if any, may only be exercised as a mutually exclusive alternative to continuing administrative employment, if any.

- 5.2.3 “Cause” for the termination of a presidential appointment is defined as acts of malfeasance or misfeasance, through acts of commission or omission, and any action in violation of federal or state law, acts in contravention of the policies of or a directive (expressed through an adopted resolution) of the Board, or any act which would be “cause” under ~~Section 12~~ the “Dismissal for Faculty” provisions of Policy 19 of the Board.

# SHEPHERD UNIVERSITY BOARD OF GOVERNORS POLICY 18

## TITLE: SOCIAL JUSTICE

### *SECTION 1. GENERAL*

- 1.1 Scope - This policy defines social justice, what and how it is to be accomplished, and provides guidelines for filing complaints.
- 1.2 Authority - West Virginia Code § 18B-1-6; West Virginia Human Rights Act of 1967; Title IX of the Civil Rights Act of 1972; Equal Employment Opportunity Commission interpretative guidelines issued in March, 1980; Titles VI and VII of the Civil Rights Act of 1964; Vietnam Era Veterans Readjustment Act; Sections 503 and 504 of the Rehabilitation Act; Executive Order 11246; Immigration Reform and Control Act of 1986; Equal Pay Act; Age Discrimination Act; Americans with Disabilities Act; and Disabled Veterans Act.
- 1.3 Effective Date – \_\_\_\_\_, ~~amending the~~ September 11, 2008, ~~Amending the March 21, 2006~~ Version of the Policy.

### *SECTION 2. SOCIAL JUSTICE POLICY*

- 2.1 The Board is committed to bringing about mutual understanding and respect among all individuals and groups at the institution, and to eliminating all forms of discrimination as provided by West Virginia and federal law.
- 2.2 Consistent with its comprehensive mission, and recognizing that the development of human potential is a fundamental goal in a democratic society, the Board of Governors promotes an educational system that values cultural and ethnic diversity and understanding; that provides for the preparation of students for full and meaningful participation in a changing world; and that promotes equitable and fair treatment in every aspect of campus life and employment for all persons, regardless of race, color, national origin, gender, sexual orientation, age, religion, veteran status, or disability.

### *SECTION 3. IMPLEMENTATION*

- 3.1 The institution's program for social justice consists of the following elements:
- 3.1.1 Activities, including education, which have a goal of eliminating prejudice or discrimination based upon race, color, national origin, gender, sexual orientation, age, religion, veteran status, or disability from student life and working conditions in the institution.
- 3.1.2 An appraisal of the institution's educational environment, job structure, and employment practices as they relate to social justice.
- 3.1.3 Provision for counseling and responding to employees, applicants, and students who charge that they have been discriminated against, and for

the informal resolution of such matters before the filing of a formal complaint.

- 3.2 Responsibility for carrying out the social justice program is assigned as follows:
  - 3.2.1 The President shall assign to such persons as appropriate the responsibility of overseeing the campus commitment to social justice.
  - 3.2.2 Each dean, director, unit head and supervisor has the immediate day-to-day responsibility for implementing the social justice policy within their respective units.
  - 3.2.3 All employees are expected to set the tone and help create an environment for positive change and results within the social justice area.

#### SECTION 4. FILING OF COMPLAINTS

##### 4.1 Official Process: Informal Resolution of Harassment Complaints

Informal resolution of complaints, when possible, can be an effective way of correcting misconduct. The process is as follows:

(1) A victim or third party submits a complaint to the campus Ombudsperson, the Title IX Coordinator, or Affirmative Action Officer [the AAO], who shall coordinate the response to the complaint. An initial meeting between the Ombudsperson/ Title IX Coordinator/ ~~or~~ AAO and complainant takes place. All options are explained by the Ombudsperson/ Title IX Coordinator/ ~~or~~ AAO.

(2) If the Informal Resolution option is chosen, the complainant may engage in the following actions:

a. Opt for a meeting with the alleged harasser and the Ombudsperson/ Title IX Coordinator/ AAO. All parties are permitted to bring support persons (friend, family member, colleague, etc.). The ~~facilitator~~ Ombudsperson can limit the number of support persons present to a reasonable number and ~~The Ombudsperson~~ will serve as mediator, listening to all views and establishing a resolution document or mediation agreement as appropriate.

b. Opt for the Ombudsperson/ Title IX Coordinator/ AAO to meet with all parties separately. The ~~administrator~~ Ombudsperson listens to all views, presents views of opposing parties to each other, and establishes a resolution document or mediation agreement as appropriate.

(3) The resolution document or mediation agreement may include a "no-contact arrangement" and/or other provisions. The outcome of the informal resolution should meet the satisfaction of all parties to the fullest extent possible. If the complainant is not satisfied, the Ombudsperson/ Title IX Coordinator/ AAO will review other options available.

(4) ~~The AAO may act on behalf of the Ombudsperson in this process.~~ Records, including the resolution document, are submitted to the office of AAO for filing.

(5) The Ombudsperson/ Title IX Coordinator/AAO will follow-up with parties within two weeks of the resolution if one was reached. Additional follow-up contacts will be made as needed.

(6) Proceedings and records will be confidential to the fullest extent possible. If additional complaints arise subsequently as to the same employee, the earlier records may be evidence of a continuing practice of misconduct.

(7) Complainants should act in a timely fashion. The ~~Ombudsperson-administrators~~ will, in all cases, attempt to resolve informal complaints within ~~threetwo~~ weeks of notification of the complaint.

#### 4.2 Official Process: Formal Resolution of Harassment Complaints

Any student who feels that informal resolution of a complaint will not be or has not been satisfactory, and all victims of any form of interpersonal violence, should file a formal written complaint with the AAO or alternatively the Title IX Coordinator in cases of gender harassment/discrimination.

(1) Since the passage of time makes the resolution of complaints more difficult, it is recommended that the written complaint be filed as soon as possible from the date of the incident(s).

(2) A complaint filed against a professor by a student currently enrolled in the professor's class should be made as soon as possible. The student may choose to have the complaint held confidentially until the end of the semester, at which time the complaint will be resolved. But some situations may require immediate action on the part of the University.

(3) A complaint by a student, employee, or a third party against a ~~another~~ student will be referred to the Assistant Dean of Students for management as a student disciplinary matter.

(4) A complaint by a student, employee or a third party against an employee or a third party will be administered according to the provisions of this section of the Social Justice Policy.

(54) The President shall annually designate a ten-member body made up of five faculty and five staff. The AAO will randomly select two panelists from the same group as the person accused and one panelist from the other group to investigate each formal complaint. Immediate supervisors of the accused or the accuser, or any person with a specific, known bias, will be excluded from serving on the three member panel. If the accused is a third party, three panelists will be randomly selected without reference to their employment status. The formation of the panel will be completed within two weeks of the submission of the written complaint, except where extenuating circumstances require additional time.

(65) When a formal written complaint against an employee is received by the AAO, a three-member panel will be selected (as noted in number 54) and copies of the complaint will be given to panel members. Panel members will conduct such investigation into the facts and circumstances of the complaints as may be deemed appropriate by any of the panel members, an adequate, reliable, and impartial investigation into the facts and circumstances of the complaint as in their reasonable judgment is appropriate to conclude a reliable and complete investigation.

(76) The panel may meet with the accuser and will meet with the, accused. Each will be asked and encouraged to fully identify all relevant evidence and witnesses relevant to the investigation and to explain the relevance of each witness, and the panel shall meet with with such witnesses or otherwise receive evidence from them, provided however that the panel may omit a witness if the panel determines that there is no basis to believe that a witness designated by either complainant

~~or accused has any relevant information to contribute , and any witnesses relevant to its investigation, but~~ Teh panel shall at all times act collectively as a group and not individually. The investigation will be completed within four weeks of the formation of the panel, except where extenuating circumstances require additional time.

(87) The panel shall prepare a written report of its factual findings and conclusions regarding the merits of the complaint. The report will include a listing of all witnesses identified by complainant and/or accused and a statement of evidence obtained therefrom. The report will include the original of all documents or other exhibits provided by complainant, accused or any witness. This report may, if applicable, include dissenting conclusions. If the report finds any part of the complaint to be meritorious, then the report will designate appropriate action with respect to the perpetrator. The panel will complete the written report within one week of the close of the investigation, except where extenuating circumstances require additional time.

(98) The panel shall direct its written report to the AAO and to the executive officer who supervises the accused. The AAO shall then provide a copy of the report to the accused and the accuser and notice of whether the executive officer implemented some form of adverse action as to the employee-perpetrator.

(10) Under the direction of the responsible executive officer, the University will take steps to address any prohibited conduct. The University will take steps, as necessary, to prevent the recurrence of unlawful harassment/ discrimination and to correct any adverse impact on the complainant or others. The University may act at any time to prevent or redress retaliation against a person who initiates a complaint.

(119) Appeals on the part of the accuser may be directed to the President. The accused may appeal any adverse action by following the established grievance procedures of the University.