

# **WLU Board of Governors**

Regular Meeting

**Wednesday, February 4, 2015 - 4:00 p.m.**

Location: Shaw Hall Board Room

- I. Call to Order/Roll Call/Quorum and Mission Statement**
- II. Introductions**
- III. Public Comment** Description: Up to 10 individuals may sign in (name, address and a brief description of their chosen topic) to speak in open session for three minutes each. The sign-in sheet will be available from Executive Secretary Mary Ann Edwards fifteen minutes prior to the meeting until the noticed start time.
- IV. Approval of Minutes**
  - A. Minutes of the Full Board 12/10/14
  - B. Minutes of the Executive Committee 01/28/15
- V. Agenda Order (Board may move to change order of consideration)**
- VI. Rules (“Rule” means any regulation, guideline, directive, standard, statement of policy or interpretation of generation application and future effect that also has institution-wide effect or affects the rights, privileges or interests of employees, students or citizens.) If approved, the following policies shall be presented for a 30-day comment period and if no comments are received forwarded directly to the Chancellor/WVHEPC for approval.**
  - A. Policy 43 – Tuition Waivers and Discounts for Employees (revision)
- VII. Reports**
  - A. **Chair of the Board of Governors (Couch)**
    - 1. **Committee Reports**
- VIII. President’s Report**
- IX. Finance Report**
- X. Board Items**
  - A. Credit-Hour Charges Update
  - B. Academic Reorganization Update
- XI. Possible Executive Session – State Code §6-9A-4(b)(2)**
  - 1. Personnel Matter – Ethics charges filed against President Capehart
- XII. Actions Emanating From Executive Session**
- XIII. Information Gathering (Members may ask questions or gather information to prepare for future agenda items without general discussion or action at this meeting.)**
- XIV. Next Meeting Date – Wednesday, April 15, 2015**
- XV. Adjournment**

**West Liberty University  
Board of Governors**

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**Minutes**

**December 10, 2014**

Attendance:

Beverly Burke, Joe Carey, Richard Carter, Sandra Chapman, George Couch, Les DeFelice, Patrick Ford, Brian Joseph, Patrick Kelly, Evan Newman, Frank Noble, Ann Thomas

Unable to Attend:

Administration/Faculty/Staff:

Robin Capehart, Scott Cook, Linda Cowan, Brian Crawford, John Davis, Mary Ann Edwards, John Gompers, Scott Johnson, John McCullough, Jim Stultz, Jack Wright

**1. Call to Order:**

Chair Couch called the meeting to order at 4:04 p.m.

**2. Chairperson Comments:**

Chair Couch invited all Board members to attend commencement being held Saturday, December 13<sup>th</sup>; one of the largest fall commencements WLU's had in a few years. He also congratulated Evan Newman on the first Winterfest held on December 3<sup>rd</sup> and appreciates his work on behalf of the students. He encouraged the Board members to assist the Foundation with a charitable contribution by the end of the calendar year.

**3. Swearing in New Board Member:**

Chair Couch introduced incoming Board member Patrick Ford to the meeting and issued the Oath of Office. Chair Couch invited Mr. Ford to make comments as a newly installed Board member. Mr. Ford said that he appreciates this honor and looks forward to working with the members of the Board and its involvement in the Northern Panhandle and the State of West Virginia.

**4. Consent Agenda\*:**

The Consent Agenda consists of the minutes of the full Board of October 15 and 29, 2014, and the Executive Committee of November 25, 2014.

**A motion that the West Liberty University Board of Governors approve the minutes of the full Board of October 15 and 29, 2014, and the Executive Committee of November 25, 2014, was then made by Brian Joseph and seconded by Ann Thomas; motion passed unanimously.**

The honorary degree relates to the commencement speaker on Saturday. Richard Lucas, President and CEO of Main Street Bank, is also the Chair of the WLU Foundation Board. With his accomplishments the University thought he would be an appropriate speaker. This degree has been approved by the Honorary Degrees and Recognition Committee.

**A motion that the West Liberty University Board of Governors approve the conferral of an honorary Doctor of Humane Letters degree to Richard A. Lucas was then made by Richard Carter and seconded by Les DeFelice; motion passed unanimously.**

**5. Action Items\*:**

**a. Audit Report**

Mr. Wright introduced Nancy Gunza and Lori Finegan with Clifton, Larson, Allen LLP to present the independent audit report for the 2014 Fiscal Year. This is their first year as auditors for WLU, and they handle audits for all state institutions of higher education, per contract and mandate of the Higher Education Policy Commission. A positive report was issued.

**A motion that the West Liberty University Board of Governors approve the independent audit of the Fiscal Year 2014 Financial Statement was then made by Brian Joseph and seconded by Patrick Kelly; motion passed unanimously.**

**b. Campbell Hall Lawsuit Settlement**

Mr. Wright gave the background on the Campbell Hall lawsuit. Mr. Scott Johnson, Sr. Assistant Attorney General represented WLU during mediation and joined the meeting via conference call. Mr. Johnson agreed with Mr. Wright that this is a case about disputed costs for work and materials between the contractor, subcontractor and University, and that Mr. Wright and Mrs. Hooper did a fantastic job working with him in this case.

**A motion that the West Liberty University Board of Governors hereby approve the Settlement of all claims between Gito, Inc. dba Nello Construction Co., and West Liberty University relating to the Campbell Hall Construction Project in accordance with the terms and provisions set forth in that certain "Settlement Term Sheet," dated the 18<sup>th</sup> day of November, 2014, executed by both parties, as set forth in Exhibit "A" attached here was then made by Richard Carter and seconded by Brian Joseph, Sandra Chapman abstained; motion passed.**

**The President of West Liberty University and/or the Chief Financial Officer, John E. Wright, III is hereby authorized to initiate all actions and execute all documents and instruments to carry into effect and finalize the terms of said settlement.**

**c. University Place II Agreement**

Mr. Wright gave a brief background on the current lease of University Place I and its profitability. University II is an opportunity to bring in more revenue and to provide modern, attractive, competitive upper class student housing. The lease is identical to University Place I with the exception that it is \$50 more per bed, per month. This is a one-year lease with the option for a second year.

**A motion that the West Liberty University Board of Governors approve authorization for the President of West Liberty University, in accordance with the laws of the State of West Virginia and the rules and regulations of the Higher Education Policy Commission, to enter into a lease of the apartment building located at 551 Van Meter Way (nee Chatham Street), West Liberty, West Virginia, effective July 1, 2015 and not to exceed two years was then made by Beverly Burke and seconded by Brian Joseph; motion passed unanimously.**

**6. Informational Items:**

**a. Policy 32 – Sexual Discrimination and Other Unlawful Discrimination (revision)**

Mr. Davis stated that the revisions were made principally due to changes to federal laws. Generally, revisions to Board policies are out for 30-day comment to the constituent groups, but that is not necessary in this instance. The changes made are simply procedural and were approved by the Executive Committee two weeks ago.

**b. President's Report**

President Capehart distributed several handouts, the first being the campus report follow-up, Proposed Changes – 2-Week Comment Period for Campus Community. The Cabinet members had met on a number of occasions to address the budget and revenue expenses issues. Several ideas have been discussed, those being: Per credit-hour undergraduate overload, per credit-hour graduate overload, and first-year and transfer (out-of-state) undergraduate resident discount programs.

Also discussed was the academic organization handout. Part of the proposed reorganization would be to have four, instead of five colleges and one school. As WLU grows its graduate programs, the reduction would help fund an office of graduate studies.

A parking committee was formed to address the parking issues on campus, as contained in the Proposed Changes handout. Parking has been a problem for years and numerous recommendations were made. President Capehart asked if there were any questions.

Evan Newman stated that he expects push back from the student body with regard to increasing the overage charge for credit hours. President Capehart stated the information is out for comment and looks forward to the comments. The next step would be to reduce the information to the form of a policy. When asked what other schools in the state are doing on this issue, President Capehart stated that they are doing the same thing. The alternative would be for students to take as many hours as they want and raise tuition 4 to 5%. The information will be advertised well in advance of going into effect for students. A discussion followed.

When asked if the academic reorganization was part of the Master Plan, it was stated that it was not, but it does complement the plan. It is only out for comment at this time and these comments are appreciated.

Mr. Stultz distributed an article on OASIS, a consolidated program to handle all business operations one place mandated by the State of West Virginia. He continued with background on the program which has been fraught with difficulties since its launch in December 2011. Higher Education has unique differences that were not taken into consideration. Mr. Wright stated that the financial end of OASIS, which is one system that does not fit all, has changed the entire accounting code system. There is no conversion from the current Banner system to OASIS. Banner will still exist but OASIS will be 100% for financials.

**c. Faculty Senate Update**

Dr. Linda Cowan, Chair of Faculty Senate, gave a brief history of the Senate, how they're organized, terms, and elections. New to the Senate are graduate faculty representatives. Faculty Senate meets on the third Tuesday of every month the University is in session, excluding May and December. The Board is invited to attend these meetings, which are open to the public, at 3:30 p.m. in Arnett 202. Much of the recent activity has dealt with policy changes and updates.

**7. Executive Session (if needed)**

None.

**8. Action Items from Executive Session\***

None.

**9. Adjournment:**

Chair Couch asked if any further business was required. There being none the meeting adjourned at 4:59 p.m.

**A motion that the West Liberty University Board of Governors adjourn the December 10, 2014 meeting was then made by Ann Thomas and seconded by Evan Newman; motion passed unanimously.**

George Couch

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Chair

Sandra Chapman

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Secretary

**SETTLEMENT TERM SHEET**

This Settlement Term Sheet is intended to be an enforceable agreement by and between Gito, Inc. d/b/a Nello Construction Co. ("Nello") and West Liberty University ("WLU") subject to the contingencies set forth in paragraph 9 below. It is agreed by and between the parties hereto as follows:

1. Nello will submit an Application for Payment upon execution of this Agreement in the amount of \$511,599.38 to WLU along with a Final Conditional Waiver and Release of Liens and Claims (in the form attached hereto as Exhibit 1); and WLU shall make payment to Nello in the amount of \$476,599.38 (the Contract balance of \$511,599.38 less \$35,000.00). Upon receipt of Nello's Application for Payment, WLU will proceed to file with the State for prompt payment.
2. The punch list is attached hereto as Exhibit 2. The "top coat on the walking path" and all electrical items listed on Exhibit 2 have been completed and accepted. Nello will complete all other punch list items, except the "window replacement," within 60 days of the execution of this Agreement.
3. WLU and Nello will meet with Nello's window replacement sub-contractor within two weeks after execution of the Agreement to determine when, how, and time frame for window replacement pursuant to the punch list. Nello agrees to be responsible for appropriate temporary protection and relocation of needed class, laboratory, and office equipment as well as for damage to real or personal property inside and outside the building caused by the window replacement.
4. WLU will release the remaining \$35,000 upon completion of the window replacement. Upon receipt of Nello's invoice/s WLU will proceed to file with the State for prompt payment.
5. WLU agrees to pay Nello, in addition to the \$511, 599.38 in paragraph no. 1 above, the change orders on attached Exhibit 3 totaling \$25,216.30 (#92, #93, #94, #95, #96, #97, #98 and Corr. #0713 and Corr. #01005).
6. WLU agrees to pay Nello, in addition to the \$511,599.38 in paragraph no. 1 above, Change Order No. 99 dated 09/29/2014 for \$18,513.63. WLU agrees to pay Nello, in addition to the \$511,599.38 amount in paragraph no. 1 above, \$300,000 in full and final satisfaction of all claims, including Claim No. CC-13-0597 filed by Nello with the Court of Claims of the State of West Virginia, related to the project.

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EXHIBIT "A"

**West Liberty University  
Board of Governors**

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**Executive Committee  
Minutes  
January 28, 2015**

**Executive Committee Members:** Richard Carter, Sandra Chapman, George Couch, Patrick Kelly

**WLU Administrators:** Robin Capehart, Scott Cook, Brian Crawford, John Davis, John Gompers, John McCullough, Jack Wright

1. Chair George Couch called the meeting to order at 8:04 a.m.
2. BOG Business – The next meeting of the West Liberty University Board of Governors will be held in the Shaw Hall Board room at 4:00 p.m. on Wednesday, February 4, 2015.
3. New Agenda Format for BOG Meetings – Chair George Couch briefly explained the new format (written and procedural) for future BOG meeting agendas.
4. FY15 Budget Update – Jack Wright, Executive Vice President/CFO, reviewed the updated FY15 budget, noting possible increases in previously projected revenue and possible decreases in previously projected expenses. More definitive details will be available in February.
5. FY16 Budget Information – Jack Wright stated that the state allocation to the FY16 budget could possibly be reduced by 2%, due to the state's projected reduction in overall revenues.
6. Credit-Hour Charges – President Capehart discussed the feedback received during the comment period regarding the proposed charges to students for credit hours in excess of the standard credit-hour load. Not unexpectedly, most comments from students have been negative, although the Student Government Association put forth a possible compromise proposal.
7. Revisions to BOG Policy 43: Tuition Waivers and Discounts for Employees – John Davis, General Counsel, and Scott Cook, Dean of Enrollment & Student Services/Registrar, reviewed details of the revisions that would provide for a 50% reduction in tuition for full-time WLU employees enrolled in courses in WLU graduate programs approved by the BOG for the waiver/discount. The revised policy was adopted by the Executive Committee and does not have to be approved by the full Board.
8. Academic Reorganization – Brian Crawford, Provost, discussed options regarding a possible reorganization of the academic structure for 2016-17. Input has been provided to the Provost from various faculty members, academic administrators, and academic units. It is anticipated that the reorganization will not be extremely broad in nature. A more finalized proposal is anticipated to be made in March.
9. Executive Session – Pursuant to WV Code § 6-9A-4 the Executive Committee, upon motion made by Patrick Kelly and seconded by Sandra Chapman, unanimously voted to go into Executive Session at approximately 8:35 a.m. to discuss a personnel matter.
10. Executive Session – Following discussion, the Executive Committee arose from Executive Session at approximately 9:05 a.m. No action was taken and no decisions were made in Executive Session.
11. Ethics Commission Charges – In regular session of the Executive Committee, on motion made by Patrick Kelly and seconded by Richard Carter, it was unanimously adopted that:
  - A copy of the "Probable Cause Order" and "Statement of Charges" filed by the West Virginia Ethics Commission against President Capehart be forwarded by email within 24 hours to all

members of the WLU Board of Governors for review prior to the BOG meeting on February 4, 2015

- A general statement to be prepared by Chair Couch and BOG Legal Counsel for issuance to the press, when appropriate, concerning the charges filed against President Capehart
- Dissemination of any information or statements from the BOG concerning charges against President Capehart be directed through only one person, namely Chair Couch and
- Discussion of the Ethics Commission charges against President Capehart be placed on the agenda of the February 4, 2015 BOG meeting under the category "Executive Session for Discussion of a Personnel Matter."

12. Approval of Agenda – The Executive Committee approved the formal agenda for the February 4, 2015 meeting of the BOG.

13. The meeting adjourned at 9:13 a.m.

George Couch \_\_\_\_\_  
Chair

Sandra Chapman \_\_\_\_\_  
Secretary

## WEST LIBERTY UNIVERSITY BOARD OF GOVERNORS

### POLICY 43: TUITION WAIVERS AND DISCOUNTS FOR EMPLOYEES

#### Section 1. General.

Scope: This policy prescribes the parameters for awarding waivers of undergraduate tuition and mandatory fees to University employees and their spouses and dependent children and the awarding of discounts of graduate tuition and mandatory fees to employees. Part-time employees (including adjunct faculty), individuals employed via WV-48 Agreement, etc. are not eligible for waivers and discounts. Questions regarding this policy should be directed to the Human Resources office or the Financial Aid office.

Authority: W.Va. Code Sections 18B-10-5 and 18B-10-6.

#### Section 2. General Provisions.

Fee waivers – Undergraduate.

Employees, their spouses, and dependent children enrolled at the University shall be eligible to have tuition and mandatory fees waived. The recipient shall be responsible for paying course fees, capital fee(s), a parking fee, and any other non-mandatory fees.

Employees must follow the University's policy regarding Educational Release Time, Administrative Procedure 112.

Employees must be benefits-eligible (at least 0.53 FTE) to qualify for a waiver.

Spouse status must be verified with a marriage certificate or a federal income tax return.

Dependent child status must be verified with a Free Application for Federal Student Aid (FAFSA) form or federal income tax return.

The employee, spouse, or dependent child shall submit a Tuition and Fee Waiver Application (available on the Financial Aid web page under Scholarships).

A waiver may be reduced if another tuition award is received.

Waivers will be renewed annually provided enrollment remains continuous.

The recipient must notify the Human Resources office and the Financial Aid office, in writing, if a drop in enrolled hours occurs.

Fee waivers - Graduate (except Physician Assistant Program and others specified by the President's Cabinet).

Employees enrolled at the University shall be eligible to receive a 50% discount on tuition and mandatory fees. The recipient shall be responsible for paying course fees, capital fee(s), a parking fee, and any other non-mandatory fees.

Employees must follow the University's policy regarding Educational Release Time, Administrative Procedure 112.

Employees must be benefits-eligible (at least 0.53 FTE) to qualify for a discount.

The employee shall submit a Tuition and Fee Waiver Application (available on the Financial Aid web page under Scholarships).

Discounts will be renewed annually provided enrollment remains continuous. A discount may be granted beyond eight (8) semesters or terms upon the written approval of the chief Human Resources officer.

The recipient must notify the Human Resources office and the Financial Aid office, in writing, if a drop in enrolled hours occurs.

Approved by the WLSC Board of Governors on December 11, 2006.

Approved by the WLU Board of Governors executive committee on January 28, 2015.