

MARSHALL UNIVERSITY BOARD OF GOVERNORS

Policy No. GA-11

POLICY ON RULEMAKING BY THE BOARD OF GOVERNORS

1 General Information

- 1.1 Scope: This policy governs the procedures for rulemaking by the Board of Governors.
- 1.2 Authority: WV Code §18B-1-6
- 1.3 Passage Date: September 12, 2019
- 1.4 Effective Date: October 15, 2019
- 1.5 Controlling over: Marshall University.
- 1.6 History:
 - 1.6.1 This policy is required under WV Code §18B-1-6 and HEPC Series 4. This version of GA-11 amends and replace a previous version approved on April 18, 2013, to accurately describe the current location of the public notices area (sect. 3.4). The April 11, 2013, version amended and replaced the version approved on January 25, 2006, to provide for an updated procedure for approval of policies.

2 Definitions

- 2.1 The term “rule” shall be defined as it is in WV Code §18B-1-6(c). The current definition is quoted below:
 - 2.1.1 §18B-1-6(c)(1) - "Rule" means any regulation, guideline, directive, standard, statement of policy or interpretation of general application which has institution-wide effect or which affects the rights, privileges or interests of employees, students or citizens. Any regulation, guideline, directive, standard, statement of policy or interpretation of general application that meets this definition is a rule for the purposes of this section
 - 2.1.2 §18B-1-6(c)(2) Regulations, guidelines or policies established for individual units, divisions, departments or schools of the institution, which deal solely with the internal management or responsibilities of a single unit, division, department or school or with academic curricular policies that do not constitute a mission change for the institution, are excluded from this subsection, except for the requirements relating to posting.
- 2.2 The term “policy” as it is used by the Board shall be synonymous with the term “rule” defined in 2.1 above.
- 2.3 The term “administrative procedure” means any regulation, guideline, directive, standard, or statement of policy or interpretation of future effect that does not qualify as a “rule.”
- 2.4 The term “proposed policy” shall refer to the any new policy or an amendment or repeal of an existing policy that has not had a final vote for adoption by the Board.

3 Adoption, Amendment, and Repeal of Policies

- 3.1 If the Board determines that a rule concerning a subject matter on the Board's jurisdiction should be adopted, amended, or repealed, the Board may approve a "notice of proposed rulemaking."
 - 3.1.1 Upon approval of a notice of proposed rulemaking, a comment period lasting at least 30 days will begin. All individuals listed in Section 3.3 below will be deemed "notified" of the rulemaking process at the time of the Board's approval of the notice of proposed rulemaking, provided the approval is made during a public, regularly-scheduled or emergency meeting of the Board of Governors. Notifications shall also be provided directly to the individuals listed in section 3.3 via suitable electronic means.
 - 3.1.2 The Board may also approve policies on an emergency basis before a normal notice and comment period. A policy approved on an emergency basis must be approved, following the normal procedures in this policy, within 3 months of its emergency approval, or it shall expire. The initial emergency approval of the policy shall also be considered approval of the notice of proposed rulemaking.
 - 3.1.3 If, after the appropriate comment period, there have been no substantive comments submitted, the proposed policy shall take effect without further vote by the Board, provided the Board explicitly allowed for such action when initially adopting the proposed policy.
 - 3.1.4 On behalf of the Board, the Board authorizes the president or his designees to prepare an item for the agenda for a subsequent Board meeting, which will include comments (or summaries of comments), responses to those comments, and any changes to the proposed policy as a result of comments. Notification to constituencies and the public may be accomplished by publication of the comments, responses, and any modified policy in the Board's meeting agenda or direct notification to the individuals listed in section 3.3.
- 3.2 The Board will approve policies in a manner consistent with all applicable laws, policies, and procedures of the state of West Virginia and all relevant governing authorities.
- 3.3 The following individuals shall be notified of any notice of proposed rulemaking:
 - 3.3.1 The classified employee representative to the Board of Governors.
 - 3.3.2 The faculty representative to the Board of Governors.
 - 3.3.3 The student representative to the Board of Governors.
 - 3.3.4 The chancellor of the Higher Education Policy Commission.
 - 3.3.5 The executive committee of the Board of Governors.
- 3.4 Notices of proposed rulemaking shall be posted in a "public notices" area adjacent to the Human Resource Services office in Old Main (OM 206, north hallway) on the main campus and on the Board of Governors web page.
- 3.5 Electronic copies of all policies and proposed policies will be available for viewing on the Board of Governors web page.

4 Administrative Procedures

4.1 Administrative procedures do not require approval of the Board.