



West Virginia University

Office of the Provost

April 29, 2010

Q-5

U.S. Nuclear Regulatory Commission  
Region I  
475 Allendale Road  
King of Prussia, PA 19406-1415

RECEIVED  
REGION I  
2010 MAY - 5 PM 12: 23

Re: **Statement of Intent**  
License No: 47-23035-03  
Docket No: 03038182

As Provost and Vice President for Academic Affairs of West Virginia University, I hereby exercise my authority to request from the University, funds for decommissioning activities that will be associated with the operations authorized by U.S. Nuclear Regulatory Commission Material license No. 47-23035-03. The funds are to be made available, upon request, sufficiently in advance of these activities, to prevent any possible delay of the required decommissioning activities. The funds, in an amount of up to \$356,263.68 (three hundred fifty-six thousand two-hundred sixty-three dollars and sixty-eight cents) are to be used, when necessary, for decommissioning. This action is for West Virginia University Cyclotron facility. The facility is located at Robert C. Byrd Health Science Center South, One Medical Center Drive, Room# B043A, Morgantown, WV 26506.

Enclosed, please find a copy of West Virginia Code 18B-2A-4, as evidence of the authority of the West Virginia University Board of Governors to control and manage the financial, business, and education policies and affairs of West Virginia University as an institution of higher education under its jurisdiction. I act on behalf of the WVU Board of Governors in my role as Provost and Vice President for Academic Affairs in this transaction. You will also find the Decommissioning Funding Plan (DFP) of the GE PET trace Self-Shielded Cyclotron facility located at West Virginia University.

Sincerely,

Michele G. Wheatly  
Provost and Vice President  
for Academic Affairs

- c: Nasser Razmianfar, Director and Radiation Safety Officer
- Fred Butcher, VP for Planning and Operations
- Gary Marano, Interim President/CEO of UHA
- Sahar Saaid, Radiology Administrator
- Radiological Safety Committee
- Beverly Kerr, Deputy General Counsel, Health Sciences Center

**Academic Affairs**  
**Research**  
**Extension and Public Service**  
**Information Technology**

Stewart Hall  
PO Box 6203  
Morgantown, WV 26506-6203

**NONNEGOTIABLE**

(b) The boards of governors may set aside time as they consider appropriate to afford administrators, faculty, students and classified staff an opportunity to discuss issues affecting these groups.

**History.** 2000, c. 100; 2008, c. 87.

**Effect of amendment of 2008.** — Acts 2008, c. 87, effective July 1, 2008, rewrote (a).

### § 18B-2A-3. Supervision of governing boards; promulgation of rules.

**Salary policy at West Virginia University.** — Pursuant to W. Va. Code § 18B-9-4(b), the West Virginia University Board of Governors could adhere to its salary policy and was not required to comply with the West Virginia Higher Education Policy Commission's attempt to control salaries as found in W. Va. Code R. § 133-8-12; the authority granted to the Commission by W. Va. Code § 18B-9-1 and W. Va. Code § 18B-9-4(a) to establish and maintain a personnel classification system did not encom-

pass the right to set and control compensation and salary requirements for classified staff employed by West Virginia University. *West Virginia Univ. Bd. of Governors v. West Virginia Higher Educ. Policy Comm'n*, 221 W. Va. 187, 653 S.E.2d 649, 2007 W. Va. LEXIS 39 (2007).

**Stated** in *West Virginia Univ. Bd. of Governors v. West Virginia Higher Educ. Policy Comm'n*, 221 W. Va. 187, 653 S.E.2d 649, 2007 W. Va. LEXIS 39 (2007).

### § 18B-2A-4. Powers and duties of governing boards generally.

Each governing board separately has the following powers and duties:

(a) Determine, control, supervise and manage the financial, business and education policies and affairs of the state institution of higher education under its jurisdiction;

(b) Develop a master plan for the institution under its jurisdiction.

(1) The ultimate responsibility for developing and updating the master plans at the institutional level resides with the board of governors, but the ultimate responsibility for approving the final version of the institutional master plans, including periodic updates, resides with the commission or council, as appropriate.

(2) Each master plan shall include, but not be limited to, the following:

(A) A detailed demonstration of how the master plan will be used to meet the goals and objectives of the institutional compact;

(B) A well-developed set of goals outlining missions, degree offerings, resource requirements, physical plant needs, personnel needs, enrollment levels and other planning determinates and projections necessary in a plan to assure that the needs of the institution's area of responsibility for a quality system of higher education are addressed;

(C) Document the involvement of the commission or council, as appropriate, institutional constituency groups, clientele of the institution and the general public in the development of all segments of the institutional master plan.

(3) The plan shall be established for periods of not less than three nor more than five years and shall be revised periodically as necessary, including the addition or deletion of degree programs as, in the discretion of the appropriate governing board, are necessary;

(c) Prescribe for the institution under its jurisdiction, in accordance with its master plan and compact, specific functions and responsibilities to achieve the goals, objectives and priorities established in articles one [ §§ 18B-1-1 et seq.] and one-d [ §§ 18B-1D-1 et seq.] of this chapter to meet the higher education needs of its area of responsibility and to avoid unnecessary duplication;

(d) Direct the preparation of a budget request for the institution under its jurisdiction, which relates directly to missions, goals and projections as found in the institutional master plan and the institutional compact;

(e) Consider, revise and submit to the commission or council, as appropriate, a budget request on behalf of the institution under its jurisdiction;

(f) Review, at least every five years, all academic programs offered at the institution under its jurisdiction. The review shall address the viability, adequacy and necessity of the programs in relation to established state goals, objectives and priorities, the institutional master plan, the institutional compact and the education and workforce needs of its responsibility district. As a part of the review, each governing board shall require the institution under its jurisdiction to conduct periodic studies of its graduates and their employers to determine placement patterns and the effectiveness of the education experience. Where appropriate, these studies should coincide with the studies required of many academic disciplines by their accrediting bodies;

(g) Ensure that the sequence and availability of academic programs and courses offered by the institution under its jurisdiction is such that students have the maximum opportunity to complete programs in the time frame normally associated with program completion. Each governing board is responsible to see that the needs of nontraditional college-age students are appropriately addressed and, to the extent it is possible for the individual governing board to control, to assure core course work completed at the institution under its jurisdiction is transferable to any other state institution of higher education for credit with the grade earned;

(h) Subject to the provisions of article one-b [ §§ 18B-1B-1 et seq.] of this chapter, approve the teacher education programs offered in the institution under its control. In order to permit graduates of teacher education programs to receive a degree from a nationally accredited program and in order to prevent expensive duplication of program accreditation, the commission may select and use one nationally recognized teacher education program accreditation standard as the appropriate standard for program evaluation;

(i) Use faculty, students and classified employees in institutional-level planning and decisionmaking when those groups are affected;

(j) Subject to the provisions of federal law and pursuant to the provisions of article nine [ §§ 18B-9-1 et seq.] of this chapter and to rules adopted by the commission and the council, administer a system for the management of personnel matters, including, but not limited to, personnel classification, compensation and discipline for employees at the institution under its jurisdiction;

(k) Administer a system for hearing employee grievances and appeals. Notwithstanding any other provision of this code to the contrary, the procedure established in article two [ §§ 6C-2-1 et seq.], chapter six-c of this code is the

exclusive mechanism for hearing prospective employee grievances and appeals;

(l) Solicit and use or expend voluntary support, including financial contributions and support services, for the institution under its jurisdiction;

(m) Appoint a president for the institution under its jurisdiction subject to the provisions of section six [§ 18B-1B-6], article one-b of this chapter;

(n) Conduct written performance evaluations of the president pursuant to section six [§ 18B-1B-6], article one-b of this chapter;

(o) Employ all faculty and staff at the institution under its jurisdiction. The employees operate under the supervision of the president, but are employees of the governing board;

(p) Submit to the commission or council, as appropriate, no later than the first day of November of each year an annual report of the performance of the institution under its jurisdiction during the previous fiscal year as compared to established state goals, objectives, and priorities, and goals stated in its master plan and institutional compact;

(q) Enter into contracts or consortium agreements with the public schools, private schools or private industry to provide technical, vocational, college preparatory, remedial and customized training courses at locations either on campuses of the public institution of higher education or at off-campus locations in the institution's responsibility district. To accomplish this goal, the boards may share resources among the various groups in the community;

(r) Provide and transfer funding and property to certain corporations pursuant to section ten [§ 18B-12-10], article twelve of this chapter;

(s) Delegate, with prescribed standards and limitations, the part of its power and control over the business affairs of the institution to the president in any case where it considers the delegation necessary and prudent in order to enable the institution to function in a proper and expeditious manner and to meet the requirements of its master plan and institutional compact. If a governing board elects to delegate any of its power and control under the provisions of this subsection, it shall enter the delegation in the minutes of the meeting when the decision was made and shall notify the commission or council, as appropriate. Any delegation of power and control may be rescinded by the appropriate governing board, the commission or council, as appropriate, at any time, in whole or in part, except that the commission may not revoke delegations of authority made by the governing boards of Marshall University or West Virginia University as they relate to the state institutions of higher education known as Marshall University and West Virginia University;

(t) Unless changed by the commission or the council, as appropriate, continue to abide by existing rules setting forth standards for acceptance of advanced placement credit for the institution under its jurisdiction. Individual departments at a state institution of higher education may, upon approval of the institutional faculty senate, require higher scores on the advanced placement test than scores designated by the governing board when the credit is to be used toward meeting a requirement of the core curriculum for a major in that department;

(u) Consult, cooperate and work with the State Treasurer and the state Auditor to update as necessary and maintain an efficient and cost-effective

system for the financial management and expenditure of special revenue and appropriated state funds at the institution under its jurisdiction that ensures that properly submitted requests for payment be paid on or before due date but, in any event, within fifteen days of receipt in the state Auditor's office;

(v) In consultation with the appropriate chancellor and the Secretary of the Department of Administration, develop, update as necessary and maintain a plan to administer a consistent method of conducting personnel transactions, including, but not limited to, hiring, dismissal, promotions and transfers at the institution under its jurisdiction. Each personnel transaction shall be accompanied by the appropriate standardized system or forms which shall be submitted to the respective governing board and the Department of Finance and Administration;

(w) Notwithstanding any other provision of this code to the contrary, transfer funds from any account specifically appropriated for its use to any corresponding line item in a general revenue account at any agency or institution under its jurisdiction as long as such transferred funds are used for the purposes appropriated;

(x) Transfer funds from appropriated special revenue accounts for capital improvements under its jurisdiction to special revenue accounts at agencies or institutions under its jurisdiction as long as such transferred funds are used for the purposes appropriated;

(y) Notwithstanding any other provision of this code to the contrary, acquire legal services that are necessary, including representation of the governing board, its institution, employees and officers before any court or administrative body. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the governing board may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law; and

(z) Contract and pay for disability insurance for a class or classes of employees at a state institution of higher education under its jurisdiction.

**History.** 2000, c. 100; 2001, c. 110; 2002, c. 119; 2004, c. 92; 2005, c. 86; 2007, c. 207; 2008, c. 87.

**Effect of amendment of 2008.** — Acts 2008, c. 87, effective July 1, 2008, rewrote the section.

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§ 133-8-12; the authority granted to the Commission by W. Va. Code § 18B-9-1 and W. Va. Code § 18B-9-4(a) to establish and maintain a personnel classification system did not encompass the right to set and control compensation and salary requirements for classified staff employed by West Virginia University. *West Virginia Univ. Bd. of Governors v. West Virginia Higher Educ. Policy Comm'n*, 221 W. Va. 187, 653 S.E.2d 649, 2007 W. Va. LEXIS 39 (2007).

**Cited** in *W. Va. Univ. Bd. of Governors Ex Rel. W. Va. Univ. v. Rodriguez*, 543 F. Supp. 2d 526, 2008 U.S. Dist. LEXIS 13137 (N.D.W. Va. 2008).

### § 18B-2A-7a. Transfer of orders, resolutions, policies and rules, obligations, etc.

(a) Effective the first day of July, two thousand eight, a governing board is