



Southern

**SOUTHERN WEST VIRGINIA
COMMUNITY AND TECHNICAL COLLEGE**

BOARD OF GOVERNORS

**JUNE 22, 2010
MEETING AGENDA**

Members

Kevin N. Fowler, Chair
Terry R. Sammons, Vice Chair
Thomas A. Heywood, Secretary
Linda Q. Akers
Shelley T. Huffman
Jada C. Hunter

George Kostas
Glenn T. Yost
Wilma J. Zigmond
Debbie Dingess
Kimberly Irick
George Morrison

Joanne Jaeger Tomblin
President

SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS MEETING OF JUNE 22, 2010
BUILDING C, ROOM 428 — LOGAN CAMPUS
2900 DEMPSEY BRANCH ROAD, MOUNT GAY, WEST VIRGINIA

AGENDA

1. Call to Order Mr. Kevin Fowler
Board Chair
2. Special Presentation Chair Fowler
3. Board Member Duties and Responsibilities Ms. Elizabeth Walker
Bowles Rice McDavid Graff & Love LLP
4. Technology SunGard Higher Education
5. Special Presentation Chair Fowler
6. President's Report President Joanne Tomblin
7. Financial Report Mr. Sam Litteral
Chief Financial Officer
8. Action Items pp. 3-35
 1. Approval of April 27, 2010 Board Meeting Minutes pp. 4-11
 2. Nominating Committee Report and Election of Officers for 2010-2011 p. 12
 3. Approval of 2010-2011 Board of Governors Meeting Schedule p. 13
 4. Approval of Appointment to the Boone County Joint Administrative Board p. 14
 5. Approval of Capital Projects and Expenditures for FY 2011-2012 pp. 15-16
 6. Approval of Capital Projects and Expenditure for FY 2012-2016 pp. 17-18
 7. Final Approval of Proposed Documents
 1. SCP-4786, Transcript Evaluation pp. 19-24
 2. Institutional Mission Statement p. 25
 8. Policies for 30-day Public Comment
 1. SCP-5066, Third-Party Tuition and Fee Waivers pp. 26-29
 2. SCP-5074, Selection, Adoption, Use and Sale of Textbooks and Other Course Materials pp. 30-35
9. Discussion Items p. 36
 1. Annual Board and Administrator Self-Evaluation President Tomblin
 2. Board of Governors Retreat Agenda Topics and Speaker President Tomblin
10. Informational Items pp. 37-85
 1. Suttle & Stalnaker 2010 Audit pp. 38-41
 2. Series 51, Bookstores and Textbooks pp. 42-47
 3. Report on Awarding of Undergraduate Tuition and Fee Waivers p. 48
 4. Chancellor Approves Institutional Policies p. 49
 5. *A Guide to the WV Open Governmental Proceedings Act* pp. 50-61
 6. *A Guide to the WV Ethics Act* pp. 62-83
 7. *Community College Can Be Economic Spark Plug*, Charleston Gazette Article p. 84
 8. *Southern's Trimester*, The Mountain Citizen Article p. 85
11. Executive Session under Authority of WV Code §6-9A-4-2b
for Personnel Items Chair Fowler
 1. Presidential Review Committee Report Mr. Tom Heywood
 2. 2010-2011 Presidential Goals Chair Fowler
12. Adjournment Chair Fowler

Board Member Duties and Responsibilities

Presentation to Board of Governors of Southern West Virginia Community and Technical College on June 22, 2010 by Beth Walker, Esq.

OUTLINE

I. Basic Board Duties

- A. Oversight of President
- B. Mission Planning
- C. Resource Procurement
- D. Management Monitoring
- E. Organizational Review
- F. Board Monitoring and Evaluation

II. Fiduciary Duties and Responsibilities

A. Meaning of Fiduciary

- 1. Any person who has discretionary authority over the assets of another
- 2. All members of the board of directors of every organization

B. Specific Fiduciary Duties

- 1. Duty of care in decision making
- 2. Duty of loyalty
- 3. Duty to act impartially
- 4. Duty to avoid conflicts of interest
- 5. Co-fiduciary duty to investigate, to challenge another's wrongdoing and remedy it
- 6. Duty to comply with statutes, rules and regulations

**Southern West Virginia Community and Technical College
Board of Governors Meeting of June 22, 2010
Agenda Items for Action**

Action Items	pp. 3-35
1. Approval of April 27, 2010 Board Meeting Minutes	pp. 4-11
2. Nominating Committee Report and Election of Officers for 2010-2011	p. 12
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Southern West Virginia Community and Technical College Board of Governors
Board Conference Room, 428, Building C
2900 Dempsey Branch Road, Mount Gay, WV
Meeting of April 27, 2010

Board Members Present: Kevin Fowler, Terry Sammons, Tom Heywood, George Kostas, Linda Akers, Jada Hunter, Glenn Yost, Wilma Zigmond, Debbie Dingess, George Morrison, Kimberly Irick

Board Members Absent: Shelley Huffman

Administrative Staff: President Joanne Jaeger Tomblin, Merle Dempsey, Samuel Litteral, Cathy Smith-Cox, Ron Hamilton, Ron Lemon, Cindy Crigger, Allyn Sue Barker, Pam Alderman, Cindy McCoy, Carol Howerton, Alyce Diaz, Eva Hallis, Vernon Elkins, Barbara Donahue, Joan Thompson, Darrell Taylor, Emma Baisden

Guests: Chris Gray, Tim Owens, Jackie Whitley, Scott Pritchard, Velva Pennington, Stella Estep, Mindy Saunders, Anne Olofson

1. Call to Order:

Vice Chair, Terry Sammons, declared a quorum present and convened the meeting at 6:05 p.m. Chair Fowler joined the meeting at 6:30.

2. President's Report:

1. President Tomblin introduced members of the President's Future Leaders Academy present and explained the Academy's purpose and progress thus far.
2. Accolades were given to members of Task Force 1 for their work during the mining disaster at Upper Big Branch Mines.
3. SREB Conference – The Southern Regional Education Board (SREB) is making recommendations on what colleges and universities need to be focused on in the next few years. While colleges and universities need to greatly increase their graduation rate, they need to raise the number of people with two-year and four-year college degrees and career certificates. The SREB will be issuing a full set of recommendations this summer that will help State leaders and policymakers make progress in these areas.
4. A scholarship reception was held on March 28 at the Logan Campus. This provided an opportunity for scholarship recipients to meet donors.
5. The National Symphony Orchestra Quintet which performed at the Savas-Kostas Performing Arts Theater on April 10, 2010 was well attended. The concert was underwritten by sponsors and free of charge to the public. The event is part of a program through the Office of the West Virginia Secretary of Arts and Education.
6. The President's Future Leaders Academy has selected 20 employees for its 2011 class. The 2010 Future Leaders Academy class will continue with projects in 2011.
7. President Tomblin completed classified staff roundtable discussions at the Logan and Williamson Campuses since the Board's March meeting.
8. Southern officials will select an architect for the new Williamson facility in May or June.
9. Preparations are underway for the President's Administrative Retreats scheduled for May 20 at

Chief Logan Convention Center and June 1-3, 2010 at Stonewall Resort and Conference Center.

10. The President's High School Visiting Team completed visits to Scott and Mount View High Schools during the Spring 2010 semester.
11. The President's Awards and Employee Recognition event was held during All Governance Day on April 9.
12. As a follow-up on Southern's Technology Report by Joanne Chabot from the League for Innovation, SunGard, which is an expert in the technology field, will hold interviews with numerous employees April 28-29, 2010 at the Logan Campus.
13. On April 14 Bluefield State College and Southern West Virginia Community and Technical College officially signed a Memorandum of Understanding for the delivery of a Baccalaureate Degree program in Criminal Justice. Bluefield will deliver the entire program beginning this fall at Southern's Wyoming/McDowell Campus. Courses in the collaborative program will be provided using flexible delivery modes including traditional on-site courses during evenings and on weekends.
14. A 2+2 program meeting is scheduled in Morgantown for May 3 between officials from West Virginia University and Southern West Virginia Community and Technical College.
15. Southern's draft Succession Plan, which will revolve around the President's Future Leadership Academy, will be ready by the end of April.
16. President Tomblin met with faculty during its Faculty Assembly on April 9.
17. Commencement will be held on Saturday, May 15, beginning at 10:00 a.m. at the Coalfield Jamboree in downtown Logan. West Virginia's First Lady, Gayle Manchin, is the featured speaker.
18. The Allied Health Pinning ceremony is scheduled to begin at 6:00 p.m. on Friday, May 14 at the same location.

3. Financial Report

Chief Financial Officer, Sam Litteral, provided the financial report dated March 31, 2010 to Board members. He reviewed restricted, unrestricted, and auxiliary revenues and expenditures. These figures reflect the budgeted amount with actual year-to-date totals. Southern should receive its stimulus funding within two weeks.

4. Action Items:

1. Appointment of Nominating Committee for Board Officers

Chair Fowler appointed the following individuals to serve on its Nominating Committee: Glenn Yost, Chair; Wilma Zigmond, Joanne Tomblin and George Kostas. The Committee will provide a report to the full Board with a recommendation for the 2010-2011 Board officers at its June 22, 2010 meeting.

2. Appointment of Presidential Evaluation Committee

Chair Fowler appointed the following individuals to serve on its Presidential Review Committee: Linda Akers, Chair; Tom Heywood and Terry Sammons. The Committee will provide a report of its findings to the full Board at its June 22, 2010 meeting.

3. **Appointment of Board Ceremonial Representatives**
 1. Terry Sammons will serve as the Board of Governors Ceremonial Representative for the Allied Health Pinning Ceremony scheduled for 6:00 p.m. on Friday, May 14, 2010.
 2. Linda Akers will bring Greetings from the Board at the Commencement Ceremony scheduled for 10:00 a.m. on Saturday, May 15, 2010.
 3. George Morrison will bring Greetings from the Board for Southern's GED Ceremony scheduled for 6:00 p.m. on Thursday, May 20, 2010 in the Savas-Kostas Theater, Logan Campus.

4. **Approval of March 2, 2010 Board Meeting Minutes**

MOTION: Tom Heywood moved to accept the meeting minutes as presented.

ACTION: Terry Sammons seconded the motion. The motion carried unanimously.

5. **Approval of Appointments to the Boone County Joint Administrative Board**

MOTION: George Kostas moved the adoption of the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors appoint Samuel M. Litteral and Cathy Smith-Cox to represent the Board of Governors on the Joint Administrative Board established to facilitate the administration, operation, and financing of joint programs and facilities of Southern West Virginia Community and Technical College and the Boone County Board of Education; and

FURTHER RESOLVED, Samuel M. Litteral will serve a two (2) year term and Cathy Smith-Cox will serve a one (1) year term. By mutual consent of the Board of Governors and the Boone County Board of Education, Kevin Hill will serve as the at-large member and Chair of the Joint Administrative Board.

ACTION: Jada Hunter seconded the motion. The motion carried unanimously.

6. **Approval of Amendment to the Student Health and Wellness Fee**

MOTION: Tom Heywood moved the adoption of the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors grant approval of a ten(10) dollar Health and Wellness fee, to be assessed to all students enrolled for three (3) or more credit hours per semester.

BE IT FURTHER RESOLVED that the Health and Wellness fee become effective with the fall 2010 semester.

ACTION: Wilma Zigmond seconded the motion. Both Chair Fowler and Vice Chair Sammons abstained from voting. The motion carried.

7. Academic Program Review

1. Medical Laboratory Technician, Associate in Applied Science

Ms. Alyce Patterson-Diaz, Allied Health Department Chair, presented the program review report and recommended resolution for the Medical Laboratory Technician program for the Board's consideration for approval:

MOTION: Jada Hunter moved to accept the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors approve the continuance of the Associate in Applied Science in Medical Laboratory Technology degree program at the current level of activity without corrective action, in accordance with the provisions of the West Virginia Council for Community and Technical College Education, Title 135, Series 10, Policy Regarding Program Review.

ACTION: Linda Akers seconded the motion. The motion carried unanimously.

2. Nursing, Associate in Applied Science

Ms. Barbara Donahue, Nursing Department Chair, presented the program review report and recommended resolution for the Nursing program for the Board's consideration for approval:

MOTION: Terry Sammons moved to accept the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors approve the continuance of the Associate in Applied Science in Nursing degree program with corrective action, in accordance with the provisions of the West Virginia Council for Community and Technical College Education, Title 135, Series 10, Policy Regarding Program Review.

Executive Vice President, Merle Dempsey, asked that clarification be made to the recommendation and rationale listed on page 39 at paragraph three(3), number one (1) stating "Close the Moorefield Campus in May 2010 after graduation." This should read: "Close the Moorefield Campus Nursing Program in May 2010 after graduation." As well as the reference of closing the campus in the next item listed at number two (2). Southern is closing academic programs, not campuses. This error should be corrected throughout the document before it is submitted to Chancellor Skidmore. The Board noted these errors and requested that corrections be made prior to submitting its recommendation to the Chancellor.

ACTION: Jada Hunter seconded the motion. The motion carried unanimously.

3. Radiologic Technology, Associate in Applied Science

Ms. Alyce Patterson-Diaz, Allied Health Department Chair, presented the program review report and recommended resolution for the Radiologic Technology program for the Board's consideration for approval:

MOTION: Jada Hunter moved to accept the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors approve the continuance of the Associate in Applied Science in Radiologic Technology degree program at the current level of activity without corrective action, in accordance with the provisions of the West Virginia Council for Community and Technical College Education, Title 135, Series 10, Policy Regarding Program Review.

ACTION: Tom Heywood seconded the motion. The motion carried unanimously.

4. Three-year Post Audit Review

To meet the provisions of the West Virginia Council for Community and Technical College Education, Title 135, Procedural Rule, Series 37, Increased Flexibility for Community and Technical Colleges, programs started under the provisions of the rule must undergo a post audit review three years following the initial offering of the course of study. The following academic programs underwent this review:

1. Health Care Professional, Associate in Applied Science

Ms. Alyce Patterson-Diaz, Chair, Department of Allied Health, presented the post audit review report and recommended resolution for the Health Care Professionals program for the Board's consideration for approval:

MOTION: Jada Hunter moved to accept the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors approve the continuation of the Associate in Applied Science in Health Care Professional program with corrective action, in accordance with the provisions of the West Virginia Council for Community and Technical College Education, Title 135, Series 10, Policy Regarding Program Review.

ACTION: George Kostas seconded the motion. The motion carried unanimously.

2. Salon Management/Cosmetology, Associate in Applied Science

Ms. Alyce Patterson-Diaz, Chair, Department of Allied Health, presented the post audit review report and recommended resolution for the Salon Management/Cosmetology program for the Board's consideration for approval:

MOTION: Tom Heywood moved to accept the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors approve the continuation of the Associate in Applied Science in Health Care Professional program with corrective action, in accordance with the provisions of the West Virginia Council for Community and Technical College Education, Title 135, Series 10, Policy Regarding Program Review.

ACTION: Terry Sammons seconded the motion. The motion carried unanimously.

3. Survey Technology, Associate in Applied Science

Ms. Carol Howerton, Chair, Department of Technology, presented the post audit review report and recommended resolution for the Survey Technology, A.A.S. degree program for the Board's consideration for approval:

MOTION: Wilma Zigmond moved to accept the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors approve the continuation of the Associate in Applied Science in Survey Technology degree program with corrective action, in accordance with the provisions of the West Virginia Council for Community and Technical College Education, Title 135, Series 10, Policy Regarding Program Review.

ACTION: Linda Akers seconded the motion. The motion carried unanimously.

4. Survey Technology, Certificate

Ms. Carol Howerton, Chair, Department of Technology, presented the post audit review report and recommended resolution for the Survey Technology, Certificate program for the Board's consideration for approval:

MOTION: Jada Hunter moved to accept the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors approve the continuation of the Certificate in Survey Technology program with corrective action, in accordance with the provisions of the West Virginia Council for Community and Technical College Education, Title 135, Series 10, Policy Regarding Program Review.

ACTION: Tom Heywood seconded the motion. The motion carried unanimously.

8. Institutional Policies for Final Approval

1. SCP-1215, Use of Institutional Facilities

MOTION: Glenn Yost moved the adoption of the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors approve the aforementioned policy, SCP-1215, following the 30-day public comment period.

ACTION: Wilma Zigmond seconded the motion. The motion carried unanimously.

2. **SCP-3625, General Studies (University Parallel) Program Evaluation Model**

MOTION: Glenn Yost moved the adoption of the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors grant final approval of SCP-3625, *University Transfer Program Evaluation Model*, and SCP-3625.A, *University Transfer Program Evaluation Model Guidelines*, following the 30-day public comment period.

ACTION: Terry Sammons seconded the motion. The motion carried unanimously.

3. **SCP-3736, Student Standards for Academic Progress**

MOTION: Jada Hunter moved the adoption of the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors grant final approval for SCP-3736, *Student Standards of Academic Progress*, following the 30-day public comment period.

ACTION: Tom Heywood seconded the motion. The motion carried unanimously.

4. **SCP-5830, Use of Southern West Virginia Community College Vehicles**

MOTION: Jada Hunter moved the adoption of the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors approve the aforementioned policy, SCP-5830, following the 30-day public comment period.

ACTION: George Kostas seconded the motion. The motion carried unanimously.

9. **Approval of Items for 30-day Public Comment Period**

1. **SCP-4786, Transcript Evaluation**

MOTION: Tom Heywood moved the adoption of the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors grant approval for the distribution of the aforementioned revised policy to Southern's constituencies and the Chancellor for Community and Technical College Education for an additional 30-day public comment period.

ACTION: Terry Sammons seconded the motion. The motion carried unanimously.

2. **Southern West Virginia Community and Technical College Mission Statement**

MOTION: Jada Hunter moved the adoption of the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of

Governors grant approval for the distribution of the proposed Mission Statement to Southern's constituents for a 30-day public comment period.

ACTION: Wilma Zigmond seconded the motion. The motion carried unanimously.

10. Approval of 2010-2011 Institutional Budget

MOTION: Tom Heywood moved the adoption of the following resolution:

RESOLVED, That the Southern West Virginia Community and Technical College Board of Governors accept the filing of the budget for the fiscal year beginning July 1, 2010.

ACTION: Wilma Zigmond seconded the motion. The motion carried unanimously.

5. Informational Item

1. Letter from *The Higher Education Foundation*

6. Adjournment:

There being no further business, Chair Fowler declared the meeting adjourned at 8:00PM.

Kevin N. Fowler, Chair

Emma L. Baisden, Governing Board Assistant

DRAFT

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
MEETING OF JUNE 22, 2010**

ITEM: Nominating Committee Report and Election of Officers

RECOMMENDED RESOLUTION: *RESOLVED*, That the Southern West Virginia Community and Technical College Board of Governors elect the slate of Board officers for fiscal year 2010-2011 as proposed by the Nominating Committee: Terry Sammons, Chair; Tom Heywood, Vice Chair; Wilma Zigmond, Secretary.

STAFF MEMBER: Glenn Yost, Chair
Nominating Committee

BACKGROUND:

The Nominating Committee of the Southern West Virginia Community and Technical College Board of Governors consisting of Glenn Yost, Chair, Joanne Tomblin, George Kostas, and Wilma Zigmond convened at 3:30 p.m. on May 12, 2010 to discuss and bring forth a recommendation to the full Board for officers at its June 22, 2010 meeting.

On a motion duly made and seconded, the committee presents the following recommendation for officers for fiscal year 2010-2011 beginning July 1, 2010:

Chair: Terry Sammons
Vice Chair: Tom Heywood
Secretary: Wilma Zigmond

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCHEDULE OF MEETINGS
JULY 1, 2010 — JUNE 30, 2011**

Institutional BOG Agenda Item Deadline	BOG Agenda Committee Meeting Date	Board of Governors Meeting Date	Board of Governors Meeting Location
July 22, 2010	August 3, 2010	August 17, 2010	Room 428, Building C Logan Campus
September 23, 2010	September 28, 2010 Board Retreat	October 14, 2010 October 15, 2010	Stonewall Resort Roanoke, WV
November 22, 2010	November 30, 2010	December 14, 2010	Room 428, Building C Logan Campus
January 20, 2011	February 1, 2011	February 15, 2011	Room 428, Building C Logan Campus
March 24, 2011	April 5, 2011	April 19, 2011	Room 428, Building C Logan Campus
May 26, 2011	June 7, 2011	June 21, 2011	Room 428, Building C Logan Campus

Unless otherwise indicated, the Board of Governors Agenda Committee meetings are held in Room 428 at the Center for Allied Health and Technology beginning at 9:00 a.m.

Board of Governors business meetings are held in Room 428 and begin at 6:00 p.m.

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
MEETING OF JUNE 22, 2010**

ITEM: Boone County Joint Administrative Board Membership

RECOMMENDED RESOLUTION: *RESOLVED*, That the Southern West Virginia Community and Technical College Board of Governors appoint Allyn Sue Barker as a replacement for Cathy Smith-Cox to represent the Board of Governors on the Boone County Joint Administrative Board established to facilitate the administration, operation, and financing of joint programs and facilities of Southern West Virginia Community and Technical College and the Boone County Board of Education; and

FURTHER RESOLVED, Allyn Sue Barker will serve a one (1) year term.

STAFF MEMBER: President Joanne Jaeger Tomblin

BACKGROUND:

At its April 27, 2010 meeting, the Southern West Virginia Community and Technical College Board of Governors appointed Cathy Smith-Cox to serve a one-year term representing the Board of Governors on the Boone County Joint Administrative Board established to facilitate the administration, operation, and financing of joint programs and facilities of Southern West Virginia Community and Technical College and the Boone County Board of Education. Since that time, Ms. Cox resigned her position at Southern. It is recommended the Board of Governors approve Allyn Sue Barker as a replacement representative to serve a one-year term on the Joint Administrative Board.

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
MEETING OF JUNE 22, 2010**

ITEM: Modification of Capital Project Priorities and Expenditures for FY 2011-2012.

RECOMMENDED RESOLUTION: *RESOLVED*, That the Southern West Virginia Community and Technical College Board of Governors approve the modification amounts and priorities of FY-2012 capital projects.

STAFF MEMBER: Samuel Litteral

BACKGROUND:

In compliance with Procedural Rule of the West Virginia Higher Education Policy Commission, Series 12, Capital Project Management 3.2.2.1, annually for the upcoming year, each institution through its Governing Board shall submit a capital budget plan to the Policy Commission on the date and in the format prescribed by the Chancellor. Submission of the annual capital budget plan will coincide with preparation of the annual budget request to the Department of Administration and the information submitted will be used for Policy Commission reports and priorities. Listing a project in the annual capital budget plan establishes an institution's intent to actually initiate a particular project from its five-year capital implementation plan during the upcoming fiscal year.

Southern West Virginia Community and Technical College
 Potential Projects for Bond Funding for FY 2012

Annual Capital Budget

Project Name	<u>Currently Submitted</u>		<u>FY 2012</u>	
	Priority	Amount	Priority	Amount
Williamson Campus Technology Building / Armory Purchase	1	\$ 7,000,000	1	\$ 6,000,000
Logan Campus/District Office Renovation	2	\$ 3,000,000	2	\$ 6,000,000
Williamson Campus Renovations	1(a)	\$ -	3	\$ 6,000,000
Wyoming/McDowell Campus Classroom Renovation	3	\$ 500,000	4	\$ 500,000
Boone Campus Classroom Renovation	4	<u>\$ 1,500,000</u>	5	<u>\$ 1,500,000</u>
Total		\$ 12,000,000		\$20,000,000

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
MEETING OF JUNE 22, 2010**

ITEM: Modification of Capital Project Priorities and Expenditures for FY 2012 - FY 2016

RECOMMENDED RESOLUTION: *RESOLVED*, That the Southern West Virginia Community and Technical College Board of Governors approve the expenditures and priorities of FY 2012- FY 2016 Capital Projects.

STAFF MEMBER: Samuel Litteral

BACKGROUND:

In compliance with Procedural Rule of the West Virginia Higher Education Policy Commission, Series 12, Capital Project Management 3.2.1.1, each institution through its Governing Board shall submit to the Policy Commission for approval its five-year capital implementation plan identifying the projects it intends to undertake during this five-year period. This plan shall be based on the long term development objectives and recommendations in its approved campus development plan. The Chancellor shall establish a process and a format to be followed when submitting five-year capital implementation plans to the Policy Commission for approval.

Southern West Virginia Community and Technical College
 Potential Projects for Bond Funding for FY 2012 - FY 2016

5 Year Capital Budget

Project Name	<u>Currently Submitted</u>		<u>FY 2012 - FY 2016</u>	
	Priority	Amount	Priority	Amount
Williamson Campus Technology Building / Armory Purchase	1	\$ 10,000,000	1	\$ 6,000,000
Logan Campus/District Office Renovation	2	\$ 4,500,000	2	\$ 6,000,000
Williamson Campus Renovations	1(a)	\$ -	3	\$ 6,000,000
Wyoming/McDowell Campus Classroom Renovation	3	\$ 1,500,000	4	\$ 1,500,000
Boone Campus Classroom Renovation	4	<u>\$ 4,000,000</u>	5	<u>\$ 4,000,000</u>
Total		\$ 20,000,000		\$23,500,000

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
MEETING OF JUNE 22, 2010**

ITEM: SCP-4786, *Transfer Student Requirements and Credit Evaluation*

RECOMMENDED RESOLUTION: *RESOLVED*, That the Southern West Virginia Community and Technical College Board of Governors grant final approval for SCP-4786, *Transfer Student Requirements and Credit Evaluation*, following the 30-day public comment period.

STAFF MEMBER: Prudence Barker

BACKGROUND:

This policy was originally created in 1984 and was reviewed again in 2000. The Enrollment Services Unit last reviewed the policy in August 2009, and presented it to the Executive Council for discussion on September 1, 2009. During this review, it was concluded that a majority of the content in this policy was duplicated in SCP-4825, *Transfer of Student Credit Hours From Another Institution*, and resolved to incorporate relative information into revisions of SCP-4786. Additionally, the Enrollment Services Unit recommended SCP-4825 for rescission.

At its October 15, 2009 meeting, the Southern West Virginia Community and Technical College Board of Governors (Board) approved advancement of both policies SCP-4786 and SCP-4825 for a 30-day public comment period which expired November 18, 2009. No comments were received at the end of the comment period for SCP-4825. Therefore, at its December 8, 2009 meeting, the Board approved a resolution to rescind that policy. However, substantial information was identified as omitted in the revised policy, SCP-4786, during the comment period. This information created substantial changes and a recommendation for final approval was not presented to the Board following the 30-day comment period. The Enrollment Services Unit determined the omitted information was a necessary component and should be included in this policy. Therefore, in March 2010, SCP-4786, *Transfer Student Requirement and Credit Evaluation*, was again revised and reviewed by the Executive Council and presented to the Board at its April meeting for a 30-day public comment period.

The 30-day public comment period ended May 29, 2010 and two comments were received. One comment was grammatical in nature and has been addressed in the final policy. The other comment and response is as follows:

COMMENT: In section 3.7 “. . . the definition of “regionally accredited institution” is inaccurate. The definition as provided is much broader and would include any special or national accrediting body as long as it was recognized by CHEA or USDE. The word “regional” needs to be included in the definition to indicate that the reference is to one of the six regional accrediting bodies in the U.S.”

RESPONSE: The definition of “regionally accredited institution” in Section 3.7 will be revised to include the word “regional” in the definition. Section 3.7 will read as follows: “. . . colleges or universities accredited by a recognized regional accrediting organization that has met the accreditation standards of either the Council for Higher Education Accreditation (CHEA) or the U.S. Department of Education (USDE).”

Having addressed all comments received, it is the recommendation of staff that the Board grant final approval for the policy.

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCP-4786**

SUBJECT: Transfer Student Requirements and Credit Evaluation

REFERENCE: West Virginia Council for Community and Technical College Education, Title 135, Procedural Rule Series 17, *Transferability of Credits and Grades at West Virginia Public Colleges and Universities*; Procedural Rule Series 21, *Standards and Procedures for Undergraduate Admissions at Community and Technical Colleges*; and SCP-3227, *Credit Based on Experience*.

ORIGINATION: July 1, 1984

EFFECTIVE: July 1, 1984

REVIEWED: September 1, 2009

SECTION 1. PURPOSE

- 1.1 The purpose of this policy is to ensure that students applying for admission to Southern West Virginia Community and Technical College receive equitable treatment when transferring college credit hours from an accredited college or university and/or when transferring military credit. All applicants will receive the appropriate evaluation and articulation of credit by Southern in compliance with the West Virginia Council for Community and Technical College Education rules.

SECTION 2. SCOPE AND APPLICABILITY

- 2.1 This policy is applicable to all students.

SECTION 3. DEFINITIONS

- 3.1 Acceptable transfer credit – evaluated academic credit that is considered included within a transfer student’s Southern academic history and may or may not be considered as equivalent to Southern coursework or applicable toward the student’s Southern program certificate/degree requirements. All credit and grades for coursework determined as equivalent or not equivalent to Southern coursework is calculated and included in the overall grade point average. Most common acceptable transfer credit is received from regionally accredited colleges and universities.
- 3.2 Articulation agreement – an agreement between one or more educational institutions establishing and identifying acceptable transfer coursework as equivalent coursework.
- 3.3 Core coursework – also considered general studies courses, are common course requirements recognized by the state that fulfill most state baccalaureate and associate degree programs. Most common core coursework would be English composition, communications and literature, mathematics, natural science, and social science.
- 3.4 Equivalent course credit – acceptable transfer credit that has been evaluated by comparison of the transfer course description and Southern’s course description and determined to be equal in educational content.

- 3.5 Fully admitted – student status upon submission of all required documents for admission to Southern.
- 3.6 Non-traditional credit – recognized academic credit from other educational and/or life experiences or programs that are not typically provided by a traditional college or university as academic credit. Military, apprenticeship, and workplace experiences are the most common of this type of academic credit.
- 3.7 Regionally accredited institution – colleges or universities accredited by a recognized regional accrediting organization that has met the accreditation standards of either the Council for Higher Education Accreditation (CHEA) or the U.S. Department of Education (USDE).
- 3.8 Traditional credit – recognized academic credit commonly identified by a college or university as typical college coursework. Traditional credit would be commonly listed on an official transcript with the transfer course title, subject, credit, grade, and grade point average.
- 3.9 Transcript – an official document of coursework with completed credit(s), grade(s) and academic history from a college, university, and/or military authority.
- 3.10 Transfer credit – credit received for courses taken at other educational institutions and submitted for evaluation and articulation at Southern for determination of acceptable and/or equivalent college credit towards Southern’s academic programs.
- 3.11 Transfer student – a student admitted to Southern who has previously attended another college or university.
- 3.12 Unacceptable transfer credit – evaluated academic credit and grades that is not considered included within a transfer student’s Southern academic history and not applicable toward Southern program certificate/degree requirements or overall grade point average.

SECTION 4. POLICY

- 4.1 In accordance with the West Virginia Council for Community and Technical College, Title 135, Procedural Rule Series 17, *Transferability of Credits and Grades at West Virginia Public Colleges and Universities*, it is Southern’s policy that any student who has been fully admitted to Southern and who seeks an Associate Degree or Certificate will be provided fair and equitable consideration in the evaluation and articulation of transfer credit hours and grades received from any regionally accredited college or university. Consideration will be provided to transfer students in determination of acceptable credit from other accredited and educational institutions following appropriate state and institutional procedures.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 Southern is accredited by and follows standards set forth by the accrediting organization, the Higher Learning Commission of the North Central Association of Colleges and Schools, when evaluating and determining transfer credit. Southern will consider evaluation of transfer credit from any regionally accredited college or university recognized by the Council for Higher Education Accreditation, CHEA, and/or the U.S. Department of Education, USDE.
- 5.2 Students in the Board of Governors Associate in Applied Science Adult Degree Completion Program are an exception to this policy. Per West Virginia Council for Community and Technical College Board of Governors Associate in Applied Science Adult Degree Completion Program Administrative Guidelines, in order to receive Southern’s Board of Governors AAS, students transferring into this program must complete at least 12 hours at a regionally accredited higher education institution, including a total of 3 hours credit at

Southern West Virginia Community and Technical College. Credit for this program will be evaluated on a case by case basis following the guidelines of SCP-3227, *Credit Based on Experience*.

- 5.3 Evaluation of credit for any West Virginia Higher Education Policy Commission or West Virginia Council for Community and Technical College Education established cooperative programs will follow guidelines and directives set forth by said entities.

SECTION 6. GENERAL PROVISIONS

- 6.1 Transfer credit determined as acceptable and/or equivalent credit by Southern will include the transfer credit grade(s) listed on the transcript after the grade(s) are reviewed and articulated as equivalent to Southern's standard grading system. Articulated grades will be calculated in the student's overall grade point average.
- 6.2 The Core Coursework Transfer Agreement between the Higher Education Policy Commission and the West Virginia Community and Technical College System will be followed in the evaluation of students' core coursework transferring from a state university or college. The agreement establishes hours of coursework acceptable for transfer that will count toward fulfillment of general studies requirements.
- 6.3 Established articulation agreements between Southern and other schools will be used as a basis for determining transfer credit for those schools.
- 6.4 Evaluation of students' transfer credit from a college or university that does not have an established articulation agreement with Southern will be reviewed upon comparison of course descriptions found in the transferring institution's catalog or course documentation from the transfer institution.
- 6.5 Evaluation of military credit will be based upon the recommendation listed in the current *American Council Education Handbook, Guide to the Evaluation of Armed Forces Experiences*.
- 6.6 Evaluation of credit for courses taken at an institution that is not regionally accredited may be considered on a case by case basis with submission of documentation from the institution, such as course description or syllabus. The Vice-President of Academic Affairs or designee and the Registrar or designee will evaluate the submitted documentation and determine if coursework is acceptable as credit.

SECTION 7. RESPONSIBILITIES AND PROCEDURES

- 7.1 Transfer students are required to apply for admission to Southern and submit an official transcript from all previous colleges by the appropriate official from the transferring institution.
- 7.2 The transfer student is responsible for requesting official transcripts from the transferring institution(s).
- 7.3 Students with completed military training are required to apply for admission to Southern and are responsible for submission of military record of training before credit evaluation is considered.
- 7.4 Receipt of all official transcripts must be received by Southern to be considered fully admitted.
- 7.5 After receipt of student's official transcripts from a regionally accredited institution to Southern's Central Records office, the Dean of Enrollment Services/Registrar or designee, and when necessary in consultation with the Vice President for Academic Affairs or designee, will evaluate and articulate all courses and determine courses acceptable or not acceptable as transfer or equivalent Southern courses. All acceptable transfer course credits and grades will be electronically recorded and included in the student's academic record, including those courses determined as not equivalent to Southern courses. The transfer student will be

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
MEETING OF JUNE 22, 2010**

ITEM: Mission Statement

RECOMMENDED RESOLUTION: *RESOLVED*, That the Southern West Virginia Community and Technical College Board of Governors grant final approval for the adoption of the proposed Mission Statement following the 30-day public comment period.

STAFF MEMBER: Merle Dempsey

BACKGROUND:

Southern is entering the planning phase of the self-study process required to maintain institutional accreditation through the Higher Learning Commission of the North Central Association of Colleges and Schools (HLC). Following the completion of the self-study process and resulting report, an on-campus visit by an HLC team will be scheduled for the 2012-2013 academic year. One of the first steps in this self-study process is a review of the institution's Mission Statement.

On August 10, 2009, all Southern employees were given the opportunity to review and suggest changes to the institution's Mission Statement. The suggestions received were presented to the Executive Council and President Tomblin and a new Mission Statement for Southern was formed.

Southern's Board of Governors approved the issuance of the new Mission Statement for a 30-day public comment at its April 27, 2010 meeting. The comment period expired on May 29, 2010 and no comments were received. Therefore, it is recommended that the Board of Governors grant final approval for the adoption of the institution's new Mission Statement as presented below:

It is the mission of Southern West Virginia Community and Technical College to provide accessible, affordable, quality education and training while promoting lifelong learning for those we serve.

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
MEETING OF JUNE 22, 2010**

ITEM: SCP-5066, Third-Party Tuition and Fee Waiver Policy

RECOMMENDED RESOLUTION: *RESOLVED*, That the Southern West Virginia Community and Technical College Board of Governors grant approval for the distribution of the proposed Third-Party Tuition and Fee Waiver Policy to Southern's constituencies and the Chancellor for Community and Technical College Education for a 30-day public comment period.

STAFF MEMBER: President Tomblin

BACKGROUND:

Based on West Virginia State Code §18B-10-9, the governing boards of institutions of higher education have the authority to waive the collection of required tuition and other fees for any institute, workshop, special course or other educational program which is wholly financed by a grant from any federal, state or local agency or through any foundation, corporation or other association or person. All tuition and fees, with the exception of indirect costs of administration and other overhead expenses, may be waived in such instances.

Prior to the creation of local boards for community and technical colleges, a systemwide policy regarding Third-Party Tuition and Fee Waivers (Series 40) was administered through the West Virginia Board of Directors of the State College System. When local boards were created, the system policy was eliminated and authority for policy in this area was transferred to the boards of governors.

The policy presented for consideration by the Southern West Virginia Community and Technical College Board of Governors establishes institutional policy regarding the approval of tuition and/or fee waivers for students participating in certain educational courses and/or programs sponsored by third-parties and offered for academic credit by Southern West Virginia Community and Technical College.

President Tomblin and Merle Dempsey will provide additional information if needed.

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCP-5066**

SUBJECT: Third-Party Tuition and Fee Waivers
REFERENCE: West Virginia Code § 18B-10-9
ORIGINATION: March, 2010
EFFECTIVE: (Upon approval by the Board of Governors)
REVIEWED: (New Policy)

SECTION 1. PURPOSE

- 1.1 To establish institutional policy regarding the approval of tuition and/or fee waivers for students participating in certain educational courses and/or programs sponsored by third-parties and offered for academic credit by Southern West Virginia Community and Technical College (College).

SECTION 2. SCOPE AND APPLICABILITY

- 2.1 This issuance applies to any course, institute, workshop, special course, or other educational program offered for academic credit that are subject to the payment of regular tuition and/or fees by participants for which a third-party sponsor has requested a waiver of such payment of tuition and/or fees.

SECTION 3. DEFINITIONS

- 3.1 For purposes of this policy, the following terms are defined as:
- 3.1.1 *Third-Party Sponsor* means any federal, state or local agency or any foundation, corporation or other association or person wholly financing the costs of an academic, credit-based course, institute, workshop, special course, or other educational program.
- 3.1.2 *Tuition and/or Fee Waiver* means the relinquishment of payment of the standard tuition and/or fees normally charged for enrollment, registration, and participation in an academic, credit-based course, institute, workshop, special course, or other educational program financed by a Third-Party Sponsor.

SECTION 4. POLICY

- 4.1 Pursuant to WV Code (18B-10-9, Southern West Virginia Community and Technical College may enter into agreements whereby a third-party may sponsor and wholly finance a course, institute, workshop, special course, or other educational program offered by the College for academic credit and individual students enrolled in such third-party sponsored offerings shall be excused from the payment of regular, standard tuition and/or other associated fees for such course, institute, workshop, special course, or other educational offering.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 This policy replaces the former Title 131 Interpretive Rule Series 40 of the State College System of West Virginia Board of Directors which was abolished by the Higher Education Policy Commission with the authority to enter into such agreements transferred to the institutional Board of Governors.
- 5.2 This policy does not apply to non-academic credit-based courses, institutes, workshops, or training programs under the auspices of the Economic, Workforce and Community Development Unit of the College.

SECTION 6. GENERAL PROVISIONS

- 6.1 Under the terms of third-party tuition and/or fee waiver agreements, all participants enrolled shall be excused from the payment of the regular, standard tuition and/or fees normally associated with participation in such course, institute, workshop, special course, or other educational program offered by the College for academic credit.
- 6.2 All third-party waiver agreements shall clearly state all costs to be financed by the third-party sponsor. Costs for third-party waiver agreements shall include but are not limited to any direct costs for instruction and instructional materials, such as textbooks, and other indirect costs for administration and overhead expenses.

SECTION 7. RESPONSIBILITIES AND PROCEDURES

- 7.1 Procedures for requesting tuition and/or fee waivers by third-party sponsors shall be established by the Chief Financial Officer and Chief Academic Officer. Such procedures shall be made available to the general public and posted on the College's official web site.
- 7.2 All third-party tuition and/or fee waiver agreements shall be documented through completion of the required College form and shall be signed by the responsible representative(s) of the third-party and College official(s).
- 7.3 The President or her/his designee shall be responsible for approving all third-party tuition and/or fee waiver agreements on behalf of the College.

SECTION 8. CANCELLATION

- 8.1 NONE

SECTION 9. REVIEW STATEMENT

- 9.1 This policy shall be reviewed on regular basis with a time frame for review to be determined by the President or the President's designee. Upon such review, the President or the President's designee may recommend that the policy be amended or repealed.

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
MEETING OF JUNE 22, 2010**

ITEM: SCP-5074, Selection, Adoption and Sale of Textbooks and Other Course Materials

RECOMMENDED RESOLUTION: *RESOLVED*, That the Southern West Virginia Community and Technical College Board of Governors grant approval for the distribution of the aforementioned policy to Southern's constituencies and the Chancellor for Community and Technical College Education for a thirty-day comment period.

STAFF MEMBER: Samuel Litteral

BACKGROUND:

During its April 15, 2010 meeting, the West Virginia Council for Community and Technical College Education approved Series 51, Bookstores and Textbooks. This rule, effective May 22, 2010, was the outcome of the Statewide Task Force on Textbook Affordability appointed by the two Chancellors in 2008. The Task Force held public hearings across the state, met with text book publishers and examined research and studies on this topic generated in other states. In Fall 2009, the Task Force issued its report; one of the recommendations was for the Council for Community and Technical College Education and the Higher Education Policy Commission to promulgate a rule addressing those issues.

W.Va. Code §18B-10-14 mandates each governing board shall adopt rules governing bookstores and the selection of textbooks and other course materials. Series 51 is intended to guide governing boards in their adoption of rules mandated by W.Va. Code § 18B-10-14.

As a result the Finance Unit, along with Executive Vice President Merle Dempsey, developed SCP-5074, Selection, Adoption and Sale of Textbooks and Other Course Materials to comply with Series 51. Therefore, the staff recommends the Board of Governors advance this policy to Southern's constituencies and the Chancellor for Community and Technical College Education for a thirty-day comment period.

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCP-5074**

SUBJECT: Selection, Adoption, Use and Sale of Textbooks and Other Course Materials

REFERENCE: West Virginia Code §18B-10-14
Title 135, Procedural Rule, West Virginia Council for Community and Technical College
Education, Series 51, Bookstores and Textbooks
Public Law 110-315, Higher Education Opportunity Act, August 2008

ORIGINATION: June 2010

EFFECTIVE: (Upon approval by the Board of Governors)

REVIEWED: (New Policy)

SECTION 1. PURPOSE

1.1 The purpose of this policy is to establish and communicate the rule of Southern West Virginia Community and Technical College regarding the selection, adoption, use and sale of textbooks and other course materials for all credit-based College courses and programs in compliance with state and federal requirements.

SECTION 2. SCOPE AND APPLICABILITY

2.1 This policy applies to the selection, adoption and use of textbooks and other course materials by faculty in all academic units, departments, programs and/or courses and addresses the sale of the adopted textbooks and materials by bookstores operated and/or contracted by Southern West Virginia Community and Technical College.

SECTION 3. DEFINITIONS

3.1 None

SECTION 4. POLICY

4.1 It is the policy of Southern West Virginia Community and Technical College (College) to comply with the mandates of Series 51 of the Rules and Administrative Procedures of the West Virginia Council for Community and Technical College Education (Council) and the requirements of the Higher Education Opportunity Act (HEOA) regarding the selection, adoption, use and sale of textbooks and other course materials as well as the regulations pertaining to the operation of bookstores.

4.2 Employees of the College will comply with the above cited mandates and the institutional procedures established in respect to the selection, adoption and use of textbooks and other course materials for all academic credit-based courses offered by the College at all campuses, instructional sites and course locations.

4.3 Employees of the College, or those employed by contractors for purposes of operating College bookstores, shall comply with the above cited mandates and the institutional procedures established in respect to the sale of textbooks and other course materials.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 Series 51 requires the Board of Governors to promulgate a rule that fully and adequately addresses the mandates in WV Code (18B-10-14 regarding the actions of employees of the institution in the selection and adoption of textbooks and course materials. These mandates include:
- 5.1.1 Faculty must commit, to the maximum percent practicable, to a selection procedure that will ensure certain basic textbooks will be utilized for a reasonable number of consecutive years without new editions being adopted unless earlier editions are not easily utilized in the courses.
 - 5.1.2 Faculty or any employee are prohibited from receiving any payment, loan, subscription, advance, deposit, or money, service benefit or thing of value, present or promised, as an inducement for requiring students to purchase a specific textbook or supplemental course material.
 - 5.1.3 Faculty or any employee may receive royalties or other compensation from such sales that include the faculty member or other employee's own writing or work.
 - 5.1.4 Faculty or any employee may receive free sample copies, instructor's copies, and instructional materials for review but shall not resell those items and retain the proceeds.
 - 5.1.5 Faculty or any other employee are prohibited from requiring for any course a textbook that includes his or her own writing or workbook if the textbook or workbook incorporates either detachable worksheets or workbook-style pages intended to be written on or removed from the book.
- 5.2 In addition, Series 51 requires the institutional rule to address the mandates of WV Code (18B-10-14 related to the actions of employees and bookstores operated or contracted by the College regarding the sale of textbooks and course materials. These mandates require that the institution:
- 5.2.1 Provide specific mechanisms to minimize the costs to students for textbooks and course materials.
 - 5.2.2 Commit to, the maximum percent practicable, the number of used books the bookstore will repurchase from students at the end of each semester.
 - 5.2.3 Commit to, the maximum percent practicable, a range of percentage of repurchase prices based on the new textbook price.
- 5.3 Series 51 also requires that institutional policy comply with the mandates of Public Law 110-315, the Higher Education Opportunity Act enacted on August 14, 2008 in the selection, adoption, and use of textbooks and course materials. This law requires that:
- 5.3.1 Prior to considering a specific textbook for selection, adoption, and/or use, faculty must require that textbook publishers provide, in writing:
 - 5.3.1.1 The price of the textbook and/or supplemental course materials to be considered;
 - 5.3.1.2 The copyright dates of the three previous editions, if any;
 - 5.3.1.3 A description of substantial content revisions from previous editions;
 - 5.3.1.4 Whether the textbook is available in other lower cost formats and, if so, the price to the institution and the general public;
 - 5.3.1.5 The price of textbooks unbundled from supplemental materials; and,
 - 5.3.1.6 The same information, to the extent practicable, for custom textbooks.
 - 5.3.2 No employee shall select or assign a textbook or supplemental course material if the publisher has not supplied the required information in section 5.3.1 in writing.

SECTION 6. GENERAL PROVISIONS

- 6.1 Institutional procedures for the selection, adoption and use of textbooks and/or supplemental course materials shall be developed through an inclusive process under the direction of the Chief Academic Officer. Such procedures shall include the following:
- 6.1.1 Firm deadlines for faculty to be assigned to courses;
 - 6.1.2 Firm deadlines for the selection, adoption and placement of orders with the College bookstore for textbooks and supplemental course materials to be used in each course;
 - 6.1.3 For deadlines not met, to the maximum extent practicable, there shall be a mechanism in place reasonably calculated to ensure that used textbooks, if available, can be located and purchased by the time of enrollment each semester. This mechanism should include, but is not limited to, such measures as default selection of certain textbooks, continuing to use the previous textbook, or having the Department Chair or Division Dean select the textbook. Any such textbook default selection must be strictly enforced and faculty not be allowed to change the selection.
 - 6.1.4 Guidelines to be used by faculty in the selection, adoption and use of textbooks and supplementary course materials include the following:
 - 6.1.4.1 Faculty must consider more than one textbook publisher;
 - 6.1.4.2 Faculty must compare prices for textbooks and supplemental course materials in their consideration for selection and adoption;
 - 6.1.4.3 A simple form stating that the required information as stated in section 5.3.1 was or was not provided by the publisher must be submitted to the Division Dean in support of the adoption of any textbook or supplemental course material; and,
 - 6.1.4.4 Procedures for textbook selection and adoption must include a requirement that a textbook be used for a minimum of three academic years before any change is considered, to the extent practicable.
 - 6.1.4.5 Textbooks and supplemental course materials from publishers who refuse to submit the required, written information by established deadlines shall not be considered for future selection, adoption, and/or use for a minimum of three academic years from the date of such failure.
 - 6.1.4.6 Discourage the selection and adoption of textbooks in which less than 50 percent of the content will be used in the course unless the same textbook will be used in subsequent courses;
 - 6.1.4.7 Encourage the use of textbooks that have low cost alternative editions available;
 - 6.1.4.8 Encourage the selection of textbooks it is believed will not be revised by the publisher within the next 3 years;
 - 6.1.4.9 Encourage the use of consortia which make available open source textbooks or course materials to faculty and students free or at low cost; and,
 - 6.1.5. Encourage the use of various technology innovations for the provision of textbooks and course materials such as electronic textbooks, on-line textbooks, print-on-demand services, open source materials, and institutionally produced materials.
- 6.2 Institutional procedures for sharing of information with currently admitted and potential students regarding all required and/or recommended textbooks and supplemental course materials shall be developed through an inclusive process under the direction of the Chief Financial Officer. Such procedures shall include the following.

- 6.2.1 Information on all required or recommended textbooks and supplemental materials shall be prominently posted in a central location on each campus, in every campus bookstore, and on the institution's website prior to the designated registration period for each semester.
 - 6.2.2 The information provided shall include the International Standard Book Number (ISBN) and retail price.
 - 6.2.3 If the ISBN is not available, then the author, title, publisher and copyright date shall be provided.
 - 6.2.4 If the required information cited in 6.2.2 and 6.2.3 to be disclosed is not available, then the designation "To be Determined" shall be used.
- 6.3 The College shall include a link on the institutional website any provisions for rental of textbooks, purchase of used textbooks, textbook repurchase or buyback and any alternative content delivery programs available.

SECTION 7. RESPONSIBILITIES AND PROCEDURES

- 7.1 The Chief Academic Officer, through a collaborative and inclusive process, shall be responsible for developing academic unit, division, department, and/or program procedures and assigning responsibilities for the implementation of all sections of this policy applicable to faculty and other employees under the direction of the Academic Affairs Unit.
- 7.2 In addition to the requirements set forth in previous sections of this policy, the Chief Academic Officer shall:
- 7.2.1 Include training for all faculty, at the time of hire and periodically thereafter, on textbook selection and strategies that guarantee high quality course materials at the most affordable cost;
 - 7.2.2 Designate the Division Deans to serve as liaisons with textbook publishers and to be responsible for dissemination of relevant information to their respective division faculty on textbook strategies and education and training opportunities regarding textbook selection; and,
 - 7.2.3 Enforce the policies of the Board of Governors concerning textbook selection, adoption, and use.
- 7.3 The Chief Financial Officer, through a collaborative and inclusive process, shall be responsible for developing procedures and assigning responsibilities for the implementation of the sections of this policy applicable to the bookstore and other employees under the direction of the Finance Unit.
- 7.4 In addition to the requirements set forth in previous sections of this policy, the Chief Financial Officer shall:
- 7.4.1 Direct an examination of the feasibility of operating a textbook rental program;
 - 7.4.2 Establish a permanent Textbook Affordability Committee consisting of a representative from the faculty, students, administrators and bookstore representatives. The Textbook Affordability Committee shall:
 - 7.4.2.1 Meet periodically but at least annually;
 - 7.4.2.2 Advise the faculty senate, student government association(s), administration, and Board of Governors on affordability issues and initiatives, textbooks selection guidelines and procedures, and educational opportunities;
 - 7.4.2.3 Meet annually with the Board of Governors to make recommendations and provide reports it may have generated with copies to be forwarded to the Chancellor.

SECTION 8. CANCELLATION

- 8.1 SCP-3780, Textbook Selection Policy, and SCP-5075, Bookstore Textbook Procedures

SECTION 9. REVIEW STATEMENT

9.1 This policy shall be reviewed and updated on a regular basis to comply with any future federal mandates with a time frame for review to be determined by the President or the President’s designee.

SECTION 10. SIGNATURES

Board of Governors Chair **Date**

President **Date**

Attachments: None

Distribution: Board of Governors (12 members)
www.southernwv.edu

Revision Notes: June 2010 - This is a new policy and addresses the requirements of Series 51 of the Council for Community and Technical College Education and the mandates of Public Law 110-315, the Higher Education Opportunity Act of August 2008 regarding the selection, adoption, use and sale of textbooks and other course materials. This policy supersedes any and all previous policies pertaining to these subjects and related bookstore procedures.

Southern West Virginia Community and Technical College
Board of Governors Meeting of June 22, 2010
Agenda Items for Discussion

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2. Board of Governors Retreat Agenda Topics and Speaker President Tomblin

Southern West Virginia Community and Technical College
Board of Governors Meeting of June 22, 2010
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RECEIVED

MAY 24 2010

PRESIDENT'S OFFICE

May 19, 2010

Kevin N. Fowler, Board of Governors, Chair
Southern West Virginia Community and Technical College
PO Box 2900
Dempsey Branch Road
Mount Gay, WV 25637

Attention: Board of Governors

This letter is intended to communicate certain matters related to the planned scope and timing of our audit of Southern West Virginia Community and Technical College's (the College) financial statements and compliance as of and for the year ended June 30, 2010.

Communication

Effective two-way communication between our firm and the members of the Board of Governors is important to understanding matters related to the audit and in developing a constructive working relationship.

Your insights may assist us in understanding the College, and its environment, in identifying appropriate sources of audit evidence, and in providing information about specific transactions or events. We will discuss with you your oversight of the effectiveness of internal control and any areas where you request additional procedures to be undertaken. We expect that you will timely communicate with us any matters you consider relevant to the audit. Such matters might include strategic decisions that may significantly affect the nature, timing and extent of audit procedures, your suspicion or detection of fraud, or any concerns you may have about the integrity or competence of senior management.

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A Professional Limited Liability Company

We will timely communicate to you any fraud involving senior management and other fraud that causes a material misstatement of the financial statements, illegal acts that come to our attention unless they are clearly inconsequential, and disagreements with management and other serious difficulties encountered in performing the audit. We also will communicate to you and to management any significant deficiencies or material weaknesses in internal control that become known to us during the course of the audit. Other matters arising from the audit that are, in our professional judgment, significant and relevant to you in your oversight of the financial reporting process will be communicated to you in writing after the audit.

Independence

Our independence policies and procedures are designed to provide reasonable assurance that our firm and its personnel comply with applicable professional independence standards. Our policies address financial interests, business and family relationships, and nonaudit services that may be thought to bear on independence.

The Audit Planning Process

Our audit approach places a strong emphasis on obtaining an understanding of how your entity functions. This enables us to identify key audit components and tailor our procedures to the unique aspects of your entity. The development of a specific audit plan will begin by meeting with you and with management to obtain an understanding of business objectives, strategies, risks and performance.

We will obtain an understanding of internal control over financial reporting and compliance with laws, regulations, and provisions of contracts and grant agreements to assess the impact of internal control on determining the nature, timing, and extent of audit procedures, and we will establish an overall materiality limit for audit purposes. We will conduct formal discussions among engagement team members to consider how and where your financial statements might be susceptible to material misstatement due to fraud or error or to instances of noncompliance.

We will use this knowledge and understanding, together with other factors, to first assess the risk that errors or fraud may cause a material misstatement at the financial statement level. The assessment of the risks of material misstatement at the financial statement level provides us with parameters within which to design the audit procedures for specific account balances and classes of transactions. Our risk assessment process at the account-balance or class-of-transactions level consists of:

An assessment of inherent risk (the susceptibility of an assertion relating to an account balance or class of transactions to a material misstatement, assuming there are no related controls); and

An evaluation of the design effectiveness of internal control over financial reporting and our assessment of control risk (the risk that a material misstatement could occur in an assertion and not be prevented or detected on a timely basis by the College's internal control).

Similar assessments will also be made relative to compliance with laws, regulations, and provisions of contracts and grant agreements.

We will then determine the nature, timing and extent of tests of controls and substantive procedures necessary given the risks identified and the controls as we understand them.

The Concept of Materiality in Planning and Executing the Audit

In planning the audit, the materiality limit is viewed as the maximum aggregate amount of misstatements, which if detected and not corrected, would cause us to modify our opinion on the financial statements. The materiality limit is an allowance not only for misstatements that will be detected and not corrected but also for misstatements that may not be detected by the audit. Our assessment of materiality throughout the audit will be based on both quantitative and qualitative considerations. Because of the interaction of quantitative and qualitative considerations, misstatements of a relatively small amount could have a material effect on the current financial statements as well as financial statements of future periods. At the end of the audit, we will inform you of all individual unrecorded misstatements aggregated by us in connection with our evaluation of our audit test results.

Our Audit Approach to Internal Control and Compliance Relevant to the Audit

Our audit of the financial statements will include obtaining an understanding of internal control sufficient to plan the audit and to determine the nature, timing, and extent of audit procedures to be performed. An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Our review and understanding of the College's internal control is not undertaken for the purpose of expressing an opinion on the effectiveness of internal control.

We will issue reports on internal control related to the financial statements. These reports describe the scope of testing of internal control and the results of our tests of internal controls. Our reports on internal control will include any significant deficiencies and material weaknesses in the system of which we become aware as a result of obtaining an understanding of internal control and performing tests of internal control consistent with the requirements of the Government Auditing Standards issued by the Comptroller General of the United States.

We will issue reports on compliance with laws, regulations, and the provisions of contracts or grant agreements. We will report on any noncompliance which could have a material effect on the financial statements. Our reports on compliance will address material errors, fraud, abuse, violations of compliance requirements and other responsibilities imposed by state and Federal statutes and regulations and assumed contracts; and any state or Federal grant, entitlement or loan program questioned costs of which we become aware, consistent with the requirements of the standards and circular identified above.

Timing of Procedures

We have scheduled the final fieldwork commencing during August 2010. Management's adherence to its closing schedule and timely completion of information used by us in performance of the audit is essential to meeting this schedule and completing our audit on a timely basis.

Engagement Team

Chris Deweese, Engagement Member, will continue to be responsible for coordination of audit and other services to the College. Kelly Shafer will be the on-site supervisor on the engagement.

Closing

This letter is intended solely for the information and use of the members of the Board of Governors of the College and is not intended to be and should not be used by anyone other than the specified parties.

We will be pleased to respond to any questions you have about the foregoing. If you would like to meet with us to further discuss our audit approach and planning, please call me to arrange a meeting at your earliest convenience at (304) 720-3107. We appreciate the opportunity to be of service to the College.

Sincerely,


Suttle & Stalnaker, PLLC

cc: Joanne Jaeger Tomblin, President
Samuel Litteral, Chief Financial Officer

**TITLE 135
PROCEDURAL RULE
COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION**

SERIES 51

BOOKSTORES AND TEXTBOOKS

§135-51-1. General.

1.1. Scope - Rule establishing process and guidelines for institutions to adopt rules governing the selection, adoption, use and sale of textbooks and other course materials.

1.2. Authority - W. Va. Code § 18B-1B-4, 18B-10-14.

1.3. Filing Date - April 22, 2010

1.4. Effective Date - May 22, 2010

§135-51-2. Purpose.

2.1. To require institutions to promulgate rules that fully and adequately address the mandates in W. Va. Code § 18B-10-14 regarding the operation of bookstores and the actions of employees of the institution in the selection and adoption of textbooks and course materials.

2.2. To require institutions to promulgate rules that will effectuate the mandates regarding textbooks and supplementary course materials set out by Congress in the Higher Education Opportunity Act (HEOA) enacted on August 14, 2008, and any successor to that Act.

2.3. To require institutions to promulgate rules addressing the recommendations of the Statewide Task Force on Textbook Affordability contained in the final report of that Task Force jointly adopted by the Higher Education Policy Commission and the Council for Community and Technical College Education (Council).

§135-51-3. West Virginia Code Mandates.

3.1. Each institutional governing board under the jurisdiction of the Council shall promulgate rules that fully and adequately address the statutory mandates of W. Va. Code § 18B-10-14. Specifically, these rules shall, at a minimum:

3.1.1. Provide specific mechanisms to ensure that bookstores operated at institutions under the governing board's jurisdiction minimize the costs to

students for textbooks and course materials. To that end, the governing board rule shall:

3.1.1.1. Commit, to the maximum extent practicable, to the number of used books the bookstore will repurchase from students at the end of each semester.

3.1.1.2. Commit, to the maximum extent practicable, a range of percentage repurchase prices based on the new textbook price.

3.1.1.3. Commit, to the maximum extent practicable, to a selection procedure that will ensure certain basic textbooks will be utilized for a reasonable number of consecutive years without new editions being adopted, or selection of basic textbooks where earlier editions are easily and appropriately utilized in the courses.

3.1.2. Prohibit any employee of the governing board from receiving any payment, loan, subscription, advance, deposit or money, service benefit or thing of value, present or promised, as an inducement for requiring students to purchase a specific textbook or supplemental course materials, provided, however, that an employee may receive royalties or other compensation from such sales that include the employee's own writing or work. An employee may also receive free sample copies, instructor's copies and instructional material but may not resell those items and retain the proceeds.

3.1.3. Prohibit any employee of the governing board from requiring for any course a textbook that includes his or her own writing or workbook if the textbook incorporates either detachable worksheets or workbook-style pages intended to be written in or removed from the textbook. This does not prohibit an employee from requiring as a supplement to a textbook any workbook or similar material which is published independently from the textbook.

3.1.4. Provide firm deadlines for faculty to be assigned to courses and textbooks and course materials to be selected prior to each semester.

3.1.4.1. For those deadlines, to the maximum extent practicable, not met there shall be a mechanism in place reasonably calculated to ensure that used textbooks, if available, can be located and purchased by the time of enrollment each semester to the maximum extent practicable.

3.1.4.2. This mechanism should include, but is not limited to, such measures as default selection of certain textbooks, continuing to use the previous textbook, or having a chair or dean select the

textbook. Any such textbook default selection must be strictly enforced and faculty not be allowed to change the selection

3.1.5. Provide that a listing of all selected textbooks and materials selected and assigned prior to each semester shall be prominently posted immediately after such selection process is completed and the textbook and course materials are designated for order by the bookstore.

3.1.5.1. In a central location on campus communicated to the student body;

3.1.5.2. In every campus bookstore operated at the institution;

3.1.5.3. On the institution's website; and

3.1.5.4. With the International Standard Book Number (ISBN), edition number and any other relevant information regarding each textbook or supplemental course materials.

3.1.6. Provide that by November 1 of each year, the institution shall report to the Chancellor of the Council, for the prior fiscal year, the deadlines established for faculty to be assigned to courses; the deadlines for textbooks and course materials to be selected; the percentages of those deadlines met; and the dates the listing of assigned textbooks and course materials were posted pursuant to the requirements of Section 3.1.5 of this rule.

3.1.7. Provide that all revenue the institution receives from a private entity for bookstore operation is utilized for non-athletic scholarships at the institution.

§135-51-4. Federal Mandates.

4.1. Each institutional governing board under the jurisdiction of the Council shall promulgate rules that fully and adequately address the federal mandates regarding textbooks contained in the Higher Education Opportunity Act of 2008 (Public Law 110-315). Specifically, these rules shall, at a minimum:

4.1.1. Provide that textbook publishers soliciting any employee of the governing board to select textbooks or supplemental course material provide that employee, in writing:

4.1.1.1. The price of the textbook and supplemental course materials;

4.1.1.2. The copyright dates of the three previous editions, if any;

4.1.1.3. A description of substantial content revisions from the previous editions;

4.1.1.4. Whether the textbook is available in other lower cost formats and, if so, the price to the institution and the general public;

4.1.1.5. The price of textbooks unbundled from supplemental material; and

4.1.1.6. The same information, to the extent practicable, for custom textbooks.

4.2.1. Provide that no employee of the governing board shall select or assign a textbook or supplemental course materials if the publisher has not supplied the information, in writing, required by Section 4.1.1 of this rule.

4.3.1. Provide that the institution shall provide on its electronic course schedule, or through a link to its bookstore's website, prior to course enrollment each semester for all required or recommended textbooks and supplemental material:

4.3.1.1. The ISBN number and retail price, or if the ISBN number is not available then the author, title, publisher and copyright date.

4.3.1.2. If such disclosure is not practicable, then the designation "To Be Determined."

4.3.1.3. A reference shall be made on any written course schedule to the information available on the electronic course schedule accessible through the institutional website and the internet address for the electronic course schedule.

4.4.1. Provide that the institution will include on its website or through a link to its bookstore's website and electronic course schedule any of its policies or provisions for:

4.4.1.1. Rental of textbooks;

4.4.1.2. The purchase of used textbooks;

4.4.1.3. Textbook repurchase or buy backs; and

4.4.1.4. Alternative content delivery programs.

4.5.1. Provide that the institution will update its policies to comply with any future federal mandates.

§135-51-5. Textbook Affordability Committee.

5.1. Each institution shall establish a permanent Textbook Affordability Committee consisting of faculty, students, administrators and bookstore representatives which shall meet periodically, but at least annually, to advise the faculty senate, student government, administration, and institutional board of governors on affordability issues and initiatives, textbook selection guidelines and strategies, and educational opportunities.

5.2. The governing board shall annually meet with the Textbook Affordability Committee to receive any recommendations or reports it may have generated and copies of any such recommendations and reports shall be transmitted to the Chancellor of the Council.

§135-51-6. Required Provisions.

6.1. In adopting the policies required by this rule each governing board shall:

6.1.1. Adopt guidelines for faculty in the selection of textbooks and supplementary course materials that ensure appropriate, high quality course materials are selected but give students timely access to the most affordable materials. Institutions are encouraged to consider:

6.1.1.1. Requiring faculty to consider more than one textbook publisher and compare prices for textbooks and course materials;

6.1.1.2. Requiring that all new textbook selections submitted to the appropriate dean or chair for approval be accompanied by a simple form for the faculty member to state whether or not the written information required from the publisher pursuant to Section 4.1.1 of this rule, if requested, was provided;

6.1.1.3. Discouraging selection of textbooks in which less than 50 percent of the content will be used in the course unless the same textbook will be utilized by the student in other courses;

6.1.1.4. Encouraging selection of textbooks that have low cost alternative editions available;

6.1.1.5. Encouraging selection of textbooks it is believed will not be revised by the publisher in the near future;

6.1.1.6. Utilizing consortiums which make available open source textbooks or course materials to faculty and students free or at low cost;

6.1.1.7. Directing an examination of the feasibility of operating a textbook rental program;

6.1.1.8. Providing that the institution shall conduct training for all faculty, at the time of hire and periodically thereafter, on textbook selection and strategies that guarantee high quality course materials at the most affordable cost;

6.1.1.9. Providing that at least one administrator at the institution shall be designated as a liaison with textbook publishers, to be responsible for dissemination of relevant information to the faculty on textbook strategies and education and training opportunities regarding textbook selection, and to enforce the policies the governing board adopts;

6.1.1.10. Providing that the institution, to the maximum extent practicable, consider placing a copy of required textbooks on reserve in the institutional or departmental library;

6.1.1.11. Addressing the issue of providing financial aid to students prior to the start of classes that will allow them to purchase course materials; and

6.1.1.12. Addressing the institution's commitment to utilizing various 21st Century technology innovations for the provision of textbooks and course materials, such as electronic textbooks, on-line textbooks, print-on-demand services, open source materials, and institution produced textbooks.

6.1.1.13. Periodically updating their rules to address emerging technologies or new strategies which address textbook affordability.

§135-51-7. Deadline.

7.1. The rules required by this rule shall be adopted by each governing board within 180 days of the effective date of this rule.

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
 UNDERGRADUATE TUITION & FEE WAIVERS
 6/15/2010**

Authorized Waivers Waivers 91.76

Date: June 15, 2009

	Number Awards			Dollar Value of Waivers		
	In-State	Out-of-State	Total	In-State	Out-of-State	Total
Demonstrated Financial Need:	26.87	0	26.87	\$57,443	\$0	\$57,443
Academic Ability	42.63	0	42.63	\$93,349	\$0	\$93,349
Employee/Dependents	22.13	0	22.13	\$47,727	\$0	\$47,727
Foster Care	0.13	0	0.13	\$352	\$0	\$352
Total	91.76	0	91.76	\$198,871	\$0	\$198,871

Authorized by: Cindy Powers
 Cindy Powers, Director of Student Assistance

Date: 15-Jun-10

RECEIVED

JUN 01 2010

PRESIDENT'S OFFICE

May 24, 2010

Joanne Jaeger Tomblin
President
Southern West Virginia Community & Technical College
Post Office Box 2900
Mount Gay, West Virginia 25637

Dear President Tomblin:

Pursuant to Series 4 of the Council's rules, I have reviewed the following policies adopted by the Southern West Virginia Community and Technical College Board of Governors and hereby approve them.

- SCP-1215 Use of Institutional Facilities
- SCP-3625 University Transfer Evaluation Model
- SCP-3736 Student Standards of Academic Progress
- SCP-5830 Use of Southern West Virginia Community and Technical College Vehicles

Should you have questions or need clarification, please contact me.

Sincerely,

James L. Skidmore
Chancellor

cc: Board of Governors
Merle Dempsey
Sam Litteral
Katie Smith-Cox



A Guide to the West Virginia Open Governmental Proceedings Act

(W. Va. Code §§ 6-9A-1 through 12)

Also known as the “Sunshine Law” or “Open Meetings Law”



WEST VIRGINIA ETHICS COMMISSION

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The [Open Meetings Act](#) generally requires that meetings of a public agency's governing body be open to the public and the media, and that reasonable notice of the meeting and its agenda be given in advance.

General Information on Open Meetings Act

Who is covered?

The Act covers all administrative and legislative units of state, county and municipal government including any subunit (e.g. committees) authorized by law to exercise some portion of executive or legislative power. The Act does **not** apply to courts or private organizations that receive government funding.

What is a governing body?

Two or more members of a public agency who have the authority to make decisions for, or recommendations to, the public agency on policy or administration is considered a governing body.



What is a meeting for purposes of the Open Meetings Act?

A “meeting” covered by the Act is a convening of a quorum of a governing body or subcommittee in order to make a decision or to deliberate towards a decision.



Meetings may be held by telephone conference or other electronic means, such as video conferencing. In these instances, governing bodies must ensure that all their members can hear, and be heard by, each other and any media or member of the public present at the meeting.

When a quorum of a governing body discusses issues of interest upon which the governing body expects to take some official action, then this is a meeting. If this discussion takes place outside the confines of a public meeting—whether in person, by telephone, email or other telecommunication means — it is an illegal meeting.

What gatherings are not meetings subject to the Open Meetings Act?

General discussions among members of a governing body or committee on issues of interest to the public in a social, educational, training, informal, ceremonial or similar setting, so long as there is no intent to conduct public business or for the discussion to lead to official action, are not gatherings subject to the Open Meetings Act.

Adjudicatory proceedings, on-site inspections, a political party caucus, and discussions on logistical and procedural methods to schedule and regulate a meeting are also not matters covered by the Open Meetings Act.

Notice and Agenda

How much advance notice of a meeting is necessary?

Public notice of the meeting date and agenda must be made available in advance of a meeting to the public and news media.

Every public agency must establish rules for giving advance notice of all regularly scheduled and special meetings. W.Va. Code § 6-9A-3. In addition, the Open Meetings Committee of the West Virginia Ethics Commission, through the issuance of advisory opinions, has established rules which establish how much advance notice is required.





How do I calculate days for purposes of the Open Meetings Act?

In calculating days, do not count the day of the meeting, weekend days or State or Federal Holidays.

When and how do I post a Notice?

State Agencies - State executive branch agencies must file their notices with the Secretary of State's Office to appear in the State Register at least **five** calendar days before the meeting.

Local Governing Bodies - Notice must be given in a reasonable manner. When a governing body meets in accordance with a fixed schedule, such as the second and fourth Monday of each month, it may comply with the meeting notice requirement in the Act by annually posting notice of the date, time and place of these "regular" meetings or "regular subcommittee" meetings for the coming year, and keeping this notice posted throughout the year.



Regular meetings – For governing bodies which do not have a fixed schedule, these bodies may comply with the Open Meetings Act by posting a notice **three** business days in advance of the meeting.

Special meetings - When a governing body meets on an irregular schedule, or needs to meet before the next regularly scheduled meeting to address matters that do not involve an emergency, these are considered "special meetings." Notices must be posted **two** business days in advance of the meeting.

What must a notice include?

Notice must include the date, time and place of the meeting. For special meetings or emergency meetings, the notice must state the purpose.

When do I post the Agenda?

Regular meeting – **three** business days before the meeting.

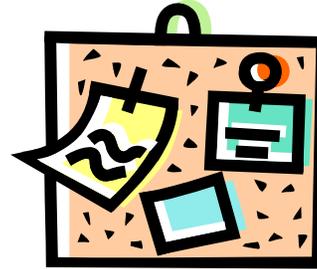
Special meeting- **two** business days before the meeting.

Emergency meeting – As soon as practicable

Where and how do I post an agenda?

A governing body complies with the Act by posting its meeting agenda for each regularly scheduled meeting in a public place at its central office, as well as having copies of the agenda available to be picked up at the same location during regular business hours.

In addition, in its discretion, it may distribute agendas to the news media by mail, telephone facsimile or E-mail, or the agenda may be posted on the governing body's internet website, if it has one. While additional dissemination to the public and the media is encouraged, failure to provide an agenda by such additional means will not invalidate an otherwise proper public meeting.



What about governing bodies which meet weekly?

For governing bodies which meet weekly, different rules apply. The agenda may be issued **two** business days before the meeting.

May I amend an agenda?

Yes. The agenda may be amended up to two business days before the meeting. If you amend the agenda, you must repost the agenda following the procedure you used to post the original agenda. The only circumstances under which a governing body may amend an agenda during a meeting is if a true emergency arises.

How specific must an agenda be?

Agendas must give reasonable notice to the public of every issue that will be discussed. Specifically, any matter requiring the governing body to take official action must be listed on the agenda. For example, "filling position of office manager" would be sufficient. Use of vague headings such as "old business" and "new business" is clearly insufficient. The public should also be given notice of significant additions or changes to the agenda, as noted above. Each governing body should have rules on how such notice will be given.



Minutes

Should minutes be prepared?

The Act requires that written minutes of all open meetings be available to the public within a reasonable time after the meeting. The minutes must include:



- The date, time and place of the meeting.
- The name of each member of the governing body present and absent.
- All motions, orders, resolutions, ordinances and measures proposed, the name of the person proposing each action and the disposition of the matter.
- The results of all votes, including roll call votes by member name, if such votes are conducted.

Emergency Meetings

What is an emergency?

Governing bodies should exercise caution when calling an **emergency meeting**. Ordinarily, an “emergency” involves an unexpected situation or sudden occurrence of a serious nature, such as an event that threatens public health and safety.



Every unexpected or sudden event does not constitute an emergency. For example, employing an attorney to assist the governing body does not constitute an emergency. Likewise, acting on a questionable bill for legal services does not constitute an emergency.



Is immediate action required?

When in doubt as to what constitutes an emergency, ask what are the consequences if the governing body does not act immediately. If it can wait 2 business days without significant adverse consequences, then you should call a special meeting instead. Or, call the Ethics Commission to discuss the situation with staff.

In order to satisfy the terms of an emergency meeting exemption, not only must a matter involve an emergency, the governing body must be required to take immediate official action in response to the situation.

For example, if a flood were to contaminate a town's water supply, the council may be required to approve various actions to protect public health and restore the system to safe operation.

Must a notice or an agenda be posted?

For an **emergency meeting**, the notice must be posted as soon as practicable. The notice must set forth the reason for, and purpose of, the emergency meeting. Similarly, governing bodies that wish to add emergency matters to their meeting agenda must post an amended agenda which includes the emergency item. The amended agenda shall further explain the facts and circumstances which warrant adding the emergency item to the agenda.

Are written minutes required for an Emergency Meeting?

Yes. The explanation for the emergency must be repeated during the meeting and set forth in the written minutes of the meeting.

Executive Sessions

When may a governing body go into an executive session?

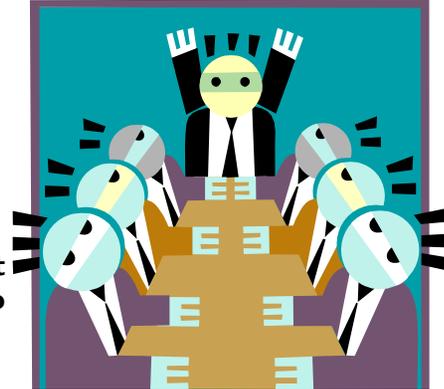
A governing body may go into an executive session for any of the reasons set forth in the Open Meetings Act at W.Va. Code § 6-9A-4. Some common grounds for going into an executive session are to discuss personnel matters, pending litigation, to consider matters involving the purchase, sale or lease of real property, or to plan or consider an official investigation.



How do you convene an executive session?

A member of the governing body must make a motion to go into executive session. The motion must state in plain language the grounds for convening an executive session.

For example, a member may state that he or she is moving to go into executive session based upon the personnel exception. It is not necessary to cite the specific code provision. A governing body may go into executive session to discuss **only** matters that appear on the meeting agenda.



Must the agenda state that the governing body will go into executive session?

No. In fact, a governing body may not decide in advance of a meeting that it will go into executive session. The agenda **may** indicate that it is anticipated that a matter may be discussed in executive session, but the governing body may only go into executive session by a majority vote of the members present.

The agenda item must be descriptive enough to put the public on notice of the nature of the matter being discussed regardless of whether it will be discussed in an open session or executive session.

For example, an agenda item to discuss pending litigation may read, “Discuss pending lawsuit of “Smith v. Jones” with Legal Counsel.” Once again, generic agenda items such as “Discuss pending litigation” are too vague to adequately put the public on notice as to the matter to be discussed.

May a governing body vote on matters in executive session?

No. Votes may not be taken in an executive session. Instead, the governing body may only vote once it reconvenes in an open session.

One exception is that a governing body may vote to give its attorney settlement authority in an executive session. The fact that a governing body has authorized its attorney to engage in settlement negotiations and/or has set a settlement range is not required to be disclosed. If a settlement is reached, then the settlement agreement, including the amount, becomes a matter of public record.



Is a governing body required to take minutes for an executive session?

No. The decision of whether or not to take minutes for an executive session lies within the discretion of the governing body. The governing body may want to seek the advice of legal counsel concerning whether minutes should be taken.

If a governing body decides to take minutes of an executive session, the Act does not require the disclosure of such minutes to the public.

Advice and Advisory Opinions

How do I get advice?

Call or write the Ethics Commission for informal advice from one of the attorneys, or check out the Commission's website for relevant advisory opinions.

What is an Advisory Opinion?

The West Virginia Ethics Commission's Committee on Open Governmental Meetings gives written advisory opinions to governing bodies and their members on whether a proposed action or an action of an ongoing nature violates the law.

The opinions provide an absolute defense in any civil suit or criminal prosecution to the requesting agency and any other governing body which is similarly affected, provided the opinion is relied upon in good faith.

The Committee on Open Meetings meets on the first Thursday of each month to consider written requests. Requests for written advisory opinions should be submitted in writing at least ten calendar days before the Open Meeting Committee meeting.

Why ask for a written Advisory Opinion?

A written advisory opinion gives the persons seeking the opinion an absolute defense to civil suits and criminal charges for future actions





taken in good faith reliance on the opinion.

NOTE: The Committee cannot provide advice on an action that has already occurred. However, if the action is part of an ongoing course of conduct, an advisory opinion on continuing that course or practice may be requested.

The Advisory opinions are available on the Commission's website, www.wvethicscommission.org, contains precedential opinions. A governing body that acts in good faith reliance on a precedential advisory opinion has an absolute defense to a civil suit or criminal prosecution as long as the underlying facts and surrounding circumstances are substantially the same as those addressed by the written opinion.

Enforcement and Penalties

How is the Act enforced?

The Ethics Commission has no role in enforcing the Act and does not investigate complaints of violations. The Act provides that any citizen may file a civil action in Circuit Court within 120 days after the action or decision complained of occurred.

Only the Court has the power to compel compliance with the Act or annul a decision made in violation of the Act. Additionally, anyone who willfully and knowingly violates the provisions of the Act is subject to criminal prosecution for a misdemeanor.

What are the penalties for violating the Act?

In civil actions, in addition to injunctive relief requiring a governing body to rescind an action taken in violation of the Act, the prevailing party may obtain attorneys' fees and costs. If a public official is criminally prosecuted and found guilty, then he or she may be fined up to \$500 for a first offense.





Frequently Asked Questions



Are committee meetings subject to the Open Meetings Act and meeting posting requirements?

Yes. All sub-units of a governing body, regardless of size, must follow the Open Meetings Act. This includes regular, standing, and ad hoc committees.

Are work sessions subject to the Open Meetings Act?

Yes. The term work session is frequently used by governing bodies to describe a meeting where the members of the governing body or subcommittee are discussing a project or reviewing a budget, but will not be taking official action.

May citizens and the media record meetings?

Yes. Pursuant to the Open Meetings Act, anyone may record the meetings. The governing body may adopt rules governing the placement of the recording equipment, but it may not prohibit anyone from recording a meeting.

Does the Open Meetings Act require that meetings be electronically recorded by the governing body?

No. However, governing bodies should check their enabling legislation or local ordinances to determine whether recording is required pursuant to statute or rule.

May items be added to the agenda during a meeting?

No. If a citizen or member of the governing body raises a matter during the course of a meeting, the item may not be discussed or voted upon at the meeting. Instead, it must be added to a meeting agenda for a future meeting. The only exception is if the item is an emergency. In that case, the governing body should follow the procedure set forth for emergency



meetings and agenda items.

Are governing bodies required to allow members of the public to speak at a meeting?

No. The purpose of the Open Meetings Act is to allow citizens to observe the governing body for purposes of promoting transparency. However, governing bodies are encouraged to have a public comment period. A governing body may adopt rules which impose restrictions upon public comment periods such as the amount of time which will be allocated to each speaker.

**For more information on the Open Meetings Act,
please contact the:
WV Ethics Commission
210 Brooks St., Suite 300
Charleston WV 25301
(304) 558-0664 toll free 1-866-558-0664 fax (304) 558-2169
ethics@wv.gov www.wvethicscommission.org**

12/2009-final



A Guide to the West Virginia Ethics Act

(W. Va. Code § 6B-1-1, et seq.)



WEST VIRGINIA ETHICS COMMISSION

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<http://www.wvethicscommision.org>

ethics@wv.gov



“ Government is a trust, and the officers of the government are trustees; and both the trust and the trustees are created for the benefit of the people”.

Henry Clay 1829



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INTRODUCTION

The **West Virginia Ethics Commission** was established in July 1989 to administer the West Virginia Governmental Ethics Act, which was passed in a Special Session of the West Virginia Legislature in January 1989. (W. Va. Code § 6B-1-1, et seq.)



The Commission is an independent, bi-partisan board consisting of twelve citizen members, appointed by the Governor, and confirmed by the West Virginia State Senate. Commissioners serve staggered five-year terms,

The Commission holds monthly meetings that are open to the public. The date, time, place and agenda of each meeting are posted on the Commission's website: www.wvethicscommission.org.

The Ethics Commission administers the Ethics Act by educating public servants covered by the Act, providing information to the public, interpreting and applying the provisions in the Act, and enforcing the requirements of the Act through an investigation and complaint process.

In addition to administering the Ethics Act, the Commission's staff answers questions from governing bodies, their members and the public. The Commission also provides advisory opinions on the meaning and application of the Open Meetings Act or *Sunshine Law* through its Committee on Open Governmental Meetings.

The WV Ethics Commission's Committee on Standards of Conduct for Administrative Law Judges answers questions from ALJs by issuing advisory opinions to them relating to the Rules on Standards of Conduct. It also enforces the Code through an administrative process for adjudicating complaints filed against ALJs.

The Ethics Commission also administers the registration and reporting requirements for lobbyists. The Commission collects financial disclosure reports which certain public servants are required to file annually.



Advisory Opinions

In response to written requests from affected persons inquiring about their own conduct, the Ethics Commission issues advisory opinions relating to the application of the standards of conduct in the Ethics Act including conflicts of interest, financial disclosure and lobbying. A person subject to the Act may request an opinion regarding a proposed future course of action.

An opinion issued by the Commission provides the employee or official, and any other similarly situated public servant who relies on an opinion in good faith, immunity from the sanctions in the Act, as well as an absolute defense to criminal prosecution under the Act. Precedential Advisory Opinions rendered by the Commission from 2005 to the present are available on the Commission's website.

Since 1989, the Commission has issued hundreds of written advisory opinions interpreting and applying the Ethics Act. These precedents allow the Commission's staff to handle most inquiries over the telephone. Persons seeking guidance on complying with the Act may also submit inquiries via fax, E-mail or regular mail.



Questions will only be submitted to the Commission for a formal advisory opinion where there is no precedent covering the inquiry, or the requester expressly indicates that he or she wishes the question to be addressed formally by the full Commission.

The Ethics Commission also issues advisory opinions interpreting W.Va. Code § 18-5-1a. These opinions provide guidance to county board of education members, members elect and candidates for election to the board about their eligibility to serve on a county board of education.



ALL Public Servants are Subject to the Ethics Act

The code of conduct established by the Ethics Act applies to all public servants including public employees, elected public officials, and appointed public officials, whether full-time or part-time, in the legislative, judicial, and executive branches of state, county and municipal government, including all boards, commissions and agencies.





MINIMUM ETHICAL STANDARDS ESTABLISHED BY THE ACT

The basic principle underlying the Ethics Act is that those in public service should use their positions for the public's benefit and not for their own private gain or the private gain of another.

Private Gain

Do not use your agency's supplies or equipment for personal projects or activities.

Public employees and full-time appointed officials should not work on personal projects or activities during work hours for which they are paid by their government employer.

Do not use subordinates to work on your personal projects or activities during work hours or compel them to do so on their own time.

The Ethics Act prohibits any misuse of public resources which is more than *de minimis*, that is, which involves more than a trifling or insignificant amount of time, funds, supplies, personnel or equipment.



Gifts

You may **not solicit** a gift unless it is for a charitable purpose from which you and your immediate family members derive no direct personal benefit. The Commission determines whether a purpose is charitable on a case-by-case basis. However, charities which benefit the poor and disadvantaged, which provide for the cure or treatment of a particular illness or disease, or benefit the public generally through cultural and educational programs such as museums and libraries, have previously been determined to qualify as charitable.



The Ethics Act's prohibition against solicitation of gifts does not apply to solicitation of political contributions. However, W. Va. Code § 3-8-12(h) which regulates and controls elections provides: "No person shall solicit any [political] contribution from any non-elective salaried employee of the state government or of any of its subdivisions."

You may not solicit a subordinate for any gift - not even a gift for a charitable purpose.

You may **not accept gifts** from lobbyists, or from "interested persons ", unless the gift fits into one of the following **exceptions**:

- meals and beverage
- unsolicited gifts of a value of \$25 or less
- ceremonial gifts or awards of insignificant value
- reasonable expenses incurred in appearing at a speaking engagement
- reasonable honoraria, where permitted by Commission's rules
- free tickets to political, charitable, or cultural events customarily given as a courtesy to the office
- purely private and personal gifts
- lawful political contributions

Additional guidance on accepting and soliciting gifts may be found in the Commission's Legislative Rule on gifts, Title 158, Series 7, and the Commission's gift guidelines. These documents may be downloaded from the Commission's website.

"Interested persons" are those who do or seek to do business with, are regulated by, or are otherwise financially interested in activities of your governmental agency.



Voting

Public officials may not vote on a matter in which they, or an immediate family member, have a financial interest nor on a matter involving a business with which the public official or an immediate family member is associated.

Public officials or their immediate family members are considered to be associated with a business if either the public official or an immediate family member is a director, officer, owner, employee, compensated agent, or owns 5% or more of the outstanding stocks of any class.

Public officials may not vote on matters involving a business with which the public official or an immediate family member is associated.

Family and Relatives

The Act defines *immediate family* to include the spouse with whom an individual is living as husband or wife, as well as any dependent children, dependent grandchildren or dependent parents.

The Act defines *relative* as a husband or wife, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, or daughter-in-law.

Public Officials May Not Vote

Public officials may not vote on a personnel matter involving the public official's spouse or relative.

The Act further prohibits voting to appropriate public funds or award a contract to a non-profit corporation if the public official or an immediate family member is employed by the non-profit.

Further, a public official who is employed by a financial institution, and whose primary responsibilities with the institution include consumer and commercial lending, may not vote on a matter that involves a customer of the financial institution. This prohibition only applies if the amount of the loan or loans to the customer exceeds \$15,000 in a calendar year, and the public official was directly involved in approving a loan to that customer within the past twelve months, or is currently considering such a loan.



Public Officials May Vote

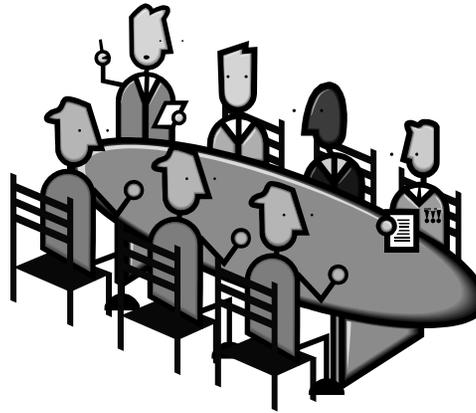
Public officials may vote on a matter involving a spouse, immediate family member, relative, or business with which they are associated, if they are affected by the matter as a member of a profession, occupation, class of persons or class of businesses. The law defines a class as consisting of not less than five similarly situated persons or businesses.

A public official may vote on a matter affecting a publicly traded company so long as:

(1) the public official and dependent family members individually or jointly own no more than five per cent of the company's issued stock;

(2) the value of the stocks individually or jointly owned is less than ten thousand dollars; and

(3) prior to casting a vote, the public official discloses his or her interest in the publicly traded company.



Members of the Legislature

These voting rules do not apply to Members of the Legislature. Legislative voting is governed by a separate provision in the Act which permits Legislators to vote after obtaining a ruling from the presiding officer in their chamber regarding any potential conflict.
W. Va. Code § 6B-2-5(i)

Public Disclosure and Recusal are Required

Whenever a public official is prohibited from voting under the Act, the public official must fully disclose his or her interests, and physically remove himself or herself from the room during the discussion and vote on the matter from which they are disqualified.

The minutes should reflect the recusal as well as the reason for the recusal.



Selling to Subordinates

A public servant may solicit private business from a subordinate only when:

- (1) The solicitation is general and directed to the public at large;
- (2) The solicitation is limited to the posting of a notice in a communal work area;
- (3) The solicitation is for the sale of property of a kind that the person does not regularly sell; or
- (4) The subordinate goes to the supervisor's private business on his or her own initiative to purchase goods or services.

Private Interests in Public Contracts, Purchases & Sales

The Ethics Act prohibits elected public officials and full-time public employees, whether appointed or employed, from having a financial interest in any contract, purchase or sale over which their public position gives them control, unless the total value of such contracts, purchases or sales does not exceed \$1,000 in a calendar year. Even then, the public official may not be involved in influencing the award of the contract. This \$1,000 exception may not be relied upon by county officials who are governed by the stricter limitations in W. Va. Code § 61-10-15.

This prohibition also extends to contracts in which the public servant's spouse, dependent parents, or dependent children have a financial interest, as well as to any business with which the public servant or his or her immediate family members are associated.

For purposes of this prohibition, public servants and their immediate family members are *associated* with a business if any one of them is a director or officer in the business, or if they hold stock in the business which constitutes 5% or more of the outstanding stock of any class.

This provision applies only to (1) those **contracts** your job gives you authority to award or control and (2) those **purchases** and **sales** you are authorized to make or direct others to make. The Commission has authority to grant **your agency** a hardship exemption from this provision of the Ethics Act.

Part-time appointed officials (except those county officials covered by W. Va. Code § 61-10-15) are not subject to the prohibition, provided that they recuse themselves from considering and acting on such matters, consistent with the on voting provisions of the Act.



Licensing and Rate-Making

You may not take official action on a license or rate-making matter affecting an entity in which you, or the members of your immediate family, own or control more than a 10 % interest. In addition, **UNLESS** you file a prior written public disclosure with your agency, you may not take official action on a license or rate-making matter affecting a person to whom such an entity has sold goods or services totaling more than \$1,000 during the preceding year.

Employment, Moonlighting or Changing Jobs

The Ethics Act prohibits full-time public servants from seeking or accepting employment from persons or businesses that they or their subordinates regulate.



The Act also prohibits full-time public servants from seeking or accepting employment from vendors if the public servant, or his or her subordinates, exercise authority or control over a public contract with that vendor. It does not apply to members of the Legislature.

Public Servants may request an exemption from the Ethics

Commission to seek employment with vendors or regulated persons with whom they or a subordinate exercise control at present or in the past twelve months. This process is set forth in the Commission's Legislative Rule, Title 158, Series 11.

Dual Compensation

No public servant may receive compensation from two sources in state, county or municipal government for working the same hours, except under certain limited circumstances. Persons who are allowed to make up time missed with a governmental employer to perform the duties of another governmental position are required to maintain specific time records. Their governmental employer is required to submit these records to the Ethics Commission quarterly.



Purchase of Real or Personal Property

Full-time public servants may not purchase real or personal property from:

- (1) a person or business which they or their subordinates are currently regulating;
- (2) a person or business which they or their subordinates have regulated within the preceding twelve months; or
- (3) a vendor to their agency, if they exercise authority or control over a public contract with that vendor.

The Commission, by Legislative Rule, has established certain exemptions from these limitations, such as purchases of personal property from a business that is available to the general public on the same terms and conditions.



Other Conflicts of Interest

Full-time public servants may not take personal regulatory action on matters affecting a person (1) by whom they are secondarily employed or (2) with whom they are seeking employment or have an agreement concerning future employment.

A similar limitation applies to employees or prospective employees of vendors. A full-time public servant may not personally participate in any decision, approval, disapproval, recommendation, investigation, or inspection of a vendor by whom they are secondarily employed, or with whom they are seeking employment or have an agreement regarding future employment.

Confidential Information

You may not, during or after government service, knowingly and improperly disclose confidential information acquired through your public position or use it to further the personal interests of yourself or another person.

Private Pay Prohibited



Full-time public servants may not accept private pay for providing information or services that are within the scope of their public duties. In other words, they can't sell, even on their own time, services their public position requires them to provide.

Employment Limitations During and After Government Service

Prohibited Representation

The Ethics Act requires you to obtain your agency's consent before you represent a client in a matter in which you are or were substantially involved on behalf of the agency. This applies both during and after your government service.

The prohibition applies only to those matters in which you were personally involved in a decision making, advisory, or staff support capacity. It does not apply to legislators or legislative staff.

Limitation on Practice

Certain public servants are prohibited from representing persons before their agency:

- 1) while they are with the agency, and
- 2) for one year after leaving the agency.

The prohibition applies only to elected and appointed public **officials** and full-time staff **attorneys** and **accountants** in agencies authorized to hear contested cases or make regulations.

This prohibition applies to representation in contested cases, regulation filings, license or permit applications, rate-making proceedings and to influence the expenditure of public funds. It does not apply to legislators or legislative staff.

The Ethics Commission has authority to grant an exemption from this prohibition.



Nepotism

Nepotism means favoritism shown or patronage granted in employment matters by a public official or public employee to relatives or cohabitating sexual partners without giving public notice and consideration to other qualified applicants.

The hiring of relatives is not strictly prohibited but limitations do apply. Stricter limitations apply to County Officials regarding the hiring of spouses and family members. These limitations are outlined in the section of this booklet entitled "For County Public Servants Only."

"Relatives" are defined as individuals who are related to the public official or public employee as father, mother, son, daughter, brother, sister, spouse, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law.

A public official or public employee may avoid the appearance of nepotism by following these steps in hiring a relative or cohabitating sexual partner for a public position:

- 1) The public should be given reasonable advance notice of the availability of the job.
- 2) An objective, independent third party should be involved in the selection where a cohabitating sexual partner or family member is among those who have made application for the job.
- 3) To the extent possible, the public official or public employee should stay out of the selection process altogether. If he or she is one of several people with the authority to hire, others with authority should make the selection. If appropriate, the matter should be handled by his or her supervisor or in the case of an elected official by a qualified person in another office.
- 4) A public official or public employee should at least have some independent person take part in the selection. He or she should avoid using a subordinate for the independent person.
- 5) Public officials must recuse themselves from voting on the employment of a relative if this matter comes before the governing body on which they serve.

Public servants should review and comply with the nepotism provisions in the Ethics Commission's Legislative Rule, Title 158, Series 6. This rule may be viewed on the Commission's website. State employees should consult with the WV Division of Personnel for any additional limitations that may apply to State employees.



For County Public Servants Only

Certain county personnel are also subject to W. Va. Code § 61-10-15, a criminal statute which contains a more comprehensive public contract prohibition. The Ethics Commission is responsible for advising public servants about § 61-10-15 but has no role in its enforcement.

W. Va. Code § 61-10-15 applies to: (1) **elected county officials** (such as sheriff, county commissioners and school board members), (2) **appointed county officials** (those who serve on county boards, commissions, authorities and agencies), and (3) **public school superintendents, principals, and teachers**. It does not apply to other county workers.

W. Va. Code § 61-10-15 prohibits these designated county personnel from having personal financial interests, directly or indirectly, in a contract, purchase or sale over which their public position gives them "voice, influence or control." The prohibition extends to their spouses, their dependents, and businesses in which they have an ownership interest or by which they are employed.

The Ethics Commission has authority to grant an exemption from the prohibition to a **County Agency** based upon a documented hardship.

Nepotism

W. Va. Code § 61-10-15 imposes strict limitations on nepotism in employment. County Officials may not hire their spouses or dependent family members. Further, County Commissioners, their spouses, and dependent family members are prohibited from working at **any** County office or agency. If a County Official is elected when the official's spouse is currently employed in the same County Office, or in the case of a County Commissioner in **any** County Office, then the spouse must immediately terminate his or her employment.

Exceptions:

- The spouse of a County Commissioner may work at a county hospital if the spouse is a licensed medical professional;
- Spouses of school board members, superintendents, principals or teachers may be employed as a principal, teacher, auxiliary or service employee in the public schools;
- A joint county and circuit clerk may employ his or her spouse.



Additional Agency Restrictions

Agencies are permitted to adopt additional standards of conduct for their personnel that are more restrictive than the minimum standards established in the Ethics Act. Therefore, you may want to check with your agency to see if it imposes additional rules of conduct that supplement these general prohibitions.



Lobbying

The Ethics Act requires anyone who is compensated to lobby in support of or opposition to any legislation or legislative or administrative rules, or who spends over \$150 annually on public officials in furtherance of such activity, to register with the Ethics Commission.



Registered lobbyists are required to file periodic reports of their lobbying activity, including reporting certain expenses. These reports are public records and are subject to random audits by the Commission.

Additional information on lobbying is available in the Commission's *Guide to Lobbying in West Virginia*. This pamphlet may be obtained from the Commission's office or downloaded from the Commission's website.

The Commission also publishes annually a directory of registered lobbyists. This same information is updated and posted on the Commission's website.

Financial Disclosure

Certain public officials and candidates are required to file financial disclosure statements with the Commission. Candidates for all state and county offices must file a financial disclosure statement within ten days after he or she files a certificate of candidacy. Those persons who are elected to such positions thereafter must file a financial disclosure report annually. In addition, all members of state boards, commissions and agencies who are appointed by the governor must file within 30 days after assuming their duties. Thereafter, they must file annually as long as they serve in an appointed position.

Cabinet secretaries, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, and department heads are required to file annual reports. These forms are public records available for inspection in the Commission's offices during regular business hours.



Complaints

The Ethics Commission has sole responsibility for investigating and resolving violations of the Ethics Act. Any citizen who is aware of a violation of the Act may file a verified written complaint with the Commission. The Commission must consider all sworn complaints it receives.

The Commission may also initiate complaints, if it receives credible evidence of a material violation. Whether a complaint is initiated by a citizen or the Commission, the Commission only investigates those complaints which a three-member Probable Cause Review Board finds allege a material violation of the Act.

Complaints which allege trivial or inconsequential violations or are outside the two year statute of limitations are dismissed.

The Commission has authority to subpoena evidence and testimony although no person alleged to have violated the Act is required to give testimony. However, it is a violation of the Act to give false and misleading information to the Commission or to procure or induce another to provide false information to the Commission.

Persons found guilty of a material violation of the Act may be publicly reprimanded and fined up to five thousand dollars per violation. In appropriate circumstances, the Commission may order restitution or **recommend** that the person be removed from office or that his or her employment be terminated.

Bad Faith Complaints

If the Commission finds by clear and convincing evidence that a complaint was made in bad faith, either knowing that the allegations are untrue or in reckless disregard for the truth, it may issue sanctions against the complainant.

Possible sanctions include ordering the payment of reasonable attorney fees to the respondent, reimbursing the Commission for its investigative costs and being barred from filing any further complaints with the Commission.





Code of Conduct for Administrative Law Judges

The Ethics Commission administers a Code of Conduct for Administrative Law Judges serving in the executive branch of state government.

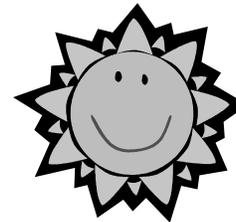
The Code of Conduct was developed in consultation with the West Virginia State Bar to establish rules of professional conduct for the administrative judiciary similar to the rules governing judges in the judicial branch of state government. The Code is found in the Commission's Legislative Rule Title 158, Series 13.

A three member Committee on Standards of Conduct for Administrative Law Judges issues written advisory opinions on the meaning and application of the Code to persons who are subject to these standards. The Commission also adjudicates verified complaints filed against administrative law judges through a formal complaint process.

Open Meetings Act (also known as the Sunshine Law)

The Open Meetings Act generally requires that meetings of a public agency's governing body be open to the public and that reasonable notice of the meeting and its agenda be given. (W. Va. Code § 6-9A-1 through 12)

The West Virginia Ethics Commission's Committee on Open Governmental Meetings issues written advisory opinions to governing bodies requesting advise on their proposed actions or action of an ongoing nature. The Commission's staff provides guidance to governing bodies and the public on how to comply with the Act.



The Ethics Committee has no role in enforcing the Act. Any citizen may file a civil action in Circuit court within 120 days after the action or decision complained of. Only the Court has the power to compel compliance with the Act. See the "Guide to Open Governmental Proceedings Act" booklet for more detailed information.



Education & Outreach

The Ethics Commission staff provides a variety of ethics education programs free of charge. In addition to conducting training programs for groups of public officials, public employees and citizens, the Commission has pamphlets and guidelines addressing various ethics issues. Many of these materials may be downloaded from the Commission's web site.



If you have questions, need more information or wish to request an Ethics Commission representative to provide training, please write, call or visit our website: www.wvethicscommission.org

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Gene A. Budig:
Community college can be economic spark plug

Democrats and Republicans finally agree on one vital matter, and they did so with little wrangling or heated debate. With undisputed clarity, they have endorsed the critical need for appreciably more future funding of community colleges in today's battle for economic recovery.

Democrats and Republicans finally agree on one vital matter, and they did so with little wrangling or heated debate. With undisputed clarity, they have endorsed the critical need for appreciably more future funding of community colleges in today's battle for economic recovery.

Further, they see graduates from the two-year institutions as being immediately employable in high demand areas and essential to the future plans of business and industry in the international thrust for economic standing and superiority. The graduates are seen as beneficial taxpayers, too.

What community college students offer are added brains in high demand areas, areas that demand analytical skills, the ability to identify and solve problems, to write well and to work in teams. Furthermore, they are men and women who like to work and in challenging fields.

Both China and India have noticed, with envy, the advancement of community colleges in America, and they are responding with modified, two-year replicas. They know what their economic engines will require, and two-year institutes and colleges are part of the mix.

China and India see a three-nation race for the future between each other and the United States, and community colleges provide a clear competitive edge in the race to identify and develop needed skills.

Furthermore, existing workers will need to be retrained and provided with new skills and aptitudes. In addition, minorities, in growing numbers, are turning to two-year schools for education and training in order to be a viable part of the work force of the future. President Obama has said that community colleges hold the key to economic prosperity in the United States, and a better life for countless people. The president recommended a major package of assistance, with reasonable accountability constraints.

Stunningly, the College Board learned that millions of dollars are not being used by needy and qualified community college students, some of whom have dropped out because of economic constraints.

A recent study reveals that in the 2007-08 academic year, only 58 percent of Pell Grant eligible students who attended community colleges either full or part-time applied for federal financial aid, compared with 77 percent of eligible students at four-year public institutions.

This is, without question, a tragedy of epic proportions, one that has penalized America in its growth and development efforts. It must be remedied with all due speed.

"Community colleges are a critical part of our educational system," College Board President Gaston Caperton said. "They serve about half of all undergraduate students in the United States." He called upon the education community to provide the counseling necessary to increase the number of deserving students who receive need-based financial aid so that they can become a part of the educated and skilled workforce needed by America to compete and win globally.

Simply stated, community colleges serve the most economically challenged students, and yet, many of those students are not receiving the financial help they require because of a lack of information.

This dilemma cannot be overlooked or allowed to continue. It is in the national interest to act with dispatch in opening more doors to deserving community college youngsters, and to many who are not so young.

Budig has headed three major state universities, including WVU, and was president of Major League Baseball's American League. He now serves as the distinguished professor at the College Board in New York.

Trimester format will provide Southern's students an opportunity to graduate earlier

BY CINDY CRIGGER

LOGAN, W. Va. — Beginning this fall, Southern West Virginia Community and Technical College will implement a new trimester class format.

What does this mean for students? A full array of classes will be offered for 14 weeks instead of 16 weeks, allowing students to complete a trimester in a shorter amount of time. Students will spend an average of 10 extra minutes in each class since the new trimesters are condensed.

A full schedule of classes will be available to students during the fall, spring and summer trimesters. President Joanne Jaeger Tomblin said students will complete course work quicker and earn a degree or certificate sooner.

"Our students will graduate earlier in the year than those at other colleges. Southern's graduates will be ready to enter the work force sooner as well, giving them an edge when applying for jobs," President Tomblin said.

Trimesters will be offered during the 2010-2011 term.

The new trimester schedule will also be advantageous for adult students, especially stay-at-home mothers. This fall, Southern's classes will start after the county school systems open. Youngsters will already be in head start or elementary school, which will allow moms to enroll in college classes.

"By offering a flexible schedule, and online classes, we hope to attract more adult students," President Tomblin said. Southern currently offers approximately 139 online classes.

Also, the trimester schedule may entice more university students to enroll in summer classes. By offering a full schedule during the summer, instead of the usual, scaled-down version, students who are home for the summer can pick

up additional classes at Southern for a fraction of the tuition cost at other colleges or universities.

For a complete course schedule, visit the college's website at www.southernwv.edu/trimesters.

Southern operates four campuses and two sites located

in Boone, Logan, Lincoln, Mingo, Raleigh and Wyoming counties. Kentucky students residing in Pike, Martin, Boyd and Lawrence counties are eligible for in-state tuition rates. The college's website is www.southernwv.edu and the toll free number is 1-866-798-2821.

Southern West Virginia

Community and Technical College is a member institution of the Community and Technical College System of West Virginia and accredited by the Higher Learning Commission of the North Central Association of Schools and Colleges.