

December 5, 2019

# Board of Governors



FAIRMONT STATE  
UNIVERSITY™

**AGENDA**  
BOARD OF GOVERNORS' MEETING  
DECEMBER 5, 2019, 9:00 A.M.  
LOCATION: BOARD ROOM, FALCON CENTER  
1201 LOCUST AVENUE, FAIRMONT, WV



- I. CALL TO ORDER**
  - A. Roll Call
  - B. Public Comment
  - C. Approval of Agenda .....*Action Item*
  
- II. APPROVAL OF MINUTES OF OCTOBER 17, 2019.....***Tab 1, Action Item*
  
- III. CHAIRMAN’S REPORT**
  
- IV. PRESIDENT’S REPORT**
  
- V. REPORTS AND PRESENTATIONS**
  - A. Foundation (Julie Cryser)
  - B. Construction Project Updates (Stephanie DeGroot)
  - C. Independent Auditor’s Report – Suttle and Stalnaker
  
- VI. ACADEMIC AFFAIRS COMMITTEE (Deborah Prezioso, Chair)**
  
- VII. ATHLETIC AFFAIRS COMMITTEE (Dixie Yann, Chair)**
  
- VIII. BYLAWS COMMITTEE (Dixie Yann, Chair)**
  - A. Approval of Policy GA-01: Rule Regarding Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, Retaliation And Relationships (30-Day Comment Period Over).....*Tab 2, Action Item*
  - B. Approval of Policy GA-02: Children on Campus (30-Day Comment Period Over).....*Tab 3, Action Item*
  
- IX. ENROLLMENT/HOUSING-STUDENT LIFE COMMITTEE (Kevin Rogers, Chair)**
  
- X. FINANCE COMMITTEE (John Schirripa, Chair)**
  - A. Financial Reports (Months Ending: September 30, 2019 and October 31, 2019).....*Tab 4, Action Item*
  - B. Approval of the Independent Auditor’s Report For the Year Ending June 30, 2019.....*Tab 5, Action Item*
  
- XI. EXECUTIVE COMMITTEE (Dixie Yann, Chair)**
  
- XII. NEW BUSINESS**
  - A. Resignation

**XIII. POSSIBLE EXECUTIVE SESSION** - Under the Authority of West Virginia Code §6-9A-4 to Discuss Personnel and Property Issues

**XIV. ADJOURNMENT**

**NEXT MEETING: FEBRUARY 20, 2020, 9:00 A.M.**  
**LOCATION: BOARD ROOM, 3<sup>RD</sup> FLOOR FALCON CENTER**  
**1201 LOCUST AVENUE, FAIRMONT, WV**

# Tab 1



FAIRMONT STATE UNIVERSITY  
BOARD OF GOVERNORS  
**MEETING MINUTES**  
**OCTOBER 17, 2019**  
**BOARD ROOM, 3<sup>RD</sup> FLOOR FALCON CENTER**  
**1201 LOCUST AVENUE, FAIRMONT, WV**

**I. CALL TO ORDER**

**A. Roll Call**

Chair Dixie Yann convened a meeting of the Fairmont State University (FSU) Board of Governors on October 17, 2019, beginning at approximately 9:00 a.m. in the Board Room, 3<sup>rd</sup> Floor Falcon Center, at 1201 Locust Avenue, Fairmont, West Virginia.

At the request of Chair Yann, Serena Scully, Chief of Staff, conducted a roll call of the Board of Governors. Present for the meeting were board members Maiya Bennett, Dr. Chris Courtney, Jon Dodds, Deborah Prezioso, Jay Puccio, Kevin Rogers, Dr. Budd Sapp and Dixie Yann. Wendy Adkins participated by conference call. David Goldberg participated by conference call following roll call. Dr. Mark Hart and John Schirripa were absent.

Others present were President Martin and President's Executive Leadership Team members Cindy Curry, Richard Harvey, Merri Incitti, Christa Kwiatkowski, Tim McNeely, and Jacqueline Sikora. Stephanie DeGroot, Construction Manager; Julie Cryser, President of the Fairmont State Foundation; Chad Fowler, Director of Athletics; Ryan Courtney, Director of Internal Operations; Bryan Spitzer, Coordinator of Athletic Compliance; Jessica Sharps, Executive Director of University Relations and Marketing; Susan Ross, Executive Director of Academic Programs; Corey Hunt, Senior Director of Enrollment; Jacob Abrams, Director of Institutional Research and Effectiveness; Chris Kast, Dean of the College of Liberal Arts; Laura Clayton, Associate Dean of the School of Nursing; Amanda Metcalf, Associate Dean of the School of Education; Joel Dugan, Chair of the Department of Architecture, Art and Design; Jeff Greenham, faculty; Jennifer Boggess, faculty; Kylie Ford, faculty; George Herrick, Staff Council President; Harry Baxter, faculty; Clark Kendall, IT staff; and multiple community members. Members of local media were in attendance as well.

**B. Public Comment**

Dr. Chris Courtney reported that no one had signed up for public comment.

C. Approval of Agenda

Dr. Budd Sapp made a motion to approve the agenda. Kevin Rogers seconded. The motion passed.

**II. APPROVAL OF MINUTES OF AUGUST 20, 2019 AND SEPTEMBER 16, 2019**

Dr. Budd Sapp made a motion to approve the minutes of August 20, 2019 and September 16, 2019. Jay Puccio seconded. The motion passed.

**III. CHAIRMAN'S REPORT**

A. Chair Yann mentioned some of the homecoming events that are coming up next week and encouraged the board members to participate in some events.

**IV. PRESIDENT'S REPORT**

- A. President Martin briefly discussed the Day of Giving scheduled for November 7<sup>th</sup>. Currently, around \$130,000 has been pledged for that campaign.
- B. President Martin shared that the ABET accreditors (accreditation for the engineering programs) will be coming to campus October 20<sup>th</sup> through the 22<sup>nd</sup>. Preparations are underway and we are prepared to welcome the team.
- C. Preparations for homecoming are continuing and some notable events are the alumni and emeritus luncheon, hall of fame banquet, homecoming parade, and 2:00 football kickoff. On Sunday at 2:00, the basketball team will be having a scrimmage that is open to the public.
- D. Dr. Martin deferred the remainder of the updates to the executive leadership team.

**V. REPORTS AND PRESENTATIONS**

A. Constituent Report

Joel Dugan, Chair of the Department of Architecture, Art and Design, provided the constituent report.

Mr. Dugan provided information regarding their recruitment efforts, program specific strategies, and additional program information. Mr. Dugan also discussed the external relationships that have been established and discussed the current community projects, which include painting a mural. He then deferred to his colleagues to provide some program specific achievements and information. Jeff Greenham, Coordinator of the Art Department, Jennifer Boggess and Kylie Ford all provided information regarding their programs.

- B. Mrs. Julie Cryser, President of the Fairmont State Foundation, reported that the Foundation has had 100 milestone contacts with donors, either face-to-face, via telephone or through email.

The Foundation has closed 8 major gifts in the first quarter, compared to 3 in last year's first quarter. Total gifts and donations raised this year stand at \$1,022,020, just a little under \$50,000 less than this time last year.

Mrs. Cryser discussed the Day of Giving (November 7<sup>th</sup>) and asked again that the board consider having one or multiple individuals offer up a challenge to the rest of the Board. For example, Gary LeDonne has made a FSF Chairman's Match to support scholarships, Dr. Martin has made a \$2,500 challenge match and Mrs. Cryser has made a \$1,000 lunch challenge. Every dollar raised will be matched up to the designated amounts.

The Foundation board voted to hire a firm to assist the Foundation with their Comprehensive Campaign Feasibility Study, as well as develop the Case for Support. They will start with data collection, do an internal assessment, do onsite visits, create a Case for Support, test the Case for Support, and then report back on their findings on how prepared the Foundation is for a Comprehensive Campaign. The firm will be on board starting their work in November.

- C. Construction Project Updates (Stephanie DeGroot)

Stephanie DeGroot, Construction Manager, advised that they are working on closing out projects and working on the upcoming projects – working on different bidding packages, etc.

Mrs. DeGroot discussed the MS4 program. The WVDSP coordinator was on campus last week and did the annual inspection and was very impressed and excited. He was also very interested to see how the University has been involving the City of Fairmont, faculty and students.

- D. HLC & Internal Operations Updates (Merri Incitti)

Merri Incitti, Associate Vice President, Institutional Effectiveness and Strategic Planning gave an update. Ms. Incitti discussed accreditation and the plans to provide faculty enhanced and technology-driven support to reduce the assessment and reporting requirements. Many of the reporting tasks are now or will be upgraded to use technology, thereby streamlining the work of the faculty. Ms. Incitti noted removing "busy work" from faculty was a priority of the President, and together with her staff and the IT staff, they were well on their way to provide the faculty the support they needed while reducing their workload. Ms. Incitti also reported that she, Provost Harvey, and President Martin have already started to plan for the upcoming HLC visit. They have almost all co-chairs in place for all five HLC criteria.

Digital Measures has recently been implemented. Digital Measures is an electronic platform that stores the CV for faculty. This will keep records up-to-date. The second component is Workflow which will allow the institution to automate Annual Reviews, Promotion and Tenure as well as Faculty Awards. All these initiatives will reduce faculty workload.

The end of semester course survey process is being updated and should be in place by the end of this semester. The Evaluation Kit platform will provide the faculty with instant feedback and has functionality that improves response rate. The platform works directly with Digital Measures so no one will need to move data from one to the other for performance review.

Another strategic project currently in process is a project to work with West Virginia community and technical colleges to create articulation agreements. The agreements will make the pathway for students much easier.

Jacob Abrams is currently working on cleaning up data. Currently, all tables that are regularly used for reporting are being cleaned and rebuilt, as HEPC has changed its reporting metrics and guidelines. It is imperative that all data being provided are correct.

## **VI. ACADEMIC AFFAIRS COMMITTEE (Deborah Prezioso, Chair)**

Mrs. Deborah Prezioso, Chair of the Academic Affairs Committee asked that Dr. Richard Harvey, Provost and Vice President for Academic Affairs, give an update.

Dr. Harvey gave an update on several academic affairs items. The spring course schedule is already live and students will begin registration very soon. Textbooks for the spring semester have already been ordered; steps are being taken to convene the bookstore committee. Dr. Harvey also mentioned that tenure and promotion portfolios were recently due and two have been received.

Dr. Harvey also informed the Board that the Forensic Science program was ranked 11<sup>th</sup> best quality by CollegeChoice and ranked 10<sup>th</sup> most affordable by Affordable Schools.

Dr. Harvey presented the Intent to Plan for the M.Ed. in Educational Leadership.

Dr. Budd Sapp made a motion to accept the following:

A. Intent to Plan – M.Ed. in Educational Leadership

Kevin Rogers seconded. The motion passed.



**VII. ATHLETIC AFFAIRS COMMITTEE (Dixie Yann, Chair)**

Dixie Yann, Chair of the Athletic Affairs Committee stated the committee was going to meet after the Board Meeting. She asked that Chad Fowler, Athletic Director, give an update.

Mr. Fowler discussed the fall sports; most notably, the women's soccer team beat Glenville yesterday and solidified 1<sup>st</sup> place in the northern division.

Winter sports are beginning – basketball, swimming, wrestling, and acrobatics and tumbling.

On October 25<sup>th</sup> the Hall of Fame banquet will take place; they will be inducting 7 athletes and the 1979 football team will be honored.

The first wrestling match will take place on November 10<sup>th</sup>.

**VIII. BYLAWS COMMITTEE (Dixie Yann, Chair)**

Dixie Yann, Chair of the Bylaws Committee advised that the Bylaws Committee had met and discussed the current numbering of board policies. It was discussed about clustering the policies and working on renumbering policies.

Mrs. Sikora presented the Discrimination policy. The current policy needed updates to be compliant.

Dr. Budd Sapp made a motion to accept the following:

- A. Rule Regarding Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, Retaliation, and Relationships Draft for 30-day comment period.

Kevin Rogers seconded. The motion passed.

Mrs. Sikora presented the Children on Campus policy. Over the summer, parts of the policy were put in place and it worked well. The policy complies with West Virginia statute.

Dr. Budd Sapp made a motion to accept the following:

- B. Children on Campus Policy Draft for 30-Day comment period.

Jon Dodds seconded. The motion passed.

Mrs. Sikora presented the Naming of Facilities and Academic Programs policy. The University, Dr. Martin, and Mrs. Sikora have worked with the Foundation and Julie Cryser to put together this policy.

David Goldberg made a motion to accept the following:

C. Approval of Naming of Facilities and Academic Programs Policy

Deborah Prezioso seconded. The motion passed.

**IX. ENROLLMENT, HOUSING & STUDENT LIFE COMMITTEE (Kevin Rogers, Chair)**

Kevin Rogers, Chair of the Enrollment, Housing & Student Life Committee asked that Corey Hunt, Senior Director of Enrollment and Tim McNeely, VP of Students Affairs and Athletics, give an update.

Mr. Hunt advised that the University has increased the overall profile of freshman from a GPA of 3.37 to 3.47, an ACT score of 20.6 to 20.7, and an SAT score of 1000 to 1012 – as an overall average. The increased student profile is also good for retention.

Mr. Hunt also advised that this is the second year in a row with an increased freshman retention rate.

Mr. Hunt also discussed the West Virginia Invest Program (also known as the last dollar in or free community college bill). For a student to qualify for free community college, a student must be a WV resident for one year prior to applying, must not have an associate degree, must pay for and pass a drug screen each semester, and must stay in WV for two years following their degree.

Tim McNeely, VP of Student Affairs and Athletics presented the housing summary. He advised that we are at 86.2% occupancy which is down about 9.4% from the same point last year.

Housing applications for next year for current students has been opened and will be opened for new students soon.

**X. FINANCE COMMITTEE (John Schirripa, Chair)**

John Schirripa, Chair of the Finance Committee was absent. Christa Kwiatkowski, CFO, provided a brief update.

The Finance Committee met on October 2<sup>nd</sup> and reviewed the financial statements from July and August, along with other budgets and topics.

Christa advised the July and August financials have been provided in the board packet. In addition, a financial summary document that summarizes the detailed information in the board packet was provided.

The annual financial statement audit for FY19 was required to be issued by October 15<sup>th</sup> and was issued on time. For the second year in a row, official results for FY19 show an increase in net position of \$5.3 million.

Deborah Prezioso made a motion to accept the following:

D. Financial Reports for the periods ending July 31, 2019 and August 31, 2019

Kevin Rogers seconded. The motion passed.

**XI. EXECUTIVE COMMITTEE (Dixie Yann, Chair)**

Chair Yann advised that the Executive Committee has not met.

**XII. NEW BUSINESS**

There was no new business to bring to the board.

**XIII. POSSIBLE EXECUTIVE SESSION**

Deborah Prezioso made a motion to go into Executive Session “Under the Authority of West Virginia Code §6-9A-4-2b to discuss personnel matters which if discussed in public might adversely affect the reputation of any person as well as to consider legal matters involving or affecting, personnel, the purchase, sale or lease of property, the investment of public funds or other matters involving commercial competition, which if made public, might adversely affect the financial or other interest of the state or any political subdivision.”

Jay Puccio seconded. The motion passed.

Deborah Prezioso made a motion to rise from Executive Session. Dr. Budd Sapp seconded. The motion passed with no further action taken.



# Meeting Handouts

# Criteria for Accreditation

## Criterion 1. Mission

### Chairs: Amanda Metcalf & Laura Clayton

The institution's mission is clear and articulated publicly; it guides the institution's operations.

#### Core Components

- 1.A. The institution's mission is broadly understood within the institution and guides its operations.
- 1.B. The mission is articulated publicly.
- 1.C. The institution understands the relationship between its mission and the diversity of society.
- 1.D. The institution's mission demonstrates commitment to the public good.

## Criterion 2. Integrity: Ethical and Responsible Conduct

### Chairs: Gina Fantasia & Joe Kremer

The institution acts with integrity; its conduct is ethical and responsible.

#### Core Components

- 2.A. The institution operates with integrity in its financial, academic, personnel, and auxiliary functions; it establishes and follows policies and processes for fair and ethical behaviour on the part of its governing board, administration, faculty, and staff.
- 2.B. The institution presents itself clearly and completely to its students and to the public with regard to its programs, requirements, faculty and staff, costs to students, control, and accreditation relationships.
- 2.C. The governing board of the institution is sufficiently autonomous to make decisions in the best interest of the institution and to assure its integrity.
- 2.D. The institution is committed to freedom of expression and the pursuit of truth in teaching and learning.
- 2.E. The institution's policies and procedures call for responsible acquisition, discovery and application of knowledge by its faculty, students, and staff.

## Criterion 3. Teaching and Learning: Quality, Resources, and Support

### Chairs: Amanda Stinemetz

The institution provides high quality education, wherever and however its offerings are delivered.

#### Core Components

- 3.A. The institution's degree programs are appropriate to higher education.
- 3.B. The institution demonstrates that the exercise of intellectual inquiry and the acquisition, application, and integration of broad learning and skills are integral to its educational programs.
- 3.C. The institution has the faculty and staff needed for effective, high-quality programs and student services.
- 3.D. The institution provides support for student learning and effective teaching.
- 3.E. The institution fulfills the claims it makes for an enriched educational environment.

## **Criterion 4. Teaching and Learning: Evaluation and Improvement**

**Chairs: Rebecca Giorcelli and M.E. Gamble**

The institution demonstrates responsibility for the quality of its educational programs, learning environments, and support services, and it evaluates their effectiveness for student learning through processes designed to promote continuous improvement.

### **Core Components**

- 4.A. The institution demonstrates responsibility for the quality of its educational programs.
- 4.B. The institution demonstrates a commitment to educational achievement and improvement through ongoing assessment of student learning.
- 4.C. The institution demonstrates a commitment to educational improvement through ongoing attention to retention, persistence, and completion rates in its degree and certificate programs.

## **Criterion 5. Resources, Planning, and Institutional Effectiveness**

**Chair: Colton Griffin & Debbie Stiles**

The institution's resources, structures, and processes are sufficient to fulfill its mission, improve the quality of its educational offerings, and respond to future challenges and opportunities. The institution plans for the future.

### **Core Components**

- 5.A. The institution's resource base supports its current educational programs and its plans for maintaining and strengthening their quality in the future.
- 5.B. The institution's governance and administrative structures promote effective leadership and support collaborative processes that enable the institution to fulfill its mission.
- 5.C. The institution engages in systematic and integrated planning.
- 5.D. The institution works systematically to improve its performance.



# CRITERIA FOR ACCREDITATION

ADOPTED REVISIONS

EFFECTIVE SEPTEMBER 2020

## BACKGROUND

The Higher Learning Commission (HLC) is required by federal regulations and its own policies to initiate a substantive review of its Criteria for Accreditation every five years. Throughout the last two years, HLC conducted an internal analysis, held listening sessions, and analyzed the rigor of team reports, trends across interim reporting and feedback from a survey of member institutions and peer reviewers. These efforts resulted in the alpha version of a Criteria revision, which was published in March 2018. Adjustments were made to the draft Criteria language based on feedback from HLC's membership. A beta version was sent to HLC's Board of Trustees in November 2018 and approved as a proposed policy on first reading. HLC received further input from member institutions and peer reviewers regarding the beta version and made minor changes based on those comments. The final version of the revised Criteria was adopted by the Board at its February 2019 meeting. The new Criteria will go into effect on September 1, 2020.

During the coming year, HLC will provide training opportunities for institutions and peer reviewers to learn how to provide evidence for and apply the revised Criteria in accreditation reviews. During the 2019–20 academic year, HLC also will begin transitioning institutions in the Assurance System to a new Assurance Argument template based on the revised Criteria.



# REVISED CRITERIA FOR ACCREDITATION

The revised Criteria for Accreditation were adopted by HLC's Board of Trustees on February 28, 2019. They are effective September 1, 2020. To review the changes made to the current Criteria in this revision, visit [hlcommission.org/adopted-policies](http://hlcommission.org/adopted-policies). The current Criteria are available at [hlcommission.org/criteria](http://hlcommission.org/criteria).

The Criteria for Accreditation are the standards of quality by which the Commission determines whether an institution merits accreditation or reaffirmation of accreditation. They are as follows:

## CRITERION 1. MISSION

The institution's mission is clear and articulated publicly; it guides the institution's operations.

### Core Components

1.A. The institution's mission is articulated publicly and operationalized throughout the institution.

1. The mission was developed through a process suited to the context of the institution.
2. The mission and related statements are current and reference the institution's emphasis on the various aspects of its mission, such as instruction, scholarship, research, application of research, creative works, clinical service, public service, economic development and religious or cultural purpose.
3. The mission and related statements identify the nature, scope and intended constituents of the higher education offerings and services the institution provides.
4. The institution's academic offerings, student support services and enrollment profile are consistent with its stated mission.
5. The institution clearly articulates its mission through public information, such as statements of purpose, vision, values, goals, plans or institutional priorities.

1.B. The institution's mission demonstrates commitment to the public good.

1. The institution's actions and decisions demonstrate that its educational role is to serve the public, not solely the institution or any superordinate entity.
2. The institution's educational responsibilities take primacy over other purposes, such as generating

financial returns for investors, contributing to a related or parent organization, or supporting external interests.

3. The institution engages with its external constituencies and responds to their needs as its mission and capacity allow.

1.C. The institution provides opportunities for civic engagement in a diverse, multicultural society and globally-connected world, as appropriate within its mission and for the constituencies it serves.

1. The institution encourages curricular or cocurricular activities that prepare students for informed citizenship and workplace success.
2. The institution's processes and activities demonstrate inclusive and equitable treatment of diverse populations.
3. The institution fosters a climate of respect among all students, faculty, staff and administrators from a range of diverse backgrounds, ideas and perspectives.

## CRITERION 2. INTEGRITY: ETHICAL AND RESPONSIBLE CONDUCT

The institution acts with integrity; its conduct is ethical and responsible.

### Core Components

2.A. The institution establishes and follows policies and processes to ensure fair and ethical behavior on the part of its governing board, administration, faculty and staff.

1. The institution develops and the governing board adopts the mission.
2. The institution operates with integrity in its financial, academic, human resources and auxiliary functions.

2.B. The institution presents itself clearly and completely to its students and to the public.

1. The institution ensures the accuracy of any representations it makes regarding academic

offerings, requirements, faculty and staff, costs to students, governance structure and accreditation relationships.

2. The institution ensures evidence is available to support any claims it makes regarding its contributions to the educational experience through research, community engagement, experiential learning, religious or spiritual purpose and economic development.

**2.C.** The governing board of the institution is autonomous to make decisions in the best interest of the institution in compliance with board policies and to ensure the institution's integrity.

1. The governing board is trained and knowledgeable so that it makes informed decisions with respect to the institution's financial and academic policies and practices; the board meets its legal and fiduciary responsibilities.
2. The governing board's deliberations reflect priorities to preserve and enhance the institution.
3. The governing board reviews the reasonable and relevant interests of the institution's internal and external constituencies during its decision-making deliberations.
4. The governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties.
5. The governing board delegates day-to-day management of the institution to the institution's administration and expects the institution's faculty to oversee academic matters.

**2.D.** The institution is committed to academic freedom and freedom of expression in the pursuit of truth in teaching and learning.

**2.E.** The institution's policies and procedures call for responsible acquisition, discovery and application of knowledge by its faculty, staff and students.

1. Institutions supporting basic and applied research maintain professional standards and provide oversight ensuring regulatory compliance, ethical behavior and fiscal accountability.

2. The institution provides effective support services to ensure the integrity of research and scholarly practice conducted by its faculty, staff and students.
3. The institution provides students guidance in the ethics of research and use of information resources.
4. The institution enforces policies on academic honesty and integrity.

### **CRITERION 3. TEACHING AND LEARNING: QUALITY, RESOURCES, AND SUPPORT**

The institution provides quality education, wherever and however its offerings are delivered.

#### **Core Components**

**3.A.** The rigor of the institution's academic offerings is appropriate to higher education.

1. Courses and programs are current and require levels of student performance appropriate to the credential awarded.
2. The institution articulates and differentiates learning goals for its undergraduate, graduate, post-baccalaureate, post-graduate, and certificate programs.
3. The institution's program quality and learning goals are consistent across all modes of delivery and all locations (on the main campus, at additional locations, by distance delivery, as dual credit, through contractual or consortial arrangements, or any other modality).

**3.B.** The institution offers programs that engage students in collecting, analyzing and communicating information; in mastering modes of intellectual inquiry or creative work; and in developing skills adaptable to changing environments.

1. The general education program is appropriate to the mission, educational offerings, and degree levels of the institution. The institution articulates the purposes, content and intended learning outcomes of its undergraduate general education requirements.
2. The program of general education is grounded in a philosophy or framework developed by the institution or adopted from an established framework. It imparts broad knowledge and intellectual concepts to students and develops

skills and attitudes that the institution believes every college-educated person should possess.

3. The education offered by the institution recognizes the human and cultural diversity and provides students with growth opportunities and lifelong skills to live and work in a multi-cultural world.
4. The faculty and students contribute to scholarship, creative work, and the discovery of knowledge to the extent appropriate to their offerings and the institution's mission.

**3.C.** The institution has the faculty and staff needed for effective, high-quality programs and student services.

1. The institution strives to ensure that the overall composition of its faculty and staff reflects human diversity as appropriate within its mission and for the constituencies it serves.
2. The institution has sufficient numbers and continuity of faculty members to carry out both the classroom and the non-classroom roles of faculty, including oversight of the curriculum and expectations for student performance, assessment of student learning; and establishment of academic credentials for instructional staff.
3. All instructors are appropriately qualified, including those in dual credit, contractual and consortial offerings.
4. Instructors are evaluated regularly in accordance with established institutional policies and procedures.
5. The institution has processes and resources for assuring that instructors are current in their disciplines and adept in their teaching roles; it supports their professional development.
6. Instructors are accessible for student inquiry.
7. Staff members providing student support services, such as tutoring, financial aid advising, academic advising, and cocurricular activities are appropriately qualified, trained and supported in their professional development.

**3.D.** The institution provides support for student learning and resources for effective teaching.

1. The institution provides student support services suited to the needs of its student populations.

2. The institution provides for learning support and preparatory instruction to address the academic needs of its students. It has a process for directing entering students to courses and programs for which the students are adequately prepared.
3. The institution provides academic advising suited to its offerings and the needs of its students.
4. The institution provides to students and instructors the infrastructure and resources necessary to support effective teaching and learning (technological infrastructure, scientific laboratories, libraries, performance spaces, clinical practice sites, and museum collections, as appropriate to the institution's offerings).

#### **CRITERION 4. TEACHING AND LEARNING: EVALUATION AND IMPROVEMENT**

The institution demonstrates responsibility for the quality of its educational programs, learning environments and support services, and it evaluates their effectiveness for student learning through processes designed to promote continuous improvement.

##### **Core Components**

**4.A.** The institution ensures the quality of its educational offerings.

1. The institution maintains a practice of regular program reviews and acts upon the findings.
2. The institution evaluates all the credit that it transcripts, including what it awards for experiential learning or other forms of prior learning, or relies on the evaluation of responsible third parties.
3. The institution has policies that ensure the quality of the credit it accepts in transfer.
4. The institution maintains and exercises authority over the prerequisites for courses, rigor of courses, expectations for student learning, access to learning resources, and faculty qualifications for all its programs, including dual credit programs. It ensures that its dual credit courses or programs for high school students are equivalent in learning outcomes and levels of achievement to its higher education curriculum.

5. The institution maintains specialized accreditation for its programs as appropriate to its educational purposes.
6. The institution evaluates the success of its graduates. The institution ensures that the credentials it represents as preparation for advanced study or employment accomplish these purposes. For all programs, the institution looks to indicators it deems appropriate to its mission.

**4.B.** The institution engages in ongoing assessment of student learning as part of its commitment to the educational outcomes of its students.

1. The institution has effective processes for assessment of student learning and for achievement of learning goals in academic and cocurricular offerings.
2. The institution uses the information gained from assessment to improve student learning.
3. The institution's processes and methodologies to assess student learning reflect good practice, including the substantial participation of faculty, instructional and other relevant staff members.

**4.C.** The institution pursues educational improvement through goals and strategies that improve retention, persistence and completion rates in its degree and certificate programs.

1. The institution has defined goals for student retention, persistence and completion that are ambitious, attainable and appropriate to its mission, student populations and educational offerings.
2. The institution collects and analyzes information on student retention, persistence and completion of its programs.
3. The institution uses information on student retention, persistence and completion of programs to make improvements as warranted by the data.
4. The institution's processes and methodologies for collecting and analyzing information on student retention, persistence and completion of programs reflect good practice. (Institutions are not required to use IPEDS definitions in their determination of persistence or completion rates. Institutions are encouraged to choose

measures that are suitable to their student populations, but institutions are accountable for the validity of their measures.)

## **CRITERION 5. INSTITUTIONAL EFFECTIVENESS, RESOURCES AND PLANNING**

The institution's resources, structures, processes and planning are sufficient to fulfill its mission, improve the quality of its educational offerings, and respond to future challenges and opportunities.

### **Core Components**

**5.A.** Through its administrative structures and collaborative processes, the institution's leadership demonstrates that it is effective and enables the institution to fulfill its mission.

1. Shared governance at the institution engages its internal constituencies—including its governing board, administration, faculty, staff and students—through planning, policies and procedures.
2. The institution's administration uses data to reach informed decisions in the best interests of the institution and its constituents.
3. The institution's administration ensures that faculty and, when appropriate, staff and students are involved in setting academic requirements, policy and processes through effective collaborative structures.

**5.B.** The institution's resource base supports its educational offerings and its plans for maintaining and strengthening their quality in the future.

1. The institution has qualified and trained operational staff and infrastructure sufficient to support its operations wherever and however programs are delivered.
2. The goals incorporated into the mission and any related statements are realistic in light of the institution's organization, resources and opportunities.
3. The institution has a well-developed process in place for budgeting and for monitoring its finances.
4. The institution's fiscal allocations ensure that its educational purposes are achieved.

5.C. The institution engages in systematic and integrated planning and improvement.

1. The institution allocates its resources in alignment with its mission and priorities, including, as applicable, its comprehensive research enterprise, associated institutes and affiliated centers.
2. The institution links its processes for assessment of student learning, evaluation of operations, planning and budgeting.
3. The planning process encompasses the institution as a whole and considers the perspectives of internal and external constituent groups.
4. The institution plans on the basis of a sound understanding of its current capacity, including fluctuations in the institution's sources of revenue and enrollment.
5. Institutional planning anticipates evolving external factors, such as technology advancements, demographic shifts, globalization, the economy and state support.
6. The institution implements its plans to systematically improve its operations and student outcomes.

# CROSSWALKS BETWEEN THE CURRENT AND REVISED CRITERIA

The revisions to the Criteria included some reorganization of the Core Components. The charts below map these changes. Broadly, the reorganized Core Components include the following:

- Core Component 1.B. was merged into Core Component 1.A.
- Core Component 1.D. was renumbered as Core Component 1.B.
- Concepts from Core Component 3.E. were added to Core Component 2.B.
- Core Component 5.A. was renumbered as Core Component 5.B, and Core Component 5.B. was renumbered as Core Component 5.A.
- Core Component 5.D. was merged into Core Component 5.C.

## FROM THE CURRENT CRITERIA TO THE REVISED CRITERIA

Current Criteria	Revised Criteria
<b>Criterion 1</b>	
1.A.	1.A.
1.B.	1.A.
1.C.	1.C.
1.D.	1.B.
<b>Criterion 2</b>	
2.A.	2.A.
2.B.	2.B.
2.C.	2.C.
2.D.	2.D.
2.E.	2.E.
<b>Criterion 3</b>	
3.A.	3.A.
3.B.	3.B.
3.C.	3.C.
3.D.	3.D.
3.E.	2.B.
<b>Criterion 4</b>	
4.A.	4.A.
4.B.	4.B.
4.C.	4.C.
<b>Criterion 5</b>	
5.A.	5.B.
5.B.	5.A.
5.C.	5.C.
5.D.	5.C.

## FROM THE REVISED CRITERIA TO THE CURRENT CRITERIA

Revised Criteria	Current Criteria
<b>Criterion 1</b>	
1.A.	1.A. and 1.B.
1.B.	1.D.
1.C.	1.C.
<b>Criterion 2</b>	
2.A.	2.A.
2.B.	2.B. and 3.E.
2.C.	2.C.
2.D.	2.D.
2.E.	2.E.
<b>Criterion 3</b>	
3.A.	3.A.
3.B.	3.B.
3.C.	3.C.
3.D.	3.D.
<b>Criterion 4</b>	
4.A.	4.A.
4.B.	4.B.
4.C.	4.C.
<b>Criterion 5</b>	
5.A.	5.B.
5.B.	5.A.
5.C.	5.C. and 5.D.

# GLOSSARY OF CRITERIA TERMINOLOGY

This glossary explains how these words are used within the Criteria for Accreditation. Its intent is not to prescribe how institutions must use a particular word or phrase locally, but rather to offer a means to ensure a consistent reading of the meaning and expectations of the Criteria for Accreditation. It is not part of the Criteria policy and will be updated as needed to respond to questions and feedback from institutions and peer reviewers.

“NEW” indicates definitions written for the revised version of the Criteria based on feedback from the membership. Other terms are from the 2013 Criteria glossary.

## **NEW / ACADEMIC FREEDOM (2.D.)**

The ability to engage differences of opinion, evaluate evidence and form one’s own grounded judgments about the relative value of competing perspectives. This definition implies not just freedom from constraint but also freedom for faculty, staff and students to work within a scholarly community to develop intellectual and personal qualities.

## **NEW / ACADEMIC OFFERINGS**

Any educational experience offered at an institution for academic credit. This includes, but is not limited to, degree and certificate programs and courses.

## **NEW / APPROPRIATE TO HIGHER EDUCATION (3.A.)**

Curricular and cocurricular programming of the quality and rigor for the degree level that prepares students to think critically and function successfully. It is distinctly different from K-12 education.

## **NEW / AUTONOMOUS (2.C.)**

The institution’s governing board acts independently of any other entity in determining the course of direction and policies for the institution.

## **AUXILIARY (2.A.)**

Activities and services related to, but not intrinsic to, educational functions: dining services, student housing, faculty or staff housing, intercollegiate athletics, student stores, a Public Radio station, etc. In many institutions, “auxiliary” simultaneously denotes a segregated budget and dedicated revenues.

## **NEW / CAPACITY (1.A., 5.C.)**

An institution’s ability to effectively deliver its educational offerings. Determining capacity refers to

an institution’s demonstrable ability to establish and maintain academic quality. Indicators of sufficient capacity may include, but are not limited to, the following:

- Financial resources to support academic offerings at start-up and in the future.
- Evidence of planning that allocates necessary resources and shows ongoing development.
- Alignment of academic offerings with the institution’s mission and evidence of the institution’s long-term commitment.
- Evidence of new or revised policies and procedures that demonstrate commitment and sustainability.
- Qualified faculty and staff to serve students.
- Learning environments (whether classrooms, laboratories, studios or online infrastructure) with technological resources and equipment.
- Print and electronic media and support for the access and use of the technological resources across modalities.

## **NEW / CIVIC ENGAGEMENT (1.C.)**

Community service or any number of other efforts (by individuals or groups) intended to address issues of public or community concern.

## **NEW / COCURRICULAR (3.C., 4.B.)**

Learning activities, programs and experiences that reinforce the institution’s mission and values and complement the formal curriculum. Examples: Study abroad, student-faculty research experiences, service learning, professional clubs or organization, athletics, honor societies, career services, etc.

### **UPDATED / CONTROL (2.B.)**

The entity that is responsible for the fiscal and operational oversight of an institution and its programs. Control also includes the structure and organizational arrangements of an institution. Examples include, but are not limited to, the following:

- The state board or agency that oversees a public university.
- The board of trustees that oversees a private, nonprofit college.
- The parent corporation of a private, for-profit college.
- The public board authorized by Congress to oversee an institution under federal control.
- Religious bodies and tribal councils.

### **DUAL CREDIT (3.C., 4.A.)**

Courses taught to high school students for which the students receive both high school credit and college credit. These courses or programs are offered under a variety of names; the Core Components that refer to “dual credit” apply to all of them as they involve the accredited institution’s responsibility for the quality of its offerings.

### **NEW / GOOD PRACTICE (4.B., 4.C.)**

Practice that is based in the use of processes, methods and measures that have been determined to be successful by empirical research, professional organizations and/or institutional peers.

### **NEW / INFORMED CITIZENSHIP (1.C.)**

Having sufficient and reliable information about issues of public concern and having the knowledge and skills to make reasonable judgments and decisions about them.

### **NEW / OPERATIONAL STAFF (5.B.)**

Personnel who support the academic enterprise, such as those who may work in the areas of finance, human resources, facilities, dining/catering, information technology, planning, security, student services, academic support, etc.

### **PUBLIC (1.A.)**

In phrases such as “makes available to the public” or “states publicly,” this refers to people in general, including current and potential students. In phrases such as “the public good,” the Criteria refer to public, as opposed to private, good.

### **NEW / PUBLIC INFORMATION (1.A.)**

Information publicly available on websites or other materials that are available freely to the public, without having to ask specifically for it.

### **NEW / STUDENT OUTCOMES (5.C.)**

Education-specific results to measure against the objectives or standards for the educational offerings. Examples could be results from licensure or standardized exams, course and program persistence, graduation rates and workforce data.

### **NEW / SUPERORDINATE ENTITY (1.B.)**

An entity situated hierarchically above the institution, which includes but is not limited to state boards, private owners, corporate parents, Tribal councils or religious denominations.

### **NEW / UNDUE INFLUENCE (2.C.)**

Overreach, suspicious transactions and relationships that are exclusive (without oversight) that could yield influence over the institution’s governing board.

### **WHEREVER AND HOWEVER DELIVERED (2.E., 5.B.)**

All modes of delivery of academic offerings and all locations, modalities and venues, including but not limited to the main campus, additional locations, distance delivery, dual credit and contractual or consortial arrangements.



# ASSURANCE SYSTEM TRANSITION

To facilitate the transition to the revised Criteria in the Assurance System, during the 2019–20 academic year HLC will begin moving institutions to a new Assurance Argument template that reflects the revised Criteria. The timing of the transition will be based on an institution’s position within its accreditation cycle.

When an institution’s existing Assurance Argument is moved into the new template, the narrative content automatically will be reorganized in the Assurance Argument template according to the crosswalk provided on page 7. For example, an institution’s argument for Core Component 1.B. will be appended to its argument for Core Component 1.A. in the new template. Although the institution will have to adjust the content to account for changes to the Core Component statements and subcomponents, none of its previous Assurance Argument will be lost in the transition to the new Criteria. No changes will be made to the institution’s Evidence File or Introduction.

## TRANSITION PLAN

HLC will transition institutions into the new template based on their position within their accreditation cycle in the 2019–20 academic year. This process will begin in fall 2019. HLC will provide details about the transition closer to the time periods listed below.

### Group 1

Institutions in Years 3 and 9 of Standard and Open Pathways and those with candidacy, biennial or initial accreditation evaluations in 2020–21 will be

transitioned to the new Criteria template by the end of the fall term in 2019. (Note: Institutions may still work in the Assurance System prior to the transition to the new template. Any narrative they enter will be reorganized in the new template according to the crosswalk on page 7.)

### Group 2

Institutions in Years 1, 2, 5, 6, 7 and 8 of Standard and Open Pathways and those with candidacy, biennial or initial accreditation evaluations later than 2020–21 will be transitioned to the new Criteria template during spring 2020.

### Group 3

Institutions in Years 4 and 10 of Standard and Open Pathways, Years 4 and 8 of AQIP Pathway, and those with candidacy, biennial, initial accreditation or sanction evaluations in 2019–20 will transition to the new Criteria template after final action is taken on their evaluation.

**Housing and Residence Life Summary**  
October 11, 2019

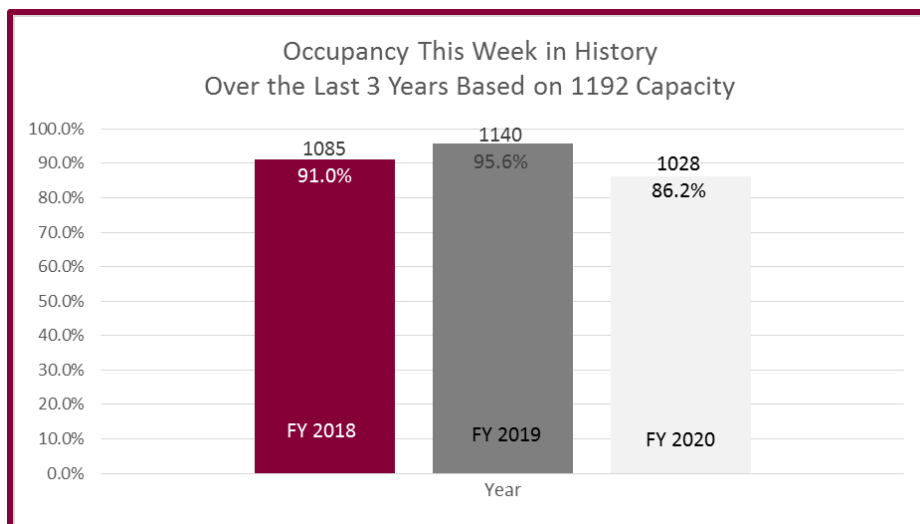
Assignments are down for FY20:

- 86.2% occupied based on 1192 capacity (-9.4% compared to FY19)

Current Term Occupancy This Week in History (Capacity)								
Year	Bryant Place	Morrow Hall	Pence Hall	Prichard Hall	University Terrace/ College Park	Total Occupancy	Total Capacity	Capacity Percentage
FY18	382	139	87	143	334	1085	1192	91.0%
FY19	398	154	98	147	343	1140	1192	95.6%
FY20	378	125	84	127	314	1028	1192	86.2%

Current Term Occupancy This Week in History (Configuration)								
Year	Bryant Place	Morrow Hall	Pence Hall	Prichard Hall	University Terrace/ College Park	Total Occupancy	Total Configuration	Configuration Percentage
FY18	382	139	87	143	334	1085	1189	91.3%
FY19	398	154	98	147	343	1140	1144	99.7%
FY20	378	125	84	127	314	1028	1163	88.4%

Fairmont VS Pierpont Current Term Occupancy This Week in History			
Year	Fairmont State	Pierpont	Total
FY18	916	169	1085
FY19	974	166	1140
FY20	874	154	1028





**Financial Summary – As of August 31, 2019**

With 17% of the year completed, below is a summary of the Statement of Revenues, Expenses and Net Position for the Unrestricted (E&G and Fund Manager), Auxiliary and Restricted Funds:

<u>Unrestricted (Central E&amp;G and Fund Manager)</u>	<u>Budget</u>	<u>Actual</u>	<u>% Budget to Actual</u>
Operating Revenues	31,785,884	14,899,163	46.87%
Operating Expenses	(47,926,285)	(6,195,570)	12.93%
Other Rev/Exp/Transfers and Budget Adjustments	16,232,007	2,969,133	16.61%
Net Income	91,606	11,672,726	

YTD Unrestricted balance of \$11,672,726 as compared to the balance this time last year of \$10,942,683 and \$8,725,780 in August 2017.

<u>Auxiliary</u>	<u>Budget</u>	<u>Actual</u>	<u>% Budget to Actual</u>
Operating Revenues	14,744,237	4,408,030	29.90%
Operating Expenses	(8,933,260)	(1,292,512)	14.47%
Other Rev/Exp/Transfers and Budget Adjustments	(4,945,427)	(30,925)	99.74%
Anticipated Transfer to Reserves	865,550	3,084,593	

Actual transfer to reserves for FY19 is \$785,000. FY18 actual reserve transfers were \$590,301.

<u>Restricted</u>	<u>Budget</u>	<u>Actual</u>	<u>% Budget to Actual</u>
Operating Revenues	31,159,201	10,769,595	34.56%
Operating Expenses	(38,116,859)	(12,193,906)	31.99%
Other Rev/Exp/Transfers and Budget Adjustments	7,112,887	3,104,844	43.65%
Net Income	155,229	1,680,533	

Awards budgeted in July and August listed below:

Appalachian Teaching FY20	\$4,500
Foundation Faculty Award – Cuchta	\$ 750
WVHEPC Gender Equity	\$7,462
AACN Nursing Award	\$1,000
WV Humanities Council and Match	\$3,000

# Tab 2



**Fairmont State University**  
**Board of Governors – Bylaws Committee Meeting**  
**December 5, 2019**

**Item:** The need to repeal and replace Policy 09 – Sexual Harassment.

**Committee:** Bylaws Committee

**Recommended Resolution:**

That the Board of Governors repeal and replace current Policy 09 to address discrimination, harassment, sexual harassment, sexual misconduct, stalking, retaliation, and other relationships at Fairmont State University to be in compliance with the change in federal, state, and local laws, administrative rules and regulations including conforming with guidance from the U.S. Department of Education.

**Staff Member:** Jacqueline L. Sikora, General Counsel; Cynthia Curry, VP of Human Resources; and Jessica Kropog, Title IX Coordinator and Compliance Specialist.

**Background:** This policy complies with federal, state, and local laws, and administrative rules and regulations including conforming to guidance from the U.S. Department of Education. The request is to repeal and replace existing Policy 9, and to ensure that the current policy is updated as noted herein.



**Fairmont State University Board of Governors**

**Policy #GA-01**

**Effective Date:** \_\_\_\_\_

**TITLE: RULE REGARDING DISCRIMINATION, HARASSMENT SEXUAL HARASSMENT, SEXUAL MISCONDUCT, DOMESTIC MISCONDUCT, STALKING, RETALIATION, AND RELATIONSHIPS.**

**SECTION 1: GENERAL.**

- 1.1 Scope: This policy is regarding discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, retaliation, and other relationships at Fairmont State University.
- 1.2 Responsible Unit: Office of the President.
- 1.3 Filing Date:
- 1.4 Effective Date:

**SECTION 2: PURPOSE AND SCOPE:**

- 2.1 Fairmont State University is committed to fostering a diverse and inclusive culture by promoting diversity, inclusion, equality, and intercultural and intercommunity outreach.
- 2.2 The University does not discriminate on the basis of race, color, national origin, ancestry, age, physical or mental disability, marital or family status, pregnancy, veteran status, service in the uniformed services (as defined in state and federal law), religion, creed, sex, sexual orientation, genetic information, gender identity, or gender expression in the administration of any of its educational programs, activities, or with respect to admission or employment.
- 2.3 This Rule sets forth how discrimination, harassment, sexual harassment, sexual misconduct, domestic misconduct, stalking, retaliation, and certain relationships will be addressed by the University.

**SECTION 3: COORDINATOR, JURISDICTION, AND DISCIPLINARY ACTION.**

- 3.1 Coordinator. The President shall appoint a University employee to serve as the University's Coordinator. This person will also serve as the University's Title IX Coordinator and the University's ADA Coordinator. The Coordinator may also appoint deputy coordinators to assist in the implementation of this Rule.
  - 3.1.1 The Coordinator shall design and administer a comprehensive anti-discrimination and Title IX program that:



- 3.1.1.1 Develops appropriate procedures for the reporting of complaints regarding allegations of Prohibited Conduct;
- 3.1.1.2 Reviews and investigates complaints and reports of Prohibited Conduct;
- 3.1.1.3 Identifies and addresses systemic patterns of Prohibited Conduct;
- 3.1.1.4 Provides appropriate resources or interim measures to those involved in a complaint or investigation; and
- 3.1.1.5 Develops appropriate training, education, and communication regarding this Rule, including what constitutes Prohibited Conduct, the complaint and investigation process, and preventative education for Members of the University Community. These efforts may be coordinated with other units and groups on-campus.

## 3.2 Role of Supervisor

- 3.2.1 Those in supervisory positions have a special responsibility to discourage Prohibited Conduct and to implement and enforce this Rule.

## 3.3 Jurisdiction.

- 3.3.1 The Coordinator shall receive complaints and investigate Prohibited Conduct that:
  - 3.3.1.1 occurs on University premises or in connection with a University sponsored activity;
  - 3.3.1.2 occurs off-campus and would unreasonably interfere with the educational or orderly operation of the University community, its mission, or its objectives determined by a reasonable person; or
  - 3.3.1.3 occurs off-campus and in light of all of the facts and circumstances, would endanger the health and safety of the University community.

## 3.4 Corrective Action for Violations.

- 3.4.1 Any Faculty, Staff, or University volunteer who violates this Rule shall be subject to appropriate disciplinary action, including suspension, termination, or other disciplinary action as may be appropriate.
- 3.4.2 Any Student who violates this Rule shall be subject to appropriate disciplinary action, including, in accordance with the Student Code of Conduct, suspension, expulsion, or other disciplinary action as may be appropriate.



- 3.4.3 Other Members of the University Community (excluding Faculty, Staff, Students, and University volunteers which are discussed above) who violate this Rule shall be subject to appropriate corrective action, including, but not limited to, issuance of a no trespass order or cancellation of relationship with the University.
- 3.4.4 In addition, Prohibited Conduct that constitutes a criminal law violation will be referred to the authorities for prosecution as appropriate under the circumstances.
- 3.4.5 Furthermore, although conduct may not violate this Rule, it may still be prohibited by the University under a different Rule, policy, or standard of behavior. Accordingly, the University reserves the right to take any appropriate action.

#### SECTION 4: PROHIBITED CONDUCT.

##### 4.1 Defined Prohibited Conduct.

- 4.1.1 The University prohibits Discrimination, Harassment (which also includes Sexual Harassment), Sexual Misconduct, Domestic Misconduct, Stalking, and Retaliation as defined below (collectively referred to as “Prohibited Conduct”) by or against any Member of the University Community.

##### 4.2 Discrimination.

- 4.2.1 “Discrimination” is conduct that is based upon an individual’s race, color, national origin, ancestry, age, physical or mental disability, marital or family status, pregnancy, veteran status, service in the uniformed services (as defined in state and federal law), religion, creed, sex, sexual orientation, genetic information, gender identity, or gender expression and excludes an individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual’s employment, education, living environment or participation in a University program or activity.
- 4.2.2 This includes failure and refusal to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities. It does not, however, include programs or activities specifically exempt by law. See, e.g., 20 U.S.C. § 1681(a) (2017).

##### 4.3 Harassment.

- 4.3.1 “Harassment” is conduct that creates a Hostile Environment, as defined below, and is based upon an individual’s race, color, national origin, ancestry, age, physical or mental disability, marital or family status, pregnancy, veteran status, service in the uniformed services (as defined in state and federal law), religion, creed, sex, sexual orientation, genetic information, gender identity, or gender expression.
- 4.3.2 Harassment may take various forms, including, but not limited to, name-calling, graphic or written statements (including the use of social media, text messages, e-





mail, or other similar forms), or other conduct that may be physically threatening, harmful, or humiliating.

4.3.3 Harassment does not necessarily have to include intent to harm, be directed at a specific target, or involve repeated incidents.

4.3.4 Harassment also includes Sexual Harassment, which is defined below.

#### 4.4 Sexual Harassment.

4.4.1 “Sexual Harassment (Quid Pro Quo)” means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature on or off campus that is sufficiently severe or pervasive when (i) submission to such conduct is made either explicitly or implicitly a condition of an individual’s employment or academic performance or participation in University programs or activities; or (ii) submission to or rejection of such conduct is used as the basis for employment decisions or for academic evaluation, grades, or advancement.

4.4.2 In determining whether alleged conduct constitutes Sexual Harassment, consideration shall be given to the record as a whole and to the totality of the circumstances, including the nature of sexual behavior and the context in which the alleged incident(s) occurred.

4.4.3 “Sexual Harassment (Hostile Environment)” means Harassment that creates a Hostile Environment based on sex, which includes, but is not limited to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.

4.4.4 Sexual Harassment may occur between people of the same sex or people of different sexes. Examples of Sexual Harassment may include, but are not limited to, unsolicited, deliberate or repeated touching, sexual flirtation, advances or propositions which are not welcomed and/or desired; unwelcome jokes, stories, comments, innuendos or other sexually oriented statements which are specifically designed to embarrass or humiliate through their sexual subject matter content; unwelcome sexual communication such as graphic or degrading comments about one’s gender related to personal appearance; unwelcome display of sexually explicit materials, objects, or pictures in an individual’s place of work or study, such as viewing material on computers or other electronic devices where others can see. Importantly, these and any other examples in this Rule, are provided only for illustration purposes and all conduct must still meet the applicable definitions in the Rule before rising to the level of prohibited conduct.

4.4.5 Sex-based harassment includes, but is not limited to, Sexual Harassment and non-sexual harassment based on stereotypical notions of what is female/feminine versus male/masculine or a failure to conform to those gender stereotypes.

#### 4.5 Hostile Environment.

4.5.1 “Hostile Environment” means a situation where an individual is subjected to any conduct based on the reasons set forth in Sections 4.3 or 4.4 and that conduct is sufficiently severe or pervasive, or so objectively offensive, so as to unreasonably interfere with an individual’s educational experience, work or academic performance, or deny or limit the individual’s ability to participate in or benefit from the University’s programs, services, opportunities or activities.

4.5.2 A Hostile Environment can be created by anyone involved in a University program or activity (e.g., administrators, faculty members, students, and even campus guests). Mere offensiveness is not enough to create a Hostile Environment. Although repeated incidents increase the likelihood that Harassment has created a Hostile Environment, a serious incident, even if isolated, can be sufficient to create a Hostile Environment.

4.5.3 In determining whether Harassment has created a Hostile Environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as sufficiently severe or pervasive, or objectively offensive. Also, the following factors will be considered:

4.5.3.1 The degree to which the conduct affected one or more students’ education or individual’s employment;

4.5.3.2 The nature, scope, frequency, duration, and location of incident or incidents; and

4.5.3.3 The identity, number, and relationships of persons involved.

#### 4.6 Sexual Misconduct.

4.6.1 “Sexual Misconduct” means “Sexual Assault” or “Sexual Exploitation,” as defined below. It is a broad term used to encompass unwelcome behavior of a sexual nature that is prohibited by Title IX, the Clery Act, and Fairmont State University.

4.6.1.1 “Sexual Assault” means “Sexual Intercourse” or “Sexual Contact” that occurs without “Consent.” Sexual Assault also means an offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI’s UCR program.

4.6.1.1.1 “Sexual Contact” means any (i) intentional touching, either directly, through clothing, or with an object, of the breasts, buttocks, anus or any part of the sex organs of another person; or (ii) intentional touching of any part of another person’s body by the actor’s sex organs.

4.6.1.1.2 “Sexual Intercourse” is defined as anal, oral, or vaginal penetration, however slight, by an inanimate object or another’s body part.

4.6.1.1.3 “Consent” is defined as agreement, approval, or permission as to some act or purpose that is given knowingly, willingly, and voluntarily by a competent person. Silence, by itself, cannot constitute Consent. Consent to one sexual act does not constitute or imply consent to a different sexual act. Previous consent cannot imply consent to future sexual acts. Consent is required regardless of the parties’ relationship status or sexual history together.

4.6.1.1.4 A person is not competent and therefore lacks the ability to “Consent” where there is either “Forcible Compulsion” or “Incapacity to Consent.”

4.6.1.1.4.1 “Forcible Compulsion” means (i) physical force that overcomes such earnest resistance as might reasonably be expected under the circumstances; (ii) threat or intimidation, expressed or implied, placing a person in fear of immediate death or bodily injury to himself or herself or another person or in fear that he or she or another person will be kidnapped; or (iii) threat or intimidation, express or implied, that the aggressor will retaliate or cause damage to the victim’s reputation if the victim does not give into the aggressor’s sexual advances

4.6.1.1.4.2 “Incapacity to Consent” means that person is (i) either less than sixteen years old; (ii) mentally incapacitated; (iii) physically unable to resist; or (iv) is so intoxicated as to be incapacitated (i.e., unable to knowingly and intentionally make decisions for him or herself).

4.6.1.1.4.3 Intoxication from alcohol or drug use, alone, does not bar Consent.

4.6.1.1.4.4 Incapacitation negates Consent when the alleged perpetrator knows, or a reasonable person, under the circumstances, should know, that the alleged victim is incapacitated.

4.6.1.2 “Sexual Exploitation” means taking sexual advantage of another person without his or her consent.

4.6.1.2.1 Sexual advantage includes, without limitation, causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such other person; causing the prostitution of another person; recording, photographing or transmitting identifiable images of private sexual activity and/or the intimate parts of another person; allowing third parties to observe private sexual acts; disclosing, causing to be disclosed or threatening to disclose, with the intent to harass, intimidate, threaten, humiliate, embarrass, or coerce, an image of another which shows the intimate parts of the depicted person or shows the depicted person engaged in sexually explicit conduct which was captured under circumstances where the person depicted had a reasonable expectation that the image would not be publicly disclosed; and engaging in voyeurism.

#### 4.7 Domestic Misconduct.

4.7.1 “Domestic Misconduct” means “Domestic Violence” and “Dating Violence” as defined below.

4.7.1.1 “Domestic Violence” means Domestic Violence as defined under the Clery Act and W. Va. state law.

4.7.1.1.1 Under the Clery Act, Domestic Violence means a felony or misdemeanor crime of violence committed -- (A) By a current or former spouse or intimate partner of the victim; (B) By a person with whom the victim shares a child in common; (C) By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; (D) By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or (E) By any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

4.7.1.1.2 Under W. Va. state law, “Domestic Violence” or “Abuse” means the occurrence of one or more of the following acts

between Family or Household Members, as defined under W. Va. Code: (1) Intentionally making physical contact of an insulting or provoking nature or intentionally causing physical harm; (2) Attempting to commit a violent injury or committing an act causing reasonable apprehension of immediately receiving a violent injury; (3) Creating fear of physical harm by harassment, stalking, psychological abuse or threatening acts; (4) Committing either sexual assault or sexual abuse as defined in W. Va. Code; and (5) Holding, confining, detaining or abducting another person against that person's will.

4.7.1.1.3 For purposes of this subsection, "Family or Household Members" means persons who: (i) are or were married to each other; (ii) are or were living together as spouses; (iii) are or were sexual or intimate partners; (iv) are or were dating; provided, that a casual acquaintance or ordinary fraternization between persons in a business or social context does not establish a dating relationship; (v) are or were residing together in the same household; (vi) have a child in common regardless of whether they have ever married or lived together; or (vi) have the relationships described in W. Va. Code § 48-27-204.

4.7.1.2 "Dating Violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

4.7.1.2.1 The view of the Complainant shall generally be controlling in determining whether such a relationship existed.

4.7.1.2.2 Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence, for purposes of this Rule, does not include emotional abuse.

## 4.8 Stalking.

4.8.1 "Stalking" means engaging in a Course of Conduct directed at a specific person that would cause a Reasonable Person to: (i) fear for his or her safety or the safety of others; or (ii) suffer Substantial Emotional Distress.

4.8.1.1 “Course of Conduct” means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

4.8.1.2 A “Reasonable Person,” for purposes of this definition, means a reasonable person under similar circumstances and with similar identities to the victim.

4.8.1.3 “Substantial Emotional Distress,” for purposes of this definition, means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

#### 4.9 Retaliation.

4.9.1 No individual may retaliate against any Reporter or Complainant, any person that assists a Complainant in the filing of a complaint of prohibited conduct, or a witness. Complaints of retaliation for such activities will be treated the same way as other complaints under this Rule.

4.9.2 “Retaliate” means to take an adverse action against an individual or subject an individual to conduct that has the purpose or effect of unreasonably interfering with that individual’s educational experience, work or academic performance, or creates an educational experience or academic or work environment that a reasonable person would find intimidating or hostile because of something that individual did to further this Rule, including but not limited to filing a complaint or being a witness in or supporter of or against a complaint.

4.9.2.1 This includes interfering with the reporting of or the investigation of prohibited behavior, such as tampering with or destroying relevant evidence; intimidating, threatening or attempting to influence, in any way, the testimony or information of a Reporter, Complainant, or witness.

### SECTION 5: RELATIONSHIPS.

#### 5.1 Consensual Relationships Between Members of the University Community.

5.1.1 If Members of the University Community engage in a Consensual Relationship involving: (i) persons in inherently unequal and closely related positions at the University; (ii) employees within the same reporting line; or (iii) where one individual has influence or control over another, including those between supervisors and supervisees, the individuals involved in the Consensual Relationship shall notify their immediate supervisor.





5.1.2 The supervisor shall notify Human Resources (when Staff involved) or the Provost's Office (when Faculty involved) of the reported Consensual Relationship.

5.1.2.1 In consultation with Human Resources or the Provost's Office, as appropriate, the supervisor shall make arrangements to eliminate or to mitigate any conflict of interest, disruption, or other legitimate occupational or educational interest.

5.1.2.2 However, if no suitable way to eliminate or mitigate the conflict is reasonably feasible, one or both individuals may be separated from employment at the University.

5.1.2.3 Those involved in these types of Consensual Relationships must remain aware that such relationships could lead to circumstances that result in Harassment, Sexual Misconduct, or Domestic Misconduct. Additionally, others may perceive a person involved in the Consensual Relationship as receiving favorable treatment in employment or educational decisions.

5.1.3 Failing to disclose a Consensual Relationship or not complying with arrangements that have been made is prohibited and may result in disciplinary action up to and including termination.

## 5.2 Relationships Involving Students.

5.2.1 Faculty, Staff, or other Members of the University Community are prohibited from or attempting to initiate, pursue, or engage in a relationship (consensual or non-consensual) with a Student whom the individual evaluates, supervises, instructs, advises, or otherwise has authority or control over.

## 5.3 Pre-existing Relationships Involving Students.

5.3.1 Where there is a pre-existing Consensual Relationship with a Student, the individual shall notify his or her immediate supervisor. The supervisor shall notify Human Resources (when Staff involved) or the Provost's Office (when Faculty involved) of the reported Consensual Relationship.

5.3.1.1 In consultation with Human Resources or the Provost's Office, as appropriate, the supervisor shall make arrangements to eliminate or to mitigate any conflict of interest, disruption, or other legitimate occupational or educational interest.

5.3.1.2 However, if no suitable way to eliminate or mitigate the conflict is reasonably feasible, the employee may be separated from employment at the University.



5.3.1.3 Those involved in pre-existing Consensual Relationships with Students must remain aware that such relationships could lead to circumstances that result in Harassment, Sexual Misconduct, or Domestic Misconduct. Additionally, others may perceive a person involved in the pre-existing Consensual Relationship as receiving favorable treatment in employment or educational decisions.

5.3.2 Failing to disclose a pre-existing Consensual Relationship with Students or not complying with arrangements that have been made is prohibited and may result in disciplinary action up to and including termination.

#### SECTION 6: DUTY TO REPORT.

6.1 Any Member of the University Community who has witnessed or is aware of any of the Prohibited Conduct is strongly encouraged to report any concerns to the Coordinator.

6.2 All Responsible Employees **must** report incidents of Prohibited Conduct to the Coordinator at:

Title IX Coordinator  
208 A Hardway Building  
Fairmont State University  
1201 Locust Avenue  
Fairmont, West Virginia 26554  
(304) 367-4689  
titleIX@fairmontstate.edu

#### SECTION 7: PROCEDURES FOR FILING COMPLAINT.

7.1 Any Member of the University Community who believes he or she has been subject to any of the Prohibited Conduct may file a complaint.

7.2 The Coordinator shall formulate a procedure to investigate and respond to all complaints regarding alleged misconduct in violation of this Rule.

7.2.1 In all cases, complaints will be handled in such a manner so as to achieve a prompt and equitable resolution. Further, the University will take the appropriate steps to end the misconduct, prevent any further misconduct or retaliation, remedy the effects of misconduct, and eliminate any hostile environment that has been created.

7.2.2 If a student has been accused of Prohibited Conduct, the complaint will be handled pursuant to Fairmont State University Board of Governors Policy 17, and the Student Code of Conduct.





7.2.3 If an employee has been accused of prohibited conduct, the complaint will be handled pursuant to the Fairmont State - Complaint and Investigation Process for Complaints Against Employees or Non-Students of Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking and Retaliation.

7.2.4 Any investigation resulting from a complaint will be separate from and in addition to any criminal investigation that may result.

7.3 If any Member of the University Community is found to have intentionally or maliciously been dishonest, reckless, or frivolous in making allegations of a violation under this Rule, they shall be subject to appropriate disciplinary action up to and including termination.

## SECTION 8: CONFIDENTIALITY AND ANONYMOUS REPORTING.

### 8.1 Confidentiality Limitations within the University.

8.1.1 The University respects the privacy of those reporting Prohibited Conduct and will endeavor to respect requests for confidentiality if possible.

8.1.1.1 However, the University has certain legal obligations to address Prohibited Conduct and to prevent its recurrence and, as a result, cannot guarantee confidentiality.

8.1.1.2 When the University must proceed with an investigation against the wishes of a Complainant, the University will take necessary steps to address any safety and other considerations relevant under the circumstances.

8.1.1.3 In determining whether a Complainant's request for confidentiality can be maintained, the University may consider a range of factors and evaluate the request in the context of its responsibility to provide a safe and nondiscriminatory environment for all members of the University community.

### 8.2 Available Confidential Resources.

8.2.1 There are places where an individual can receive services without having to risk confidentiality.

8.2.2 Confidential resources are available for Members of the University Community who have been subject to Prohibited Conduct. Specifically, individuals may contact the University's Coordinator, or their designee, who will then direct the individual to the appropriate resource.

### 8.3 Anonymous Reporting at the University.

- 8.3.1 In order to ensure that Members of the University Community can discuss their options candidly, the University's Coordinator may designate certain individuals as anonymous resources.
- 8.3.2 An individual designated as an anonymous resource is not required to report Title IX concerns to the Title IX Coordinator. However, that individual may have other reporting obligations dictated by state or federal law.
- 8.3.3 Any developed procedures should identify anonymous resources that do not have mandatory reporting obligations, consistent with state and federal law.

## SECTION 9: FREE EXPRESSION, ACADEMIC FREEDOM, AND ACCOUNTABILITY.

- 9.1 Free expression and academic freedom at the University are necessary to enable the institution to reach its goals to engage students in a challenging academic environment; excel in creative activity, and innovation in all disciplines; foster diversity and inclusion; advance international activity and global engagement; and enhance the well-being and the quality of life of the people of West Virginia.
- 9.2 Consequently, while this Rule seeks to protect members of the University community from discrimination, harassment, sexual and domestic misconduct, certain consensual relationships, stalking, and retaliation, it should be read in conjunction with Board of Governors Policy 7: Ethics.

## SECTION 10: DEFINITIONS.

- 10.1.1 "Complainant" means an individual who is the alleged victim of prohibited conduct that is reported to the University or, where appropriate, the University when proceeding on a complaint when the alleged victim is unavailable or unwilling to participate.
- 10.1.2 "Consensual Relationship" means a mutually acceptable romantic, amorous, dating, or sexual relationship between individuals.
- 10.2 "Faculty" means all faculty classifications as defined in current BOG Policy 63.
- 10.3 "Member of the University Community" means (i) an individual engaged in any University activity or program, whether on or off campus; (ii) any individual lawfully on University property; (iii) any individual that is a University student, faculty, staff, University official, University volunteer, or a University visitor; and (iv) any vendor or contractor, including that vendor's or contractor's employees and independent contractors, who are working on campus.



- 10.4 “President” mean the President of Fairmont State University or his or her designee.
- 10.5 “Reporter” means any individual that reports an incident of Prohibited Conduct to the Title IX Coordinator.
- 10.6 “Respondent” means an individual accused of Prohibited Conduct.
- 10.7 “Responsible Employees” are those employees in a leadership or supervisory position, or who have significant responsibility for the welfare of students or employees. Specifically, this term includes, but is not limited to: Title IX Coordinator; Deputy Title IX Coordinators; University Police Officers; Senior Administrators in Residence Life, Student Life, and Athletics; University Senior Administrators, including Senior Administrators within each College or School; Resident Assistants; Faculty; and Athletic Team Coaches and their Staff.
- 10.8 “Staff” means any Classified or Non-Classified Employee, as defined in Board of Governors Policy 63, and any individual employed as a University Temporary Employee.
- 10.9 “Student” means an individual subject to the Fairmont State University Board of Governors Policy 17 (or its successor Rule), University Student Rights and Responsibilities Policy.

#### SECTION 11: DELEGATION.<sup>1</sup>

- 11.1 The Board of Governors delegates to the President the authority to adopt additional internal anti-discrimination policies and procedures to effectuate the implementation of this Board of Governors Rule or in furtherance of any other authority that the Board of Governors has specifically delegated to the President pursuant to this Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.

#### SECTION 12: AUTHORITY.

- 12.1 W. Va. Code §§ 18B-1-6, 18B-2A-4; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17; Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681; the West Virginia Human Rights Act, W. Va. Code §§ 5-11-1 to -20; the Campus Sexual Violence Elimination Act, 20 U.S.C. § 1092, and the Violence Against Women Act of 1994, 42 U.S.C. § 13925.

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<sup>1</sup> The Board of Governors specifically delegates the authority to the Coordinator to update any contact information for specific University units or outside entities listed within this Rule without going through the Board’s formal rulemaking procedures. The same applies equally to any website links contained within this Rule.



SECTION 13: SUPERSEDING PROVISIONS.

- 13.1 This Rule also supersedes and replaces Fairmont State University Board of Governors Policy 09, and any and all internal policies or procedures which relate to the subject matter contained within this Rule.

## Q1 Please enter your comments here:

Answered: 4 Skipped: 0

#	RESPONSES	DATE
1	<p>The proposed policy states that this position will act as both, the title IX coordinator and ADA coordinator. None of the duties or responsibilities of the ADA coordinator are addresses. Please see below for the outline of the duties as suggested by the Association of Higher Education and Disabilities. University ADA (Americans with Disabilities Act) Coordinator Basic Function and Responsibilities Coordinates University programs and responsibilities to assure compliance with the Americans with Disabilities (ADA) Act, Sections 503 and 504 of the Rehabilitation Act of 1973, and other federal and state laws and regulations pertaining to persons with disabilities. Responsible for coordinating University policies and procedures relating to persons with disabilities, tracking university progress relating to its policies and procedures as well as state and federal laws relating to persons with disabilities, filing all necessary reports, and providing consultative services to employing units and offices. The scope of responsibility includes faculty, staff, and student employment, as well as public and student access to programs and facilities. Specific Job Duties Central Planning Responsibilities Serves as the principal planning coordinator for University programs, policies, and procedures relating to University compliance and the promotion of University opportunities for persons with disabilities. Compliance Process Responsibilities Ensures that appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries from University employees and students, as well as the public regarding compliance with the ADA and other applicable federal and state laws regarding discrimination on the basis of disability Makes final determinations regarding allegations of discrimination and non-compliance under the ADA and other applicable federal and state laws regarding discrimination on the basis of disability Informational Responsibilities Maintains current information regarding state and federal laws and regulations as well as the best practices of other universities and private employers concerning the rights of persons with disabilities and ways of providing reasonable accommodations to persons with disabilities while maintaining program performance standards. Maintains current information regarding state and federal laws and regulations as well as the best practices of other universities and private employers relating to the University's employment policies and procedures for faculty, staff and academic professional employees with disabilities. Ensures that University-related information is readily available on services, accommodations, policies, and demographics relating to persons with disabilities. Central Consulting and Outreach Responsibilities Provides ADA program and facility interpretation and advice on compliance to all sectors of the University community. Develops and maintains written materials and other informational pieces to broadly disseminate information regarding the ADA and the University's policies relating to persons with disabilities. Designs and participates in the development of presentations for students, faculty and staff on the provision of equal opportunity for persons with disabilities. Serves as the central intake for matters relating to the ADA and facilitates activity and the flow of information among the various University offices with responsibilities relating to compliance, including but not limited to: Office of Academic Affairs Office of Business and Finance – Architect, Physical Facilities, Transportation and Parking Services Office of Human Resources – Employment, Consulting, Benefits, Compensation, Veterans Affairs, Management Information Office of Legal Affairs Office of Student Affairs – Athletics, Disability Services, University Hospitals and Employee Health Serves as the primary University liaison with relevant state and federal agencies, as well as other ADA coordinators at colleague institutions and associations. Reporting Responsibilities Maintains a record of all disability and accommodation issues and the resolution of each Ensures the timely filing of all required compliance reports Develops and implements internal measures and/or reports which inform the university administration of the status of ADA compliance and opportunities for people with disabilities.</p>	<p>10/23/2019 6:41 AM The suggestion related to the job functions of the ADA Coordinator is helpful, however it is beyond the scope of the Policy. The proposed Policy specifically addresses Sexual Assault, Sexual Misconduct, and Harassment, etc. Because disability discrimination is one component of this Policy, the ADA Coordinator is referenced. The requested language is better suited for the job description of the ADA Coordinator, not a BOG Policy.</p>
2	<p>The policy seems to still follow what needs to be fulfilled in order to promote a healthy learning environment for all.</p>	<p>10/22/2019 4:48 PM</p>
3	<p>Consider using the term Intimate Partner Violence instead of Domestic Violence. DV is an older term and implies the individuals involved had to live together at some point. IPV is the commonly accepted term to include a broader range of relationships, beyond just that of living under the same roof.</p>	<p>10/21/2019 5:12 PM Domestic Violence is the language chosen for the policy as it is the language</p>

Board of Governors  
**Public commentary on draft policy**

utilized in West Virginia Code. If the BOG desires, Intimate Partner can be added to the policy but should not replace the term Domestic Violence.

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4 From a student employee's perspective, this repeal and replace policy appears to be inclusive of modern equality. However, more details about university specific disciplinary action could be beneficial for all faculty, staff and students. If possible, please consider this comment as a means to add information to the policy. Thank you.

10/21/2019 11:23 AM  
Section 3.4 covers the disciplinary portion of the policy. Action will vary per case. The scope of the policy at the BOG level must reflect all potential outcomes.

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# Tab 3



**Fairmont State University**  
**Board of Governors - Bylaws Committee Meeting**  
**December 5, 2019**

**Item:** The need to create a Policy GA-02 to address the protection of minor children while on University property or while participating in University sponsored programs.

**Committee:** Bylaws Committee

**Recommended Resolution:**

That the Board of Governors affirm Policy GA-02 designed to protect minor children while on University property or while participating in University sponsored programs, and which is in compliance with federal, state and local laws regarding children.

**Staff Member:** Jacqueline L. Sikora, General Counsel; Cynthia Curry, VP of Human Resources; and Jessica Kropog, Title IX Coordinator and Compliance Specialist.

**Background:** This policy reflects Fairmont State University's commitment to the protection of minor children on University property or involved in University sponsored programs at all campus locations by providing reporting requirement guidance for Child Abuse and Neglect; guidelines for supervising minor children on campus; and assurance that Fairmont State University is in compliance with all federal, state, and local laws regarding minor children.





**Fairmont State University Board of Governors**

**Policy #GA-02**

**Effective Date:** \_\_\_\_\_

**TITLE: CHILDREN ON CAMPUS**

**SECTION 1. GENERAL**

- 1.1 **Scope:** Fairmont State University is committed to the protection of minor children on University property or involved in University sponsored programs at all campus locations by providing reporting requirement guidance for Child Abuse and Neglect; guidelines for supervising minor children on campus; and assurance that Fairmont State University is in compliance with all federal, state, and local laws regarding minor children.
- 1.2 **Responsible Unit:** Office of the President
- 1.3 **“Child on Campus” or “Children on Campus”** is defined as an individual(s) under the age of eighteen (18) years who is participating in or attending a University event on University grounds. This does not include a child or children at events open to the public where parents or guardians are welcome and expected to provide the child or children with supervision. This policy also does not include Fairmont State University enrolled students who are under the age of eighteen (18).
- 1.4 **Filing Date:**
- 1.5 **Effective Date:**

**SECTION 2. POLICY**

- 2.1 It is the policy of Fairmont State University to promote the health, wellness, safety and security of all children who are entrusted to the care of the University. All programs and events that involve children fall within the scope of this policy.

**SECTION 3. MANDATORY REPORTING**

- 3.1 **Mandatory Reporters** are designated by West Virginia State Law and are individuals required by West Virginia State Law to report any type of Child Abuse or Neglect including physical and sexual abuse. Reporting obligations can be found within WV State Code §§ 49-2-801 to -814.
  - 3.1.1 In cases involving a Mandatory Reporter, reports of Child Abuse or Neglect should be immediately reported to each of the following:



- 3.1.1.1 West Virginia Department of Health and Human Resources Central Intake twenty four hours a day, seven days a week hotline (1-800-352-6513).
  - 3.1.1.2 West Virginia State Police Crimes Against Children (304-293-6400).
  - 3.1.1.3 Fairmont State University Campus Police (304-367-4357).
  - 3.1.1.4 If the Mandatory Reporter is a member of the Fairmont State University campus community, also contact the Title IX Coordinator (304-367-4689).
- 3.2 Upon receiving a report, the Title IX Coordinator shall take immediate action in order to protect children present on the University campus or participating in University sponsored programs.
- 3.3 The University's reporting requirements within this Rule do not supersede the requirements placed on individuals by law. West Virginia's mandatory reporting obligations are currently contained in W.Va. Code §§ 49-2-801 to -814, which can be found at: [www.legis.state.wv.us/WVCODE/Code.cfm](http://www.legis.state.wv.us/WVCODE/Code.cfm).
- 3.4 Under WV Law, an individual that reports an incident of Child Abuse or Neglect in good faith is immune from civil or criminal liability.

#### SECTION 4. UNIVERSITY SPONSORED PROGRAMS OR PROGRAMS ON FAIRMONT STATE UNIVERSITY PROPERTY INVOLVING MINOR CHILDREN

- 4.1 Fairmont State University personnel shall notify the University's Title IX Coordinator when any University sponsored program, whether on or off campus, will involve children participating or children on University property. Notification to the Title IX Coordinator shall take place within 30 days of the date of the event start date.
- 4.1.1 Upon notification of programs involving children, the Title IX Coordinator will develop, in conjunction with the specific Department or area, individualized appropriate guidelines, trainings, and protocols to ensure appropriate supervision of children. These individualized guidelines may be changed if necessary and will have a required expiration date.
  - 4.1.2 Individualized guidelines and protocols may vary from Department to Department or across other campus areas. Guidelines and protocols shall be reviewed at least every three years by the Title IX Coordinator.



#### 4.2 The Title IX Coordinator will

- 4.2.1 Inform all adults participating in University sponsored programs who have contact with children on campus about this policy and West Virginia State Law.
- 4.2.2 Require all adults who have direct contact (such as care, supervision, guidance or control of) with children on campus to complete a background check that must be completed and evaluated prior to program or event. Background checks must be completed at a minimum of every three (3) years.
- 4.2.3 Training for those who have direct contact (such as care, supervision, guidance or control of) with children on campus must be completed annually.

#### SECTION 5. EMPLOYMENT OF CHILDREN BY THE UNIVERSITY

- 5.1 Employment with the University is available to any qualified person who has reached eighteen (18) years of age. Employment of any person who is under eighteen (18) years of age is prohibited.

#### SECTION 6. DISCIPLINARY ACTION

- 6.1 University employees or volunteers who fail to abide by the provisions in this policy may be subject to disciplinary action including verbal warning, written warning, suspension, dismissal or other action deemed appropriate.
- 6.2 Students who fail to abide by the provisions in the policy may face disciplinary action in accordance with the Student Code of Conduct. Disciplinary action may include suspension or complete separation from the University, or other disciplinary action deemed appropriate.
- 6.3 Campus Community Members (non-students or those not employed by the University but lawfully on University property) who fail to abide by the provisions in this policy may be subject to an issuance of No Trespass by the University Police Department and/or termination of affiliation with the University. Campus Community members whose actions may constitute violation of West Virginia Law will be reported to the proper authorities.
- 6.4 In addition, any Member of the Campus Community whose conduct constitutes a criminal law violation will be referred to the appropriate authorities for prosecution.
- 6.5 Furthermore, although conduct may not violate this Rule, it may still be prohibited by the University under a different rule, policy, or standard behavior.



Accordingly, in such cases the University reserves the ability to take necessary action.

## SECTION 7. DEFINITIONS

- 7.1 The definitions contained within this Section are applicable to this Rule. However, these definitions do not supersede or supplant the definitions of these terms provided under West Virginia law, including those used within the West Virginia Child Welfare Act, Chapter 49 of the West Virginia Code. This Act may provide other obligations upon individuals.
- 7.2 “Child” means any person under the age of eighteen (18) years.
- 7.3 “Child Abuse or Neglect” means Sexual Abuse, physical injury, mental or emotional injury, sale or attempted sale, negligent treatment or maltreatment of a child by an adult, any other act that endangers or attempts to endanger the health, safety, or well-being of a child, or anything else that is otherwise prohibited by West Virginia law intended to protect children.
- 7.4 “Direct Contact” means when an adult’s interaction with a Visiting Child involves the care, supervision, guidance, or control of a Visiting Child.
- 7.5 “Mandatory Reporters” means any individual obligated by West Virginia law to report any type of Child Abuse or Neglect, including physical or Sexual Abuse. Under West Virginia law, this includes: Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-enforcement official, humane officer, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect Child Abuse or Neglect or observes the child being subjected to conditions that are likely to result in Child Abuse or Neglect. See W. Va. Code § 49-2-803.
- 7.5.1 Furthermore, under West Virginia law, any person over the age of eighteen who receives a disclosure from a credible witness or observes any Sexual Abuse of a child is also a Mandatory Reporter. Any school teacher or other school personnel who receives a disclosure from a witness, which a reasonable prudent person would deem credible, or personally observes any sexual contact, sexual intercourse or sexual intrusion, as those terms are defined in article eight-b [ §§ 61-8B-1 et seq.], chapter sixty-one, of a child on school premises or on school buses or on transportation used in furtherance of a school purpose is also a Mandatory Reporter; Provided, that this

subsection will not impose any reporting duty upon school teachers or other school personnel who observe, or receive a disclosure of any consensual sexual contact, intercourse, or intrusion occurring between students who would not otherwise be subject to section three [§ 61-8B-3], five [§ 61-8B-5], seven [§ 61-8B-7] or nine [§ 61-8B-9] of article eight-b, chapter sixty-one of the West Virginia Code. See W. Va. Code § 49-2-803 (2017).

7.5.2 However, for the purposes of this Rule, all University Faculty and Staff are considered Mandatory Reporters.

- 7.6 “Member of the Campus or University Community” means (i) an individual engaged in any University activity or program, whether on or off campus; (ii) any individual lawfully on University property; (iii) any individual that is a University Student, Faculty, Staff, University official, University volunteer, or a University visitor; and (iv) any vendor or contractor, including that vendor’s or contractor’s employees and independent contractors, who are working on campus.
- 7.7 “President” means the President of the University or his or her designee.
- 7.8 “Sexual Abuse” is a form of Child Abuse or Neglect and means any wrongful or otherwise illegal act that involves the sexual molestation or exploitation of child or is otherwise sexual in nature, whether physical injuries are sustained or not.
- 7.9 “Staff” means any Classified or Non-Classified Employee as Full or Part Time. This includes Student Employees.
- 7.10 “Student” means an individual subject to the Fairmont State University Board of Governors Policy 17 (or its successor Rule), the Student Code of Conduct.
- 7.11 “Title IX Coordinator” means the University’s Title IX Coordinator or his or her designee.
- 7.12 “Area” means any department, budget unit, college, other identifiable employee group, or combination thereof.
- 7.12 “Visiting Child” means any person under the age of eighteen (18) years who is attending a Fairmont State University program or activity or any person under the age of eighteen (18) years who is on University premises. However, this definition does not include children at general public events where parents or guardians are invited and expected to provide supervision of children. Additionally, it does not include any person under the age of eighteen (18) years who is enrolled as a Fairmont State University student.



SECTION 8: DELEGATION.

8.1 The Board of Governors delegates to the President the authority to adopt additional internal anti-discrimination policies and procedures to effectuate the implementation of this Board of Governors Rule or in furtherance of any other authority that the Board of Governors has specifically delegated to the President pursuant to this Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.

SECTION 9: AUTHORITY.

9.1 The West Virginia Child Welfare Act, W.VA. Code §§ 49-2-801 to -814 (2017); and W.VA. Code §§ 61-8B-1 et seq.

SECTION 10: SUPERSEDING PROVISIONS.

10.1 This Rule supersedes and replaces any and all internal policies or procedures which relates to the subject matter contained within this Rule.



## Q1 Please enter your comments here:

Answered: 4 Skipped: 0

#	RESPONSES	DATE
1	Does not address the larger issue of ALL WV residents being mandated reported of child sexual abuse (this is everyone, not just the traditional mandated reporters. Because there has been limited media on this law, it should be clearly articulated). This policy is neglecting the MUCH more common issue of children attending classes with parents/caregivers. Similar to public events where parents are responsible for their children, parents are responsible for their children when bringing them to classes. Because of the nature of our students trying to balance school-work-life, children occasionally attending class is a necessity. Please make this clear in the policy!!!!	10/21/2019 5:20 PM The concern related to children attending classes with their parent or guardian would not be covered under this policy as it is only triggered when a minor child is not otherwise being supervised. However, the comment will be provided to the Provost for his review.
2	1. While I think this is a step in the right direction, I think it doesn't go far enough. 2. While I agree that anybody on campus working with kids programming needs the training (and I assume it would be through the same provider as the Title IX training), I actually think everyone (or at least all full-time and part-time teaching staff) need it. 2a. If somebody becomes a mandated reporter because they run an event on campus, that means they are now a mandated reporter in the rest of their life off-campus, too. If a kid participates in an on-campus event and finds out that the prof is a mandated reporter, the kid may be under the impression that we are all mandated reporters and then talk to one of us who hasn't had the training. 2b. As an aside, the state law says teachers are mandated; I actually asked at the counseling center last year and they couldn't tell me if a prof was a teacher, under the law. 2c. If we do all become mandated reporters, we need to get some public relations info out there to spread the word. 3. I also don't like that if I have a dual-enrollment student in my class, that I'm not a mandated reporter under this policy. The reality is, I can have teenagers from 15 to 17years, 11months and 29 days in my classes. Depending on the assignment, they might disclose physical abuse or neglect, especially if they think I am a teacher covered under the law. 3a. I realize if they disclose sex abuse that it would be covered under Title IX. 3b. Which brings up the uncomfortable issue that I have dual-enrollment "jail bait" (under 16 year olds) sitting in my classes next to 20 or 21 year olds, and nobody, including me, knows how many of them there are or how young they are. Many high school students won't admit their status to the college students, especially if they are that young but have finished puberty. It's not a good situation. East Fairmont apparently does it more sanely; the kids sit at East Fairmont with an adult in the room and take online classes; I don't know if the other high schools would want to copy this model; it protects everybody involved. Thank you for listening!	10/21/2019 11:23 AM The scope of the policy meets the definitions of a mandatory reporter under WV Code §49-2-803. The policy echoes an employee would be a mandatory reporter on or off campus if the employee meets the criteria outlined in the code. Under the code and policy if an incident of violence is reported, employees are obligated to report the incident to the proper entity. For university purposes, employees only need to report disclosures to the Office of Title IX and Compliance. By virtue of creation all employees are advised of their responsibilities as a mandatory reporter.
3	It is imperative that GA-02 policy be implemented for the protection of minor children while on university property. The safety of children should be at the forefront of our concern while at the same time protecting the reputation and interests of Fairmont State University and it's employees.	10/21/2019 9:27 AM
4	This seems to be totally appropriate and detailed as to reporting responsibilities.	10/21/2019 9:09 AM

## Additional responses regarding comment 2:

The comments appear to be blending obligations under Title IX and Children on Campus. The Federal Guidelines provide the minimum obligations and allow the individual institution to broaden the scope of those who are required to report. FSU has determined that all FSU employees, except for counseling services (however must follow disclosure responsibilities set forth in WV Code as outlined for an individual holding the specific certification), are mandatory reporters on our campus.

Regarding dual enrollment, all faculty teaching these courses may require additional training.

# Tab 4



**Fairmont State University  
Board of Governors  
December 5, 2019**

**Item:** September and October Financial Reports

**Committee:** Committee of the Whole

**Recommended Resolution:** Be it resolved, that the Finance Committee of the Board of Governors recommend the Board accept the September and October Unrestricted and Restricted reports.

**Staff Member:** Christa Kwiatkowski

**Background:** Summary of the reports submitted is attached.

**Fairmont State University**

**Board of Governors**

**October 2019**

**Unrestricted Central E&G and Unrestricted Fund Manager**

The unrestricted funds are resources of the institution which are expendable for any purpose in performing the primary objectives of the institution such as instruction, research, and public service.

Central E&G funds are the main operating budget of the institution. The sources of these revenues include tuition and fees, state appropriations, chargeback revenues from Pierpont, and other miscellaneous income. The funding supports academic units, student services, support services, information technology, library services, administration, and physical plant.

Fund Manager funds represent the funds assessed or earned by the academic schools or other departments that support costs specific to that department such as equipment and laboratory supplies.

**October 2019**

With 33% of the fiscal year completed, the Unrestricted Central E&G year to date operating revenues of \$12,966,378 represents 45.65% of the projected current budget. The year to date operating expenses of \$11,821,384 represents 26.64% of the projected current budget. The year to date non-operating revenues of \$6,938,269 represents 50.96% of the projected current budget. After adjusting for debt service, financial aid match and other transfers, the actual YTD balance at the end of October is a positive \$8,083,263. Last year at this time, the actual YTD balance was \$7,002,317.

Fund Manager funds year to date operating revenues of \$1,739,984 represents 51.39% of the projected current budget. The year to date operating expenses of \$823,070 represents 22.13% of the projected current budget. After non-operating revenues and other transfers, the actual YTD balance at the end of October is a positive \$889,139. Last year at this time, the actual YTD balance was \$1,051,240.

**Auxiliary Funds**

Auxiliary enterprises are self-supporting activities conducted to primarily to provide facilities or services to students, faculty, and staff. Auxiliary activities include: operation of residence halls, public safety, Falcon Center, bookstore, dining, and intercollegiate athletics.

**October 2019**

With 33% of the fiscal year completed, the Auxiliary year to date operating revenues of \$5,036,341 represents 34.16% of the projected current budget. The year to date operating expenses of \$2,491,350 represents 27.84% of the projected current budget. After non-operating revenues, the debt service payments and other transfers, the actual YTD balance at the end of October is a positive \$82,001. Transfer to reserves is currently budgeted at \$851,051. Actual transfers to reserves for FY19 were \$785,000.

## Restricted Funds

The Restricted Fund group consists of those funds that are expendable for operating purposes by the University but are limited by grantors or an outside agency as to the specific purpose for which they may be expended. Restricted funds at FSU consist primarily of contracts and grants received from federal or state governments for financial aid, research, public service, or other restricted purpose.

### **October 2019**

With 33% of the fiscal year completed, the Restricted year to date operating revenues of \$12,039,226 represents 37.52% of the projected current budget. The year to date operating expenses of \$13,225,448 represents 33.92% of the projected current budget. After adjusting for Pell Grant revenues and other transfers, the actual YTD balance is a positive \$2,071,601. The positive balance is due to receiving state aid that is currently deferred and not yet disbursed.

New awards budget in September and October are as follows:

ERC Year 2 Award	\$366,357
Foundation Faculty Award	\$750

Fairmont State University  
Actual vs Budget Statement of Revenues and Expenses  
Current Unrestricted - Central E&G

As of September 30, 2019

		Approved Budget	Current Budget	YTD Actual	YTD Actual to Current Budget
<b>OPERATING REVENUE</b>					
	Tuition and Fees	26,300,765	27,949,665	12,632,362	45.20
	Student Activity Support Revenue	393,334	393,334	129,796	33.00
	Faculty Services Revenue	0	0	0	
	State/Local Grants and Contracts	0	0	0	
	Operating Costs Revenue	0	0	(46,849)	#DIV/0!
	Support Services Revenue	0	0	(104,733)	#DIV/0!
	Other Operating Revenues	61,271	61,271	62,847	102.57
	<b>Total:</b>	<b>26,755,370</b>	<b>28,404,270</b>	<b>12,673,422</b>	<b>44.62</b>
<b>OPERATING EXPENSE</b>					
	Salaries	24,720,548	24,663,765	3,584,720	14.53
	Benefits	6,141,818	6,167,894	869,690	14.10
	Student financial aid-scholarships	3,883,028	3,883,028	2,011,538	51.80
	Utilities	1,360,676	1,360,676	238,427	17.52
	Supplies and Other Services	6,938,585	6,860,671	1,797,365	26.20
	Equipment Expense	586,134	868,931	254,860	29.33
	Fees retained by the Commission	185,560	185,560	0	0.00
	Assessment for Faculty Services	0	0	0	#DIV/0!
	Assessment for Student Activity Costs	366,227	366,227	129,796	35.44
	<b>Total:</b>	<b>44,182,576</b>	<b>44,356,753</b>	<b>8,886,397</b>	<b>20.03</b>
<b>OPERATING INCOME / (LOSS)</b>		<b>(17,427,206)</b>	<b>(15,952,483)</b>	<b>3,787,025</b>	<b>(23.74)</b>
<b>NONOPERATING REVENUE (EXPENSE)</b>					
	State Appropriations	18,600,341	18,600,341	3,720,068	20.00
	Gifts	3,000	3,000	120	4.00
	E&G Capital & Debt Service Support Revenue	0	0	0	#DIV/0!
	Investment Income	69,245	69,245	27,376	39.54
	Assessment for E&G Capital & Debt Service Costs	(1,994,319)	(1,994,240)	(685,231)	34.36
	<b>Total:</b>	<b>16,678,267</b>	<b>16,678,346</b>	<b>3,062,333</b>	<b>18.36</b>
<b>TRANSFERS &amp; OTHER</b>					
	Capital Expenditures	(290,878)	(340,878)	(175,762)	51.56
	Construction Expenditures	0	0	0	#DIV/0!
	Transfers for Debt Service	(64,942)	(64,942)	0	0.00
	Transfers for Financial Aid Match	(38,764)	(38,764)	3,425	(8.84)
	Indirect Cost Recoveries	602	602	0	0.00
	Transfers - Other	(7,550)	(7,550)	(9,681)	128.23
	<b>Total:</b>	<b>(401,532)</b>	<b>(451,532)</b>	<b>(182,019)</b>	<b>40.31</b>
<b>BUDGET BALANCE</b>		<b>(1,150,472)</b>	<b>274,331</b>	<b>6,667,340</b>	<b>2,430.40</b>
<b>Add: Estimated Unfilled Position Savings:</b>		<b>0</b>	<b>0</b>		
<b>Capitalized Expenses</b>		<b>0</b>	<b>0</b>		
<b>ADJUSTED BUDGET BALANCE</b>		<b>(1,150,472)</b>	<b>274,331</b>		
<b>* Add: UNRESTRICTED NET ASSETS - Beginning of Year</b>		<b>9,071,076</b>	<b>9,071,076</b>		
<b>Less: USE OF RESERVE</b>		<b>0</b>	<b>0</b>		
<b>Equals: PROJECTED UNRESTRICTED NET ASSETS - End of Year</b>		<b><u>7,920,604</u></b>	<b><u>9,345,407</u></b>		

Fairmont State University  
Actual vs Budget Statement of Revenues and Expenses  
Current Unrestricted - Fund Manager

As of September 30, 2019

		Approved Budget	Current Budget	YTD Actual	YTD Actual to Current Budget
<b>OPERATING REVENUE</b>	Tuition and Fees	3,240,061	3,240,061	1,826,869	56.38
	Other Operating Revenues	141,553	141,553	48,498	34.26
	<b>Total:</b>	<b>3,381,614</b>	<b>3,381,614</b>	<b>1,875,366</b>	<b>55.46</b>
<b>OPERATING EXPENSE</b>	Salaries	1,483,437	1,678,396	288,014	17.16
	Benefits	277,554	272,459	48,241	17.71
	Student financial aid-scholarships	27,440	27,440	750	2.73
	Utilities	4,500	4,500	408	9.06
	Supplies and Other Services	1,480,225	1,557,606	205,494	13.19
	Equipment Expense	104,661	104,661	30,106	28.77
	<b>Total:</b>	<b>3,377,817</b>	<b>3,645,062</b>	<b>573,012</b>	<b>15.72</b>
<b>OPERATING INCOME / (LOSS)</b>		<b>3,797</b>	<b>(263,448)</b>	<b>1,302,354</b>	<b>(494.35)</b>
<b>NONOPERATING REVENUE (EXPENSE)</b>	Gifts	583	583	196,750	33,747.86
	Interest on capital asset related debt	0	0	(32,961)	
	<b>Total:</b>	<b>583</b>	<b>583</b>	<b>163,789</b>	<b>28,094.13</b>
<b>TRANSFERS &amp; OTHER</b>	Capital Expenditures	(20,000)	(34,458)	(16,324)	47.37
	Construction Expenditures	(4,400)	(4,400)	0	0.00
	Indirect Cost Recoveries	31,421	60,948	29,711	48.75
	Transfers - Other	7,550	(31,938)	9,681	(30.31)
	<b>Total:</b>	<b>14,571</b>	<b>(9,848)</b>	<b>23,068</b>	<b>(234.24)</b>
<b>BUDGET BALANCE</b>		<b>18,951</b>	<b>(272,713)</b>	<b>1,489,211</b>	<b>(546.07)</b>
<b>Add: Estimated Unfilled Position Savings:</b>		<b>0</b>	<b>0</b>		
<b>ADJUSTED BUDGET BALANCE</b>		<b>18,951</b>	<b>(272,713)</b>		
<b>Add: UNRESTRICTED NET ASSETS - Beginning of Year</b>		<b>2,259,367</b>	<b>2,259,367</b>		
<b>Less: USE OF RESERVE</b>		<b>0</b>	<b>0</b>		
<b>Equals: PROJECTED UNRESTRICTED NET ASSETS - End of Year</b>		<b><u>2,278,318</u></b>	<b><u>1,986,654</u></b>		

Auxiliary  
Actual vs Budget Statement of Revenues and Expenses  
Board of Governors  
As of September 30, 2019

		Approved Budget	Current Budget	YTD Actual	YTD Actual to Current Budget
<b>OPERATING REVENUE</b>	Student Activity Support Revenue	0	0	7	#DIV/0!
	Auxiliary Enterprise Revenue	9,229,375	9,236,231	2,904,947	31.45
	Auxiliary Fees & Debt Service Support Revenue	5,241,471	5,265,471	1,778,614	33.78
	Other Operating Revenues	242,535	242,535	394,437	162.63
	<b>Total:</b>	<b>14,713,381</b>	<b>14,744,237</b>	<b>5,078,005</b>	<b>34.44</b>
<b>OPERATING EXPENSE</b>	Salaries	2,868,218	2,969,285	593,286	19.98
	Benefits	652,044	657,916	86,410	13.13
	Student financial aid-scholarships	799,077	823,077	335,987	40.82
	Utilities	1,008,306	1,008,306	109,955	10.90
	Supplies and Other Services	3,538,104	3,409,966	825,027	24.19
	Equipment Expense	63,710	64,710	26,317	40.67
	Assessment for Auxiliary Fees & Debt Service	0	0	0	#DIV/0!
	<b>Total:</b>	<b>8,929,459</b>	<b>8,933,260</b>	<b>1,976,982</b>	<b>22.13</b>
<b>NONOPERATING REVENUE (EXPENSE)</b>	Gifts	0	0	0	#DIV/0!
	Interest on capital asset related debt	0	0	0	#DIV/0!
	<b>Total:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>#DIV/0!</b>
<b>TRANSFERS &amp; OTHER</b>	Capital Expenditures	(62,046)	(50,046)	(27,500)	54.95
	Transfers for Debt Service	(4,891,957)	(4,891,957)	0	0.00
	Transfers for Financial Aid Match	(3,425)	(3,425)	(3,425)	100.00
	Transfers for Capital Projects	0	0	0	#DIV/0!
	Transfers to Plant Reserves	(826,495)	(865,550)	0	0.00
	Transfers - Other	0	0	0	#DIV/0!
	<b>Total:</b>	<b>(5,783,923)</b>	<b>(5,810,977)</b>	<b>(30,925)</b>	<b>0.53</b>
	<b>BUDGET BALANCE - Projected Transfer to Reserves</b>	<b>0</b>	<b>0</b>	<b>3,070,097</b>	
<b>* Add: NET ASSETS - Beginning of Year</b>		<b><u>6,280,657</u></b>	<b><u>6,280,657</u></b>		
<b>Equals: PROJECTED NET ASSETS - End of Year</b>		<b><u>6,280,657</u></b>	<b><u>6,280,657</u></b>		

\* Net Assets - Beginning of Year is after adding back the projected OPEB liability at June 30, 2017 in the amount of \$1,081,994

\* Auxiliary Net Assets are required to support future repair and replacement costs. Planning activities continue to document a 20 year plan to support each auxiliary enterprise capital repair/replacement need.

**FAIRMONT STATE UNIVERSITY**  
**Actual vs Budget Statement of Revenues and Expenses**  
**Current Restricted**  
For Period Ending September 30, 2019

	<b>Approved Budget*</b>	<b>Current Budget</b>	<b>YTD Actual</b>	<b>YTD Actual to Current Budget</b>
<b>OPERATING REVENUE</b>				
Federal Grants and Contracts	23,109,271	23,608,290	7,890,653	33.42
State/Local Grants and Contracts	6,230,017	6,286,471	2,337,165	37.18
Private Grants and Contracts	1,734,982	1,751,982	1,408,694	80.41
Other Operating Revenue	70,642	79,041	5,068	6.41
<b>Total:</b>	<b>31,144,912</b>	<b>31,725,785</b>	<b>11,641,580</b>	<b>36.69</b>
<b>OPERATING EXPENSE</b>				
Salaries	200,218	259,954	79,101	30.43
Benefits	99,366	114,478	12,126	10.59
Student financial aid - scholarships	37,037,477	37,038,381	12,632,363	34.11
Supplies and Other Services	758,717	1,235,087	222,478	18.01
Equipment Expense	(5,512)	4,134	1,486	35.95
<b>Total:</b>	<b>38,090,265</b>	<b>38,652,033</b>	<b>12,947,553</b>	<b>33.50</b>
<b>OPERATING INCOME/ (LOSS)</b>	<b>(6,945,353)</b>	<b>(6,926,248)</b>	<b>(1,305,972)</b>	<b>18.86</b>
<b>NONOPERATING REVENUE</b>				
Federal Pell Grant Revenues	7,000,000	7,000,000	3,279,471	46.85
Gifts	108,494	109,580	750	0.68
Investment Income	0	0	0	0.00
<b>Total:</b>	<b>7,108,494</b>	<b>7,109,580</b>	<b>3,280,221</b>	<b>46.14</b>
<b>TRANSFERS &amp; OTHER</b>				
Capital Expenditures		(50,000)	(50,000)	100.00
Construction Expenditures	0	0	0	0.00
Transfers for Fin Aid Match	33,431	33,431	39,109	116.98
Indirect Cost Recoveries	(42,426)	(73,836)	(29,711)	40.24
Transfers - Other	62,301	62,301	0	0.00
<b>Total:</b>	<b>53,307</b>	<b>(28,104)</b>	<b>(40,602)</b>	<b>144.47</b>
<b>BUDGET BALANCE</b>	<b>216,448</b>	<b>155,228</b>	<b>1,933,647</b>	<b>1245.68</b>
<b>Add: PROJECTED RESTRICTED NET ASSETS - Beginning of Year</b>	<b>18,551</b>	<b>18,551</b>		
<b>PROJECTED RESTRICTED NET ASSETS - End of Year</b>	<b><u>234,999</u></b>	<b><u>173,779</u></b>		

\*Approved budget is listed at the July budget due to no approvals being required for restricted funds.

Fairmont State University  
Actual vs Budget Statement of Revenues and Expenses  
Current Unrestricted - Central E&G

As of October 31, 2019

		Approved Budget	Current Budget	YTD Actual	YTD Actual to Current Budget
<b>OPERATING REVENUE</b>					
	Tuition and Fees	26,300,765	26,575,765	12,409,944	46.70
	Student Activity Support Revenue	393,334	393,334	135,979	34.57
	Faculty Services Revenue	0	0	0	
	State/Local Grants and Contracts	0	0	2,000	
	Operating Costs Revenue	0	0	4,245	#DIV/0!
	Support Services Revenue	0	0	0	#DIV/0!
	Other Operating Revenues	61,271	1,435,171	414,210	28.86
	<b>Total:</b>	<b>26,755,370</b>	<b>28,404,270</b>	<b>12,966,378</b>	<b>45.65</b>
<b>OPERATING EXPENSE</b>					
	Salaries	24,720,548	24,656,226	5,326,398	21.60
	Benefits	6,141,818	6,133,433	1,292,802	21.08
	Student financial aid-scholarships	3,883,028	3,883,028	2,018,324	51.98
	Utilities	1,360,676	1,360,676	404,836	29.75
	Supplies and Other Services	6,938,585	6,914,702	2,362,434	34.17
	Equipment Expense	586,134	868,931	282,239	32.48
	Fees retained by the Commission	185,560	185,560	0	0.00
	Assessment for Faculty Services	0	0	0	#DIV/0!
	Assessment for Student Activity Costs	366,227	366,227	134,352	36.69
	<b>Total:</b>	<b>44,182,576</b>	<b>44,368,784</b>	<b>11,821,384</b>	<b>26.64</b>
<b>OPERATING INCOME / (LOSS)</b>		<b>(17,427,206)</b>	<b>(15,964,514)</b>	<b>1,144,994</b>	<b>(7.17)</b>
<b>NONOPERATING REVENUE (EXPENSE)</b>					
	State Appropriations	18,600,341	18,600,341	7,812,143	42.00
	Gifts	3,000	3,000	120	4.00
	E&G Capital & Debt Service Support Revenue	0	0	18,103	#DIV/0!
	Investment Income	69,245	69,245	78,038	112.70
	Assessment for E&G Capital & Debt Service Costs	(1,994,319)	(1,994,240)	(704,961)	35.35
	<b>Total:</b>	<b>16,678,267</b>	<b>16,678,346</b>	<b>7,203,443</b>	<b>43.19</b>
<b>TRANSFERS &amp; OTHER</b>					
	Capital Expenditures	(290,878)	(340,878)	(185,137)	54.31
	Construction Expenditures	0	0	(1,000)	#DIV/0!
	Transfers for Debt Service	(64,942)	(64,942)	(32,274)	49.70
	Transfers for Financial Aid Match	(38,764)	(38,764)	(35,684)	92.05
	Indirect Cost Recoveries	602	602	0	0.00
	Transfers - Other	(7,550)	(7,550)	(11,079)	146.74
	<b>Total:</b>	<b>(401,532)</b>	<b>(451,532)</b>	<b>(265,174)</b>	<b>58.73</b>
<b>BUDGET BALANCE</b>		<b>(1,150,472)</b>	<b>262,300</b>	<b>8,083,263</b>	<b>3,081.69</b>
<b>Add: Estimated Unfilled Position Savings:</b>		<b>0</b>	<b>0</b>		
<b>Capitalized Expenses</b>		<b>0</b>	<b>0</b>		
<b>ADJUSTED BUDGET BALANCE</b>		<b>(1,150,472)</b>	<b>262,300</b>		
<b>* Add: UNRESTRICTED NET ASSETS - Beginning of Year</b>		<b>9,071,076</b>	<b>9,071,076</b>		
<b>Less: USE OF RESERVE</b>		<b>0</b>	<b>0</b>		
<b>Equals: PROJECTED UNRESTRICTED NET ASSETS - End of Year</b>		<b><u>7,920,604</u></b>	<b><u>9,333,376</u></b>		



Fairmont State University  
Actual vs Budget Statement of Revenues and Expenses  
Current Unrestricted - Fund Manager

As of October 31, 2019

		Approved Budget	Current Budget	YTD Actual	YTD Actual to Current Budget
<b>OPERATING REVENUE</b>	Tuition and Fees	3,240,061	3,240,061	1,870,818	57.74
	Other Operating Revenues	141,553	145,924	(130,835)	(89.66)
	<b>Total:</b>	<b>3,381,614</b>	<b>3,385,985</b>	<b>1,739,984</b>	<b>51.39</b>
<b>OPERATING EXPENSE</b>	Salaries	1,483,437	1,679,570	429,922	25.60
	Benefits	277,554	272,357	72,508	26.62
	Student financial aid-scholarships	27,440	27,440	750	2.73
	Utilities	4,500	4,500	544	12.08
	Supplies and Other Services	1,480,225	1,630,731	281,418	17.26
	Equipment Expense	104,661	104,585	37,928	36.27
	<b>Total:</b>	<b>3,377,817</b>	<b>3,719,183</b>	<b>823,070</b>	<b>22.13</b>
<b>OPERATING INCOME / (LOSS)</b>		<b>3,797</b>	<b>(333,198)</b>	<b>916,913</b>	<b>(275.19)</b>
<b>NONOPERATING REVENUE (EXPENSE)</b>	Gifts	583	198,092	198,259	100.08
	Interest on capital asset related debt	0	0	(41,202)	
	<b>Total:</b>	<b>583</b>	<b>198,092</b>	<b>157,058</b>	<b>79.29</b>
<b>TRANSFERS &amp; OTHER</b>	Capital Expenditures	(20,000)	(251,967)	(237,474)	94.25
	Construction Expenditures	(4,400)	(4,400)	0	0.00
	Indirect Cost Recoveries	31,421	72,019	36,339	50.46
	Transfers - Other	7,550	(31,938)	16,301	(51.04)
	<b>Total:</b>	<b>14,571</b>	<b>(216,287)</b>	<b>(184,833)</b>	<b>85.46</b>
<b>BUDGET BALANCE</b>		<b>18,951</b>	<b>(351,392)</b>	<b>889,138</b>	<b>(253.03)</b>
<b>Add: Estimated Unfilled Position Savings:</b>		<b>0</b>	<b>0</b>		
<b>ADJUSTED BUDGET BALANCE</b>		<b>18,951</b>	<b>(351,392)</b>		
<b>Add: UNRESTRICTED NET ASSETS - Beginning of Year</b>		<b>2,259,367</b>	<b>2,259,367</b>		
<b>Less: USE OF RESERVE</b>		<b>0</b>	<b>0</b>		
<b>Equals: PROJECTED UNRESTRICTED NET ASSETS - End of Year</b>		<b><u>2,278,318</u></b>	<b><u>1,907,975</u></b>		

Auxiliary  
Actual vs Budget Statement of Revenues and Expenses  
Board of Governors  
As of October 31, 2019

		Approved Budget	Current Budget	YTD Actual	YTD Actual to Current Budget
<b>OPERATING REVENUE</b>	Student Activity Support Revenue	0	0	7	#DIV/0!
	Auxiliary Enterprise Revenue	9,229,375	9,236,231	3,113,010	33.70
	Auxiliary Fees & Debt Service Support Revenue	5,241,471	5,265,471	1,862,731	35.38
	Other Operating Revenues	242,535	242,535	60,593	24.98
	<b>Total:</b>	<b>14,713,381</b>	<b>14,744,237</b>	<b>5,036,341</b>	<b>34.16</b>
<b>OPERATING EXPENSE</b>	Salaries	2,868,218	2,993,556	802,211	26.80
	Benefits	652,044	648,144	124,130	19.15
	Student financial aid-scholarships	799,077	823,077	334,987	40.70
	Utilities	1,008,306	1,008,306	191,002	18.94
	Supplies and Other Services	3,538,104	3,409,966	1,002,797	29.41
	Equipment Expense	63,710	64,710	36,224	55.98
	Assessment for Auxiliary Fees & Debt Service	0	0	0	#DIV/0!
	<b>Total:</b>	<b>8,929,459</b>	<b>8,947,759</b>	<b>2,491,350</b>	<b>27.84</b>
<b>NONOPERATING REVENUE (EXPENSE)</b>	Gifts	0	0	0	#DIV/0!
	Interest on capital asset related debt	0	0	0	#DIV/0!
	<b>Total:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>#DIV/0!</b>
<b>TRANSFERS &amp; OTHER</b>	Capital Expenditures	(62,046)	(50,046)	(27,500)	54.95
	Transfers for Debt Service	(4,891,957)	(4,891,957)	(2,432,065)	49.72
	Transfers for Financial Aid Match	(3,425)	(3,425)	(3,425)	100.00
	Transfers for Capital Projects	0	0	0	#DIV/0!
	Transfers to Plant Reserves	(826,495)	(851,051)	0	0.00
	Transfers - Other	0	0	0	#DIV/0!
	<b>Total:</b>	<b>(5,783,923)</b>	<b>(5,796,478)</b>	<b>(2,462,990)</b>	<b>42.49</b>
	<b>BUDGET BALANCE - Projected Transfer to Reserves</b>	<b>0</b>	<b>0</b>	<b>82,001</b>	
<b>* Add: NET ASSETS - Beginning of Year</b>		<b><u>6,280,657</u></b>	<b><u>6,280,657</u></b>		
<b>Equals: PROJECTED NET ASSETS - End of Year</b>		<b><u>6,280,657</u></b>	<b><u>6,280,657</u></b>		

\* Net Assets - Beginning of Year is after adding back the projected OPEB liability at June 30, 2017 in the amount of \$1,081,994

\* Auxiliary Net Assets are required to support future repair and replacement costs. Planning activities continue to document a 20 year plan to support each auxiliary enterprise capital repair/replacement need.

**FAIRMONT STATE UNIVERSITY**  
**Actual vs Budget Statement of Revenues and Expenses**  
**Current Restricted**  
For Period Ending October 31, 2019

	<b>Approved Budget*</b>	<b>Current Budget</b>	<b>YTD Actual</b>	<b>YTD Actual to Current Budget</b>
<b>OPERATING REVENUE</b>				
Federal Grants and Contracts	23,109,271	23,974,647	8,155,185	34.02
State/Local Grants and Contracts	6,230,017	6,285,400	2,338,008	37.20
Private Grants and Contracts	1,734,982	1,751,437	1,495,889	85.41
Other Operating Revenue	70,642	79,041	50,143	63.44
<b>Total:</b>	<b>31,144,912</b>	<b>32,090,526</b>	<b>12,039,226</b>	<b>37.52</b>
<b>OPERATING EXPENSE</b>				
Salaries	200,218	490,569	117,728	24.00
Benefits	99,366	150,197	17,009	11.32
Student financial aid - scholarships	37,037,477	37,036,573	12,850,510	34.70
Supplies and Other Services	758,717	1,278,491	238,686	18.67
Equipment Expense	(5,512)	34,604	1,515	4.38
<b>Total:</b>	<b>38,090,265</b>	<b>38,990,434</b>	<b>13,225,448</b>	<b>33.92</b>
<b>OPERATING INCOME/ (LOSS)</b>	<b>(6,945,353)</b>	<b>(6,899,908)</b>	<b>(1,186,222)</b>	<b>17.19</b>
<b>NONOPERATING REVENUE</b>				
Federal Pell Grant Revenues	7,000,000	7,000,000	3,304,303	47.20
Gifts	108,494	110,330	750	0.68
Investment Income	0	0	0	0.00
<b>Total:</b>	<b>7,108,494</b>	<b>7,110,330</b>	<b>3,305,053</b>	<b>46.48</b>
<b>TRANSFERS &amp; OTHER</b>				
Capital Expenditures	0	(50,000)	(50,000)	100.00
Construction Expenditures	0	0	0	0.00
Transfers for Fin Aid Match	33,431	33,431	39,109	116.98
Indirect Cost Recoveries	(42,426)	(105,362)	(36,339)	34.49
Transfers - Other	62,301	62,301	0	0.00
<b>Total:</b>	<b>53,307</b>	<b>(59,630)</b>	<b>(47,230)</b>	<b>79.21</b>
<b>BUDGET BALANCE</b>	<b>216,448</b>	<b>150,792</b>	<b>2,071,601</b>	<b>1373.81</b>
<b>Add: PROJECTED RESTRICTED NET ASSETS - Beginning of Year</b>	<b>18,551</b>	<b>18,551</b>		
<b>PROJECTED RESTRICTED NET ASSETS - End of Year</b>	<b><u>234,999</u></b>	<b><u>169,343</u></b>		

\*Approved budget is listed at the July budget due to no approvals being required for restricted funds.

# Tab 5

**Fairmont State University  
Board of Governors  
December 5, 2019**

**Item:** Approval of Fiscal Year Ended June 30, 2019 Financial Statements

**Committee:** Committee of the Whole

**Recommended Resolution:** Be it resolved, that the Finance Committee of the Board of Governors recommend the Board accept the fiscal year ended June 30, 2019 financial statements as presented.

**Staff Member:** Christa Kwiatkowski

**Background:** Suttle and Stalnaker presented the Report to the Governing Board and Audit of Fairmont State University for fiscal year ended June 30, 2019.