

**BRIDGEVALLEY COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS**

POLICY A-6

ADOPTION OR AMENDMENT OF RULES

Section 1. General

- 1.1. Scope — This rule governs the adoption or amendment of rules of the BridgeValley Community and Technical College (BridgeValley) Board of Governors.
- 1.2. Authority — W. Va. Code § 18B-1-6, 18B-2A-4; West Virginia Council for Community and Technical College Education Series 4, 135 CSR 4
- 1.3. Effective Date — July 12, 2013

Section 2. Purpose

- 2.1. It is the purpose of the BridgeValley Board of Governors (Board) to encourage and facilitate, to the greatest reasonable degree, an active participatory governance process for the institution. To that end, this rule shall be implemented to encourage and foster notice and an opportunity for comment on all institutional rules that come before the Board for review and adoption.

Section 3. Definitions

- 3.1. Rule – Subject to Section 3.1.1, the name used for any regulation, policy, procedure, guideline, directive, standard, statement of policy or interpretation of general application and future effect that also has institution-wide effect or affects the rights, privileges or interests of employees, students or citizens.
 - 3.1.1. The term “rule” shall not apply to (a) any regulation, policy, procedure, guideline, directive, standard, statement of policy or interpretation of general application and future effect established for an individual unit, division, department or school of the College which deals solely with the internal management or responsibilities of that unit, division, department or school, or (b) an academic curricular policy that does not constitute a mission change for the College.
- 3.2. Administrative Procedure – Any regulation, policy, procedure, guideline, directive, standard, statement of policy or interpretation of general application and future effect described in Section 3.1.1, above.
- 3.3. Chancellor – The Chancellor of the Community and Technical College System.

Section 4. Application

- 4.1. This rule shall apply to the adoption, amendment, or repeal of any rule of the Board. This rule shall also apply to the adoption, amendment or repeal of any Administrative

Procedure solely as it relates to the posting requirements set forth in Section 6.1. This rule does not apply to subject-matter not included within the scope of Series 4 of the West Virginia Council for Community and Technical College Procedural Rule, 135 CSR 4.

Section 5. Rulemaking Process

5.1. Every adoption, amendment or repeal of a rule must be approved by the Board. Without limiting the foregoing, the Board delegates to the President the authority to initiate the procedures under this rule.

5.1.1. In order that the Board shall be aware and shall independently be in a position to draft, amend or repeal a rule where deemed necessary, the President shall, upon receipt thereof, provide to the Board any and all rules, regulations, statutes, laws, mandates, requirements, and otherwise applicable to a Community and Technical College or comparable institutions or higher education, as same are issued by the federal and state governments and their agencies specifically charged with higher education, including, but not limited to, the West Virginia Higher Education Policy Council and the West Virginia Council for Community and Technical College Education.

5.2. If the President or Board determines that the institution should draft, amend or repeal a rule, a notice of proposed rulemaking shall be provided to the Board, the Chancellor, representatives of students, faculty and classified employees at the College and other interested parties as identified by the President or his or her designee. Notice shall also be provided to students, faculty and employees through e-mail and/or intranet announcements, or as otherwise deemed appropriate in the discretion of the President or his or her designee, and posted on the web site of the Board. A copy of the notice will also be available at the Office of the President

5.2.1. The notice shall specify that there shall be a public comment period of no less than thirty (30) days for the receipt of written comments. The notice shall contain a brief description of the subject matter of the rule, a copy of the proposed new or amended rule or of the rule to be repealed, as applicable, and an explanation of how to provide comments for consideration, including the deadline for submission of comments and contact information for the person or office designated to receive public comments. Copies of the notice shall be made available at no cost to any requester.

5.3. Following the passage of the public comment period, the President may, at his or her discretion, either present further drafts for additional comment or proceed with submission of a proposal to the Board for review and possible Board action pursuant to Section 5.4 or 5.5, below.

5.4. If the notice of proposed rulemaking was approved by the Board at a previous meeting and no comments are received during the comment period, the proposed rule, amendment or repeal shall take effect without further vote by the Board, but only if the Board, at the time of approving the notice, explicitly authorized such adoption, amendment or repeal without further Board action.

- 5.5. Except as set forth in Section 5.4, above, all proposals for adoption, amendment or repeal of a rule shall require final Board action after passage of the public comment period before the adoption, amendment or repeal may take effect.
- 5.5.1. At least ten (10) days prior to a meeting in which the Board is to consider final approval to the adoption, amendment or repeal of a rule, the final draft rule, along with a copy of all written comments and evidence received and determinations made, shall be posted on the Board's web site and provided to the persons identified in Section 5.2 using the same methods of notice as described in that section.
- 5.5.2. Comments received shall be summarized and proposed responses prepared by the President or his or her designee for submission to the Board for consideration at the meeting. The Board may amend a proposed rule as a result of the comments or evidence received without an additional notice period.
- 5.6. Within thirty (30) days of the adoption, amendment or repeal of a rule by the Board, copies of the rule, or notice of the repeal, will be forwarded to the Chancellor.
- 5.6.1. Except as set forth in Section 5.6.2, any adoption, amendment or repeal of a rule by the Board shall not take effect until approved by the Chancellor or his or her designee under the procedures specified in Series 4 of the West Virginia Council for Community and Technical College (Council), Procedural Rule, 135 CSR 4.
- 5.6.2. Any adoption, amendment or repeal by the Board of a rule which relates to any subject matter over which the Legislature of the State of West Virginia has authorized the Board to act without further approval of the Council or its Chancellor shall take effect upon Board approval or as otherwise specified by the Board.
- 5.7. Approved rules shall be assigned a number to assist in identification of each such rule. Rules adopted or amended by the Board will be posted prominently on the Board web site, and copies shall be made available, at no cost to the requester, in the Office of the President. Rules which have been repealed by the Board shall be marked "Repealed" on the Board web site. All written comments, evidence received and determinations made will be preserved and made available for inspection and copying in the Office of the President for a period of five (5) years from the date of the final Board action.

Section 6. Administrative Operating Procedures

- 6.1. Each Administrative Operating Procedure shall be posted prominently on the appropriate web site of the unit, division, or department of the College issuing the Administrative Operating Procedure in a manner maximizing accessibility to affected persons, and shall be available at the main administrative office of the unit, division, or department.

Section 7. Emergency Action

- 7.1. If it is determined that an emergency exists under which immediate action is necessary to adopt, amend or repeal a rule, the Board may approve such an emergency adoption, amendment or repeal of a rule without first following the procedures set out in this rule. Emergency rules approved by the Board will be posted prominently on the Board's web site.
- 7.2. For purposes of this Section 7, an emergency exists when the adoption, amendment or repeal of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare, or is necessary to comply with a time limitation established by state or federal law or regulation or a directive or rule of the Council, or to prevent substantial harm to the public interest, or to deal with financial exigency. The facts constituting an emergency shall be communicated in writing in advance to the Chancellor, who may disapprove the action of the Board if the Chancellor, or his or her designee, disagrees that an emergency existed.
- 7.3. Any emergency policy shall remain in effect no longer than three (3) months, and shall expire unless a final policy has been approved under the normal process set out in this policy.

Section 8. Reporting Requirements

- 8.1. No later than October 1 of each year, the Board shall file with the Council a list of all Board rules that were in effect on July 1 of that year, as well as a list of Board rules repealed during the preceding year. The list shall include the most recent date on which any rule was adopted, amended or repealed, and a statement by the Chair of the Board certifying that the Board complied with the provisions of Section 18B-1-6 of the West Virginia Code and with Series 4 of the Council Procedural Rule, 135 CSR 4, in the adoption of the rule.
- 8.2. At the Board's Annual Meeting, the President shall certify to the Board his or her compliance with Section 5.1.1 and shall further present to the Board, in anticipation of the filing with the Council referenced in Section 8.1 above, the current status of BridgeValley's collective rules, all actions taken thereon within the preceding year, and any recommendations for potential rules to be considered within the next year. This provision is not intended, however, to limit the need for the President to continually be examining the potential need for new rules and recommending same to the Board throughout any given year.