Western Colorado University Trustee Policy Manual

2025

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INTRODUCTION

INTRODUCTION

This *Trustee Policy Manual* ("*Policy Manual*") incorporates all policy actions noted in the minutes of meetings of the Board of Trustees, with appropriate editorial and substantive changes to assure currency with statutes and the organization of higher education in Colorado.

This *Policy Manual* is a publication with controlled circulation which will be distributed by the University to the Board and University staff and posted on the University's website at https://western.edu/about/leadership/board-of-trustees/policy-and-governance/ in order to assure its availability to all concerned persons. As changes are made in this *Policy Manual*, they will be forwarded for inclusion in this *Policy Manual*.

CHAPTER 1: WESTERN COLORADO UNIVERSITY (the "University")

Section 1.1: Role Statement of the Board of Trustees of Western Colorado University (the "Board")

As specified in §23-56-101, et seq. C.R.S., the Board has full authority and responsibility for the control and governance of Western Colorado University, including such areas as finance, resources, academic programs, admissions, role and mission, and personnel policies[1]. To exercise its authority appropriately, the Board may regularly establish policies designed to enable the University to perform its statutory functions in a rational and systematic manner. To assist the Board in meeting its responsibilities, the Board delegates to the President of the University (the "President") the authority to interpret and administer its policies in all areas of operations.

It is the policy of the Board to assure substantial administrative authority and autonomy, to guarantee a minimum of external involvement in the affairs of the University, and to encourage the development of the distinctive role of the University as it strives to fulfill its mission of achieving academic excellence. At the same time, however, the Board's policies and procedures, administered by the President and staff, are designed to ensure effectiveness, efficiency, and accountability. The Board also expects the University to develop curricular arrangements with other Colorado postsecondary institutions as part of its normal operation in order to enhance program availability for students.

The Board of Trustees has approved the Mission Statement, Vision Statement, and Values of Western Colorado University.

Mission Statement:
Western Colorado University promotes intellectual maturity and personal growth in its students and prepares them to assume constructive roles in local, national, and global communities. Western's distinctive character emerges from its unity among academic and professional disciplines, high standards of scholarship, and a unique environment in the mountains of western Colorado.

Vision Statement:
With the Rocky Mountains serving as our laboratory, Western Colorado University is a unique, public institution. As a premier provider of rigorous, immersive education, Western champions intellectual exploration, critical thinking, and integrity, while inspiring innovation. Western offers an inclusive and personalized academic experience that enhances the lives of our students and their communities now and in the future.

Values:
Courage
Mountaineers are adventurous and entrepreneurial spirits who embrace change to better ourselves and the people we serve. We boldly act on our convictions.

Growth
Mountaineers believe that rigorous academic inquiry and civil dialogue are necessary for free and open critical thinking that defines our role as a public institution in a democratic society. We foster new ideas by developing both emotional maturity and intellectual curiosity.

Inclusivity
Mountaineers nurture a welcoming community for all faculty, students, staff, and other stakeholders. We are committed to an inclusive, diverse, and equitable campus environment.

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[1] A copy of the Act is located at Appendix A to the *Policy Manual.*

Integrity
Mountaineers are committed to acting with the highest ethics, respect for the dignity of others, and personal authenticity. We communicate with openness, honesty, and civility, and we are accountable for our actions.

Stewardship
Mountaineers are environmental, intellectual, social, and fiscal stewards of our campus and our global community as places of engagement and personal responsibility.

WESTERN
COLORADO UNIVERSITY
BOARD OF TRUSTEES

TRUSTEE JOB DESCRIPTION

Board of Trustees Responsibilities

Appointed by the Governor, the Board of Trustees has full governing authority over and fiduciary responsibility for Western Colorado University. To exercise this authority, the Board regularly establishes policies and priorities to enable the University to fulfill its higher education mission and perform its statutory functions in a fiscally sound and prudent manner, and delegates to the President the authority to interpret and administer its policies in all areas of operation.

The Board consists of 9 appointed Trustees and 2 elected, non-voting Trustees, one from the Faculty and one from the Student Body.

Board members carry out their responsibilities by:

- Actively preparing for and participating in meetings (4 regular plus one retreat day)
- Contributing to productive board deliberations and decision making
- Providing guidance and mentorship to the President and the executive team
- Advocating and serving as ambassador for Western to local, state and federal policy makers, donors, employers, community leaders and others who have the capacity to enhance the University's mission

Section 1.2: Board Role and Committee Structure

Board of Trustees. The Board shall have authority for, and control of, the assets and resources of the University and shall ensure that the activities of the University are performed in an exemplary manner. The Board subscribes to the principle that its goals as a governing body are to create and maintain an environment conducive to the discovery and dissemination of knowledge to all who seek it, to provide necessary resources in an atmosphere that induces and honors excellence and promotes equality of access, and to develop a salutary sense of mutual authority, responsibility, accountability, and ethical practice among all those who are involved in sponsoring and providing educational services. The Board shall monitor the University to be certain that it is performing at the highest possible level and that it makes any changes required to achieve such goals.

In order to assist it in meeting its mandate, the Board will operate as a body corporate which, together with Board-created commissions, committees, and councils, and the President's Cabinet, are committed to accomplishing the purposes of the Board. The Board retains the option to adopt a committee structure as necessary.

The President's Cabinet. The Cabinet, which shall consist of the Vice Presidents and the President, shall be primarily responsible for coordinating the implementation of Board policies at the University and for initiating various activities and events through special committees and task forces. The Cabinet shall also have major responsibility for reviewing existing policies and making recommendations for change and for serving in an advisory capacity both to the President and to the Board.

Committees and Task Forces. The Board may appoint committees and task forces from time to time on an *ad hoc* basis. The composition of such groups and their assignments will be provided at the time the groups are formed.

Section 1.3: Bylaws of the Board of Trustees of Western Colorado University

ARTICLE I
Board of Trustees

Section 1. The affairs of the Board shall be governed and managed by the members thereof appointed or elected pursuant to the laws of the State of Colorado. Each Trustee shall, before assuming their duties of office, take and subscribe an oath or affirmation of office as provided by Section 24-12-101, C.R.S. Trustees shall have the following duties concerning ethical conduct, conflicts of interest, and confidentiality:

- Western Trustees owe a duty of care and a duty of loyalty to the University in the conduct of their role on Western's Board of Trustees ("Board"). Trustees shall exercise their powers and duties in the best interest of the public, the University, and the Board, and not in the Trustee's own interest or in the interest of another person or entity.
- In exercising their fiduciary duties, Trustees must be aware of and comply with Colorado laws governing ethical conduct and conflicts of interest including the statutory requirements set forth in C.R.S. § 24-18-108.5. C.R.S. § 24-18-108.5 provides in relevant part, that a member of a board, who receives no compensation other than a per diem allowance or necessary and reasonable expenses, shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.
- A conflict of interest means circumstances that may compromise or appear to compromise a Trustee's independence or impartiality in matters of the Board or that otherwise impairs the Trustee's ability to fulfill their fiduciary duties or serve the best interest of the University. A conflict of interest may exist not only when a Trustee's financial or personal interest may impair the Trustee's independent judgment in carrying out Board responsibilities, but also when the Board or University's interests are, or could be, adversely affected by a conflict of interest or the appearance of a conflict of interest. An appearance of a conflict of interest may exist if a Trustee engages in conduct that might lead members of the public to conclude that the Trustee is using their official position to further the financial or personal interests of the Trustee.
- Any trustee that has an actual or potential conflict of interest, or the appearance of a conflict of interest, must, prior to discussing or taking any action for or against the matter: (1) disclose the nature of the interest or involvement creating the actual or potential conflict of interest to the Board; (2) refrain from any and all participation in the Board's consideration of or action on the matter.
- Annually, Trustees will complete a disclosure form indicating any affiliations likely to cause an actual or apparent conflict of interest. The disclosure forms will be kept on file with the President's office and the University's general counsel. Further, on an annual basis, Trustees will obtain the best practices training set forth in C.R.S. § 24-3.7-102.
- It is recommended that Trustees also follow the voluntary procedures set forth in C.R.S. § 24-18-110 for making prior disclosure to the Colorado Secretary of State of actions or private interests that may result in conflicts of interest. Although these procedures are voluntary, the statute provides that persons having a conflicting interest who follow them shall have an affirmative defense to any civil or criminal action or other sanction that might otherwise apply.
- In exercising their fiduciary duties, Trustees also have an obligation to keep certain information confidential. Confidential information includes, but is not necessarily limited to:
    - Student records, health records, legal advice, and other information deemed confidential or privileged pursuant to law.
    - All information discussed in properly conducted executive sessions of the Board designated as confidential by the Colorado Open Meetings Law. C.R.S. 24-6-101, *et seq.*
    - All documents or records for which a custodian of records may deny or shall deny inspection under the Colorado Open Records Act. C.R.S. § 24-72-201, *et seq.*

Section 2. Regular meetings of the Board may be held at such times and places as the Board, by resolution, may determine. Notice of regular meetings shall be given not less than twenty-four (24) hours before the meeting date.

Section 3. Special meetings of the Board may be called at any time by the Chair of the Board (the "Chair") or shall be called by the Chair upon the written request of a majority of the Board. Meetings may be held in person, via telephone or video conference technology, or a combination of methods, congruent with the Board's needs.

a. Upon the call for a special meeting, the Secretary shall cause written notice to be delivered to each member, stating the time, place, and purpose of the meeting; such notice shall be issued no later than twenty-four (24) hours prior to the hour set for the meeting.

b. No business other than that stated in the notice shall be transacted unless all members of the Board are present and consent to the consideration and transaction of such other business.

c. A member may waive notice of a special meeting. Attendance at a special meeting is a waiver of the required notice.

d. In the event of an unforeseen circumstance requiring immediate action, the Chair may convene an emergency special meeting of the Board by giving notice of not less than one (1) hour, by telephone to members of the Board and, by posting, to the public. If the Board is unable to meet in person, such emergency special meeting may be conducted by conference telephone call, video conference, or other electronic means, with public amplification of the discussion either at a physical location set forth in the posted notice or via a video conference method. When this occurs, a written resolution embodying the action taken shall be reported to the Board for ratification at the next regular meeting and shall be incorporated into the minutes of that meeting.

Section 4. Meetings of the Board

a. Pursuant to §24-6-402, C.R.S., all meetings of two (2) or more members of the Board at which any public business is discussed or at which any formal action may be taken shall be open to the public. Any meetings at which the decision or adoption of any proposed resolution, rule, regulation, or other formal action occurs or at which either a majority of the Board (6 out of 11 Trustees) or "Quorum" (5 out of 9 voting Trustees) of the Board is in attendance, or is expected to be in attendance shall be held only after full and timely notice to the public. This bylaw does not apply to any chance meeting or to any social gathering at which the discussion of public business is not the central purpose.

The Secretary of the Board (or their designee) shall maintain a list of people who, within the previous two (2) years, requested individual notice of either all meetings or of meetings about certain policies. Individual notice must be given reasonably in advance of a meeting.

Unintentional failure to provide individual advance notice does not nullify actions taken at an otherwise properly published meeting.

A "Quorum" is defined as a majority of the voting Trustees (5 out of 9). The presence of a Quorum is required to transact business or to act.

b. Meetings of the Board are generally conducted in accordance with parliamentary rules and procedures provided by *Robert's Rules of Order* (Revised).

c. The order of business to be transacted at all meetings shall be according to the printed agenda thereof, or in the event of the special meeting, in accordance with the notice thereof. The Board sets most of its agenda for a subsequent regular meeting at the conclusion of the prior regular meeting. Trustees may request to add additional topics by submitting the topic to the Chair and Secretary prior to the start of a meeting, or by moving to add a topic once a meeting begins, provided that a majority of voting Trustees approves the addition. For regular meetings, the Board will generally adhere to the draft template order of business set forth in Appendix B, to this Policy.

d. At any time during any regular or special meeting of the Board, upon the affirmative vote of two-thirds (2/3) of the voting Trustees and after the Chair announces the general topic, the Board may adjourn into executive session for the purpose of considering matters or topics enumerated in §24-6-402(3)(a)(I through V), (3)(a)(VIII), and (3)(b), C.R.S..

During executive session, only appointed (voting) Trustees, and those persons invited by the Board are entitled to attend. In their discretion, and to the greatest extent practicable, the appointed Trustees may invite the elected Trustees to attend executive session. The presumption is that elected Trustees will not attend executive sessions that pertain to either personnel or student conduct matters. All discussion among those present and communications received during such executive session shall remain confidential.

e. Members of the public who desire to address the Board at any of its regular meetings may do so by signing up to speak during the designated time for public comment. Members of the public can also submit comments to the Board at https://western.edu/about/leadership/board-of-trustees/contact-board-of-trustees/. Copies of electronic communications submitted to the Trustees are provided to the Board. The Board's electronic communications response protocol is outlined in Appendix C.

f. Complete and accurate minutes of each meeting which shall constitute the official record of proceedings of the Board shall be promptly recorded. Minutes of the public session proceedings shall be made available for public inspection during reasonable hours consistent with the Colorado Open Records Act. Once public session minutes are approved, they are also posted and available on the Board's webpage at https://western.edu/about/leadership/board-of-trustees/. A written copy of the minutes for the last preceding meeting and for any special meetings held since the last regular meeting shall be furnished to each member of the Board concurrently with delivery of the agenda for the next regular meeting.

g. Visitors to all open, public meetings may record the proceedings, so long as the recordation does not interrupt the meeting.

ARTICLE II
Officers of the Board

Section 1. Officers of the Board shall be Chair of the Board, Vice Chair of the Board (the "Vice Chair"), Secretary, and Treasurer. Before entering office, the Secretary and Treasurer shall take and subscribe an oath or affirmation that they will faithfully perform the duties of their office.

Section 2. Officers of the Board shall perform such duties as prescribed by the laws of the State of Colorado, and such duties that may be prescribed from time to time by the Board that are not inconsistent with such laws.

Section 3. Any officer of the Board serves at the pleasure of the Board and may be removed by the Board at any time, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not, of itself, create contract rights.

Section 4. The Chair shall be elected by a majority of the voting Trustees and shall perform all duties incident to the office of Chair and all such other duties as may from time to time be assigned by the Board.

Section 5. The Vice Chair of the Board shall be elected by a majority of the voting Trustees and shall perform such duties as from time to time may be assigned by the Chair or the Board. At the request of the Chair or in the Chair's absence, or inability to act, the Vice Chair shall perform all duties of the Chair.

Section 6. The Secretary, who shall not be a Trustee, or their designee, shall be responsible for the faithful handling and true accounting and delivery of all monies and property of the Board coming within their direction or control.

The Secretary, shall, if present, act as secretary at all meetings of the Board and keep the minutes. The Secretary shall see that all notices required to be given by the Board are duly given and served and shall be the custodian of the seal of the Board and shall affix the same to all appropriate documents, the execution of which on behalf of the Board under its seal, shall be duly authorized in accordance with law and the provisions of these bylaws.

The Secretary shall see that all reports, statements, and other documents required by law are properly kept and filed and, in general, shall perform all the duties incident to the office of Secretary and such other duties as may from time to time be assigned by the Board.

Section 7. The Treasurer, who shall not be a Trustee, shall keep a true account of all monies received and paid on behalf of the Board, and shall pay all warrants duly signed by the Chair and countersigned by the Secretary in the order of their presentation.

The Treasurer shall render a statement of the condition of the finances of the Board at all regular meetings of the Board and shall perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board. The same person may hold both the offices of Secretary and Treasurer.

Section 8. The Board may appoint one or more Assistant Treasurers, as it may deem advisable from time to time, who shall hold office at the pleasure of the Board.

Section 9. The Board may engage such employees and agents as it may deem advisable from time to time, who shall serve at the pleasure of the Board.

ARTICLE III
Election of Officers

Section 1. Officers shall be elected annually by the Board.

Section 2. Officers shall possess those qualifications for their respective offices as may be prescribed from time to time by the laws of the State of Colorado and these bylaws, and shall, before entering upon the duties of their respective offices, take and subscribe such oaths or affirmations, as required by the laws of the State of Colorado or by resolution of the Board not inconsistent with such laws. To the extent practical, trustees should serve one term (four years) as a trustee before being considered for an officer position.

Section 3. The Chair and Vice Chair shall serve a one (1) year term, beginning July 1 each year. Beginning in 2026, Trustees who serve as officers may serve no more than two one-year terms in any particular office. The Secretary and the Treasurer shall hold their office at the pleasure of the Board.

Section 4. Officers shall be elected by concurring vote of a majority of the voting Trustees.

Section 5. Whenever a vacancy occurs in any office, it shall be promptly filled by a concurring vote of a majority of the voting Trustees. If a vacancy occurs prior to the expiration of an officer's term, the newly elected officer shall serve the remainder of the unexpired term. Service of a partial term in this circumstance does not count towards the two one-year term limitation set forth for Trustees in Section 3.

ARTICLE IV
Committees

The Board may appoint standing committees, whose duties and functions it shall define. The Chair may appoint temporary committees. The duties of temporary or ad hoc committees may be established by concurring vote of a majority of the voting Trustees. The temporary or ad hoc committee may refine their purpose within the scope of the duties established by the concurring vote establishing the committee. Elected Trustees may participate on committees at the discretion of the Board.

ARTICLE V
Amendments; Repeal

Amendment or repeal of these bylaws may be made at any regular or special meeting, upon concurring vote of a majority of the voting Trustees, subject to the following provisions:

1. Written notice of the proposed amendment or repeal shall be given to each member at least fourteen (14) days prior to the meeting, and

2. Such amendment or repeal shall not be inconsistent with the laws of the State of Colorado.

Section 1.4: Student Trustee

In accordance with §23-56-102(3) C.R.S., the tenth (10^{th}) Trustee shall be a full-time junior or senior student at the University, elected by the members of the student body of the University. The term of the student Trustee shall be one (1) year, beginning July 1. The student member shall be advisory, without the right to vote and without the right to attend executive sessions of the Board.

1. "Full-time student" means the equivalent of the definition of full-time equivalent student used by the Joint Budget Committee of the General Assembly.

2. The Student Trustee shall take and subscribe to the oath or affirmation of office prescribed by the laws of the State.

3. If a vacancy of this office should occur, it shall be filled for the remainder of the unexpired term in the same manner by which the Student Trustee was elected originally.

Section 1.5: Faculty Trustee

1. Statutory Requirements. In accordance with §23-56-102(4), C.R.S.

The eleventh (11th) member of the Board shall be a member of the faculty of the University elected by other members of the faculty for a term of two (2) years, beginning July 1 of every odd-numbered year. The Faculty Trustee shall be advisory, without the right to vote and without the right to attend executive sessions of the Board.

If a vacancy of the office should occur it shall be filled for the remainder of the unexpired term in the same manner by which the Faculty Trustee was elected originally.

2. Election Procedures

a. Responsibility: The Faculty Senate shall conduct the election of the Faculty Trustee in accordance with this *Policy Manual* and as supervised by the President.

b. Eligibility for Elections:

(1) The candidate must be a full-time faculty member of the University.

(2) The term "faculty" includes only those professional personnel whose primary responsibility is to provide academic instruction on a full-time or part-time basis. The term "faculty" does not include professional personnel who are counselors, librarians, student service personnel, or other administrative professional personnel.

(3) The candidate must have achieved tenure status.

c. Electors: Only full-time faculty members of the University are eligible to vote in the election of a Faculty Trustee.

The term "faculty" must be defined as stated in the *Handbook for Professional Personnel*.

d. Nomination of Candidates for the Office of Faculty Trustee: Candidates for Faculty Trustee must be willing to stand for election and must be nominated by petition bearing the signature of at least ten (10) qualified electors.

e. Balloting: The names of all qualified candidates will be listed on a ballot which shall be distributed to each qualified elector. Voting shall be by secret ballot. The President, in consultation with the Faculty Senate, shall specify the procedures for distributing, collecting, and counting ballots. The candidate receiving the majority of votes shall be elected the Faculty Trustee. If no candidate receives a majority of the votes, the University will conduct a run-off election between the two (2) candidates receiving the highest number of votes, and the candidate receiving the majority of votes shall be elected Faculty Trustee. In case of a tie in the run-off election, the third runner up in the general election will be added to the run-off ballot, and the voting continued until one (1) candidate receives a majority vote. This process will continue by adding the candidate with the next-highest number of votes until a candidate is elected by a majority of votes.

f. Scheduling of Elections: Elections are to be conducted during the spring semester following a schedule set well in advance by the President in consultation with the Faculty Senate. Final elections must be completed no later than April 15 of every odd-numbered year.

Section 1.6: Maintenance and Distribution of the Policy Manual

The *Policy Manual* shall be maintained and kept current by the President and the University staff and shall include all official Board policies other than those contained in the *Handbook for Professional Personnel*. The University staff shall distribute approved amendments to the *Policy Manual* in a timely fashion to the following individuals and organizations:

Trustees (11)
President
Vice Presidents
College library
Student Government Association

The *Policy Manual*, including approved amendments, will also posted and available on the Board's webpage at https://western.edu/about/leadership/board-of-trustees/.

Section 1.7: Scheduling of Board

Meetings Regular Meetings
The Board shall hold no fewer than four (4) regular meetings per year.

The schedule and location of Board meetings are to be approved annually at the first regular meeting of the calendar year. All amendments to the schedule require official Board action.

At this time an administrative calendar shall be provided to the Board by the President or their designee reflecting deadlines for Board action.

Seminar Meetings

The Board will hold at least one (1) seminar each year, also known as a retreat, for the purpose of developing its knowledge of the University, its understanding of educational and management issues, and its proficiency as Trustees.

Section 1.8: Calendar and Schedule for the Submission of Agenda Items

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This Section 1.8 was consolidated with Section 1.7.

Section 1.9: Shared Decision-making General Philosophy

Decision-making General Philosophy

Western Colorado University benefits from a system of Shared Governance including Faculty Senate, Administrative Leadership Council, Liaison Council, and the Student Government Association. Shared governance in higher education refers to structures and processes through which faculty, professional staff, administration, governing boards and, sometimes, students and staff participate in the development of policies and in decision-making that affect the institution. Because an institution of higher education can warrant public trust only by a dedication to the advancement of learning, the highest commitment of the faculty must be to truth and the learning experience. At Western the pillars of Shared Governance include the Faculty Senate, Administrative Leadership Council, Liaison Council, Student Government Association, and the Administration, all of whom the Board of Trustees consider valuable and important partners. The Trustees affirm the right of freedom of expression and the right to freely participate in University Shared Governance for these purposes.

Under the Board policies established by the Board and the role and mission approved by the Colorado Commission on Higher Education (the "CCHE") and the General Assembly, the University has considerable flexibility and latitude to provide programing to support its mission and vision. The Board has articulated its principal expectations in the Western Colorado University Values statement and the strategic plans. All policy recommendations in public higher education must be designed to offer outstanding opportunities for students to learn in environments that are conducive to their best possible educational outcomes.

The Board reaffirms its policy of delegating to the President authority and responsibility for administering the University. As the chief executive officer of the University, the President must strive to gain trust, open communication, and a working accord with the Board, faculty, staff, and students and provide effective leadership by eliciting optimal contributions from each individual and group to achieve success in their outcomes.

Central to shared decision-making are the quality and good faith in institutional collaboration between Faculty Senate, Administrative Leadership Council, Liaison Council, Student Government Association, and the Administration. Decision-making in an academic institution will vary according to the situation. In some instances, as examples, an initial exploration or recommendation will be made by the President with consideration by the faculty at a later stage; in others, recommendations will originate with the faculty and follow the established procedures of the Faculty Senate, subject to the endorsement of the President and the Board; and in still others, a substantive contribution can be made when student leaders are responsibly involved with the President and the faculty.

Since the goal must be to achieve the best possible exchange of information and ideas, clearly understood channels of communication must be established, observed, and maintained by all concerned.

University-Level Policy

In order to clarify its expectations for decision-making processes, the Board distinguishes between its own responsibilities for policymaking and the University prerogatives for administration, procedures development, and operation. Thus, while it exercises restraint in imposing guidelines or procedures best left to the University, the Board does have certain expectations as a matter of policy.

1. When appropriate, the Board expects campus committees to be selected through the use of Shared Governance procedures.

2. The University shall post a current organizational chart identifying administrative and academic units and their relationships. All changes in structure at the department, division, school, center, institute, or University level shall be submitted to the Board.

3. In view of the sensitivity accompanying the assessment and use of student fees, the President or their designee should consult with the Student Government on the level and allocation of such fees prior to submitting them to the Board for action.

4. In keeping with the Board's commitment to diversity, equity, and inclusion, all screening committees should be broadly representative of the University.

5. Institutional deliberations concerning strategic planning, educational policies, personnel policies, priorities, and other matters affecting faculty, staff, and students should include opportunity for participation by representatives of the faculty, staff, and student organizations. Shared Governance should have an active voice in development of campus committees for these purposes. The mechanisms for such participation, however, should recognize the rapidly changing circumstances confronting the University and the requirement for timely decisions.

6. Representative groups of the classified and administrative staff shall have appropriate and continuing access to decision-makers whose determinations have direct impact on their status and performance.

7. The Board expects an annual review of the functioning of shared decision-making to be addressed in its annual evaluation of the President. An accurate assessment of the state of shared governance at the institution will be developed and used annually.

Section 1.10: Communication Between Professional Personnel and the Board and Between the University and External State Agencies

Open, ongoing, and honest communications is encouraged among all University constituents including the Board, administrators, faculty, staff, students, alumni, and others in the community. To enhance communication and to give prompt attention to problems, the Board urges that internal mechanisms for the expression of the views of professional personnel which respect clear administrative lines be established and maintained. Direct contact with the Board concerning campus issues without prior discussion with appropriate persons on the campus denies the opportunities for conflict resolution at the appropriate campus level. Parallel structures which confuse communication, and which exclude or circumvent appropriate administrators without giving them an opportunity to address the issues are destructive of morale as well as contrary to common sense and the principles of good management.

Since access of professional personnel to the Board should be accomplished only through an orderly and open process, it is Board policy that individual faculty or administrators wishing to be heard by the Board at a regular meeting shall be required to submit a written request to the President of the University at least seven (7) calendar days prior to the meeting. Such a request must include specific details demonstrating either campus institutional processes have been exhausted or the matter is one which should be of direct concern to the Board without recourse to institutional processes.

It is Board policy that the President be responsible for communicating with the legislature, the CCHE, and other state agencies on a regular basis. The President may delegate authority to other University personnel the ability to provide official information directly to external state agencies.

Section 1.11: University Citizens' Advisory Councils

The Board endorses the concept of citizens' councils as advisory to the President and authorizes the establishment of such councils.

Section 1.12: Collective Bargaining

The Board has determined that collective bargaining is an appropriate process to engage in for the purpose of promoting harmonious and cooperative relationships between the Board and the faculty.

The Board has determined that in order to engage in any phases of the collective bargaining process, including a referendum and contract administration, adequate funds should be appropriated by the Colorado General Assembly for administering a collective bargaining process.

The Board formally disengages from any activities concerning collective bargaining with faculty until funds are appropriated by the Colorado General Assembly. If and when funds are appropriated for collective bargaining, the Board will reassess its position.

This Section 1.12 does not address or apply to collective bargaining with non-faculty positions and in particular does not apply to positions within the State's personnel system.

Section 1.13: Community and State Issues

The Board recognizes and appreciates the mutually supportive relationship between the University and the surrounding community of which the University is a part. The Board recognizes that there may be issues that may impact the University and the surrounding community. Although the Board desires to support the community whenever possible, the Board has determined that it will only take a formal position on issues that may be important to the success of the University, unless the Board determines otherwise by a confirming vote of a majority of the voting Trustees.

CHAPTER 2: ANTI-DISCRIMINATION

Section 2.1: Equal Employment Opportunity Policy

RESOLUTION

WHEREAS, the highest ideals of our society are embodied in and set forth by our educational system, and

WHEREAS, equality of opportunity in securing a good life must be made available to all if our democratic system is to meet the test which it is today facing, and

WHEREAS, the State of Colorado has legislation to provide that equality of opportunity in employment shall be available to all without regard to such extraneous factors as age (40 and over), color, disability, gender identity, genetic information, military or veteran status, national origin, ancestry, race, religion, creed, sex, sexual orientation, gender expression, marital status, or any other applicable status protected by federal, state, or local law.

WHEREAS, the effective implementation of this law depends to a large extent on the understanding and acceptance of the spirit of the doctrine of equality within the democratic principles of our way of life, and

WHEREAS, the education system has the highest responsibility to teach by precept and example, compliance with the law in spirit and in fact,

NOW, THEREFORE, BE IT RESOLVED that we, the Trustees of Western Colorado University resolve that the hiring of professional personnel shall be done solely on the basis of merit, and we do hereby request Western Colorado University to vigorously pursue this policy, accepting as members of the professional staff those who are qualified by virtue of their training, experience, character, and integrity without regard to age (40 and over), color, disability, gender identity, genetic information, military or veteran status, national origin, race, religion, sex, sexual orientation, or any other applicable status protected by federal, state, or local law.

Section 2.2: Discrimination, Harassment, and Retaliation Policy

Statement of Purpose

The University is committed to providing an inclusive educational and workplace environment free from all forms of unlawful Discrimination, Harassment, and Retaliation. The University complies with all applicable federal and state laws and regulations prohibiting Discrimination, Harassment, and Retaliation. The purpose of this Policy is to provide a mechanism for prompt and fair internal resolution that is reasonably calculated to immediately end, remedy the effects of, and prevent future Discrimination, Harassment, and Retaliation.

Prevention is the best tool to eliminate Discrimination, Harassment, and Retaliation in the workplace and in the University's educational programs and activities. The University strives to maintain an environment in which individuals feel comfortable raising concerns and are confident that those concerns will be addressed. The University is committed to providing support and training for continuous learning and improvement toward a safe and inclusive workplace culture and educational environment.

I. Definitions.

Affiliate: Volunteers, Participants in programs offered by the University, Entities at which members of the Campus Community work or study (including entities that accept student interns) and Employees of other third parties or service providers associated with the University through contracts, affiliation agreements, or otherwise.

Applicant: an individual who has submitted an application for enrollment or employment with the University.

Board of Trustees: The Board of Trustees is established in Colorado statute at C.R.S. § 23-56-102.

Campus Community: Faculty, Professional Personnel, Classified Staff, Students who are admitted or enrolled in the University.

Grievance of Discrimination, Harassment, or Retaliation: a written allegation of Discrimination, Harassment, or Retaliation that is filed with the University in accordance with this policy. A Grievance of Discrimination, Harassment, or Retaliation Form is available in Appendix N of the Handbook for Professional Personnel or on the Equal Opportunity Office's web page.

Grievant: an individual who files a formal written Grievance.

Disciplinary Action: the process for and sanctions available for violations of university policy as set forth in the Western Colorado University Student Handbook or any applicable Graduate Program Handbook or Catalog, the Colorado State Personnel Board Rules and Director's Administrative Procedures, or the University's Handbook for Professional Personnel.

Employee: any member of the Classified Staff, Professional Personnel, or Faculty and student employees.

Equal Opportunity Office: means the office appointed by the University to investigate grievances under this Policy. When the President appoints another to fulfill the role of the Equal Opportunity Office with respect to a particular matter, the Equal Opportunity Office shall be read to mean the person so appointed by the President.

Party: Grievant(s) and Respondent(s).

President: Any reference in this policy to "The President" shall be read as "the Chair of the Board of Trustees" if the President is the subject of the Grievance.

Respondent: an individual against whom a Grievance has been filed.

Student: an individual who is taking courses at the University, either full- or part-time. This includes individuals pursuing an undergraduate or graduate degree; who is enrolled in Center for Learning and Innovation or Concurrent Enrollment courses, online or as a residential student; and nondegree seeking, exchange (e.g., National Student Exchange) and international students. This definition includes persons who register for classes, attend New Student Orientation, or are between academic terms including holiday and summer breaks. Please **also see the Western Colorado University**

Student Handbook.

Supervisory-level employee: any employee, including student employees, in supervisory or mentoring roles (supervises, evaluates, or is responsible for the work of another employee or student), including but not limited to managers, supervisors, faculty members, coaches, and paid student leaders.

II. Scope

1. Prohibitions of Discrimination, Harassment, and Retaliation under this Policy apply to the Board of Trustees, the Campus Community, Affiliates, and Applicants.

2. The University will take prompt, reasonable action to investigate or address all allegations of Discrimination, Harassment, or Retaliation as appropriate to the circumstances and may further investigate and take disciplinary action if warranted by the available facts, even if the Grievant declines to pursue resolution of the matter through this Policy. For individuals and entities not included in the definition of the Campus Community, this Policy applies as follows:

    a. Board of Trustees: In the instance of a report or complaint of Discrimination, Harassment or Retaliation by or against a Trustee, such report or complaint shall be directed to the Chair or, if the allegations are by or against the Chair, the Vice Chair of the Board of Trustees. Credible allegations shall be investigated by an independent investigator appointed by the Chair or Vice Chair, as appropriate. The independent investigator shall deliver a confidential written report to the Board of Trustees and necessary action shall be taken, as appropriate.

    b. Affiliates: In the instance of a report or complaint of Discrimination, Harassment, or Retaliation by or against an Affiliate or an Affiliate's employee, the University is not required to follow the Procedures for Grievances as outlined in this Policy. Nevertheless, the University may, in its discretion, investigate the credibility of the allegations and take appropriate remedial action, including termination of any contract or agreement with an Affiliate.

    c. Applicants: In the instance of a report or complaint of Discrimination, Harassment, or Retaliation by or against an applicant for employment or admission with the University, the University is not required to implement the Procedures for Grievances as outlined in this Policy. Nevertheless, the University, in its discretion, may investigate the credibility of the allegations and take appropriate remedial action, including withdrawal of an offer of employment or admission.

3. Although Sexual Harassment is a form of Discrimination, Grievances of Sexual Harassment that include allegations that meet the definition of Sexual Harassment in Section 3.5 of the Policy Prohibiting Sexual Misconduct (regarding Title IX) will be handled under Section 3.5 of this Trustees Policy Manual when applicable; sex-based discrimination and sexual misconduct may be addressed under this policy if Section 3.5 does not apply.

4. In the event that a report or complaint implicates more than one applicable policy, the University will have the discretion to determine the most appropriate way to proceed in accordance with University policies and applicable laws. Options include concurrent investigations, joint investigations, deferring to the findings of one proceeding or using/sharing the investigation and findings of one as the basis of further investigation of violation of other policies. In the instance a report or complaint does not rise to the level of a violation of this Policy, the University reserves the right to refer matters for consideration and investigation under other University policies, including other policies in the Trustee Policy Manual, the Handbook for Professional Personnel, or the Student Handbook.

5. For allegations between or among Classified Staff alleging Discrimination, Harassment, or Retaliation, Classified Staff should also refer to the State Personnel Board and State Personnel Director's Administrative Procedures at 4 C.C.R. 801-1. This Policy will be used to establish university principles and jurisdiction, but rules for classified employees may be followed for investigation and disciplinary purposes.

6. Multiple Grievances may be consolidated if they arise from the same or similar facts and circumstances, or allege retaliation for bringing an earlier, still-pending Grievance.

7. This Policy is intended to protect members of the Campus Community from Discrimination, Harassment, and Retaliation as defined herein, not to regulate speech protected by the First Amendment. This Policy will not be interpreted to prohibit conduct that is legitimately related to course content, teaching methods, research, or scholarship, or the expression of political and academic views of students and faculty in the classroom.

8. This Policy does not change the fact that administrators and non-tenured faculty members are at-will employees and may be terminated with or without cause at any time.

III. Prohibitions

1. Discrimination. The University prohibits and will not tolerate any action that violates federal, state, or local law or this Policy. The University prohibits unfair or unequal treatment of a person or group of individuals based on an individual's protected class, including age (40 and over), color, disability, gender identity, genetic information, military or veteran status, national origin, ancestry, race, religion, creed, sex, sexual orientation, gender expression, marital status, or any other applicable status protected by federal, state, or local law.

The University complies with Titles VI and VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Education Amendments of 1972 (Title IX), the Age Discrimination in Employment Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act, Executive Order 11246, §24-34-301, C.R.S. et seq., §24-34-401, C.R.S. et seq.

2. Harassment.

a. <u>Within the Employment Relationship</u>

In the employment relationship, the University prohibits any unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of that individual's or group's membership in, or perceived membership in, a protected class, including their disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry, which conduct or communication is subjectively offensive to the individual alleging harassment and is objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication need not be severe or pervasive to constitute a discriminatory or an unfair employment practice, and is prohibited if:

i. Submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment;

ii. Submission to, objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or

iii. The conduct or communication has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

iv. The nature of the work or the frequency with which harassment in the workplace occurred in the past is not relevant to whether the conduct or communication is a discriminatory or an unfair employment practice under this Policy.

Notwithstanding this Policy, petty slights, minor annoyances, and lack of good manners do not constitute harassment

unless the slights, annoyances, or lack of manners, when taken individually or in combination and under the totality of the circumstances, meet the standards set forth in this Policy.

b. Outside of the Employment Relationship

Outside of the employment relationship, the University also prohibits any and all harassment that denies a person's ability to participate in, or benefit from, the University's education program or activity. Outside of the employment relationship, harassing conduct can be verbal or physical and need not be directed at a particular individual. The following type of harassment creates a hostile environment and is prohibited: unwelcome conduct based on protected characteristics that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in, or benefit from, the University's education program or activity.

3. **Retaliation.** The University prohibits any materially adverse actions that would dissuade a reasonable person from making or supporting a Grievance of Harassment or Discrimination and which is taken because of a person's participation in a Grievance of Harassment or Discrimination.

4. **Sexual harassment,** Sexual Violence, and Sexual Assault. The University prohibits all forms of Sexual Harassment, including Sexual Violence and Sexual Assault. Sexual Harassment is defined under federal and state laws as follows:

    - Under Title IX, Sexual Harassment is:
        - An employee of Western conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct;
        - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Western's education program or activity; or
        - Sexual assault as defined in 20 U.S.C. § 1092(f)(6)(A)(v), dating violence as defined in 34 U.S.C. § 12291(a)(1), domestic violence as defined in 34 U.S.C. § 12291(a)(8) or stalking as defined in 34 U.S.C. 12291(a)(30).

    - Under Title VII, Sexual Harassment is:
        - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. *See* 29 C.F.R. §1604.11.

    - Under C.R.S. § 24-34-402, Sexual Harassment is:
        - Included in the definition of "Harassment." Please see the definition of Harassment above.

In the event that a complaint alleges Sexual Harassment as defined in Section 3.5, Policy Prohibiting Sexual Misconduct (regarding Title IX), the University must handle such complaint under Section 3.5. To the extent Sexual Harassment is evaluated under Section 3.5 and determined not to apply, it may be referred to this Policy for further action. Please refer to Section 3.5 for the applicable policy and process.

5. **Violent Behavior.** The University has zero tolerance for violence or threats of violence. Refer to Section 3.4 of this Trustees Policy Manual for all matters pertaining to Violent Behavior.

6. **Pay Transparency.** The University will not discharge, or in any other manner discriminate against, employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant. However, employees who have access to the compensation information of other

employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information. *See* 41 C.F.R. 60-1.35(c).

IV. Prevention

Prevention is the best tool to eliminate Discrimination, Harassment, and Retaliation in the workplace and in the University's educational programs and activities.

1. The University requires anti-harassment training to be completed by all professional personnel and provides training on this Discrimination, Harassment, and Retaliation Policy to Supervisory-level employees.

2. The Human Resources Office provides policy guidance and supports students and personnel in resolving workplace issues.

3. The Equal Opportunity Office provides prevention and Grievance resolution services.

4. Any contracts or agreements with Affiliates must contain provisions requiring Affiliates to comply with the letter and the spirit of all applicable State and Federal laws regarding discrimination and unfair employment practices. These requirements do not create an employment relationship between the Affiliate(s) and the University.

5. Any member of the Campus Community who observes or receives information about what they reasonably believe to be Discrimination, Harassment, or Retaliation is encouraged to promptly inform the Equal Opportunity Office so that appropriate action can be taken.

    a. For supervisory-level employees' duty to report, refer to paragraph 8, below.

    b. For duty to report Violent or Threatening Behavior, refer to Section 3.4 of this Trustee's Policy Manual.

    c. For duty to report Sexual Harassment, Sexual Violence, and Sexual Assault, refer to Section 3.5 of this Trustee's Policy Manual.

    d. The Equal Opportunity Office shall coordinate with the Title IX Coordinator to determine if any violations Title IX have been alleged or occurred.

6. Employees are encouraged to inform their colleagues when their conduct is unwelcome. Employees should report discriminatory or harassing behavior to the Equal Opportunity Office at an early stage to prevent its escalation.

7. Supervisory-level employees are responsible for the following:

    a. Creating an environment in which members of the Campus Community are comfortable raising concerns and are confident that those concerns will be addressed.

    b. Clearly communicating to members of the Campus Community that Discrimination, Harassment, Retaliation or uncivil treatment related to such Grievances will not be tolerated.

c. Understanding the Grievance process to assure members of the Campus Community that a prompt, thorough, and impartial investigation will be conducted; confidentiality will be protected to the extent possible; immediate and appropriate corrective action will be taken if it is determined that unlawful Discrimination, Harassment, or Retaliation has occurred; and Grievants will be protected against Retaliation.

d. Holding those they supervise accountable for completing required training.

e. Promptly reporting any complaints, reports, or incidents of Discrimination, Harassment or Retaliation to the Equal Opportunity Office.

V. Procedure for Grievances of Discrimination, Harassment, or Retaliation

Protection of the Parties

1. **Confidentiality.** The process for resolving allegations of Discrimination, Harassment, or Retaliation is handled with discretion to protect the privacy of those involved, but neither anonymity nor complete confidentiality can be promised.

Participants in the Grievance Resolution Process will treat all information and documents as confidential and will not discuss the matter with, or provide documents to, anyone except as necessary for the investigation and any subsequent proceedings, or as authorized or required by law. Failure to observe the confidentiality requirements may be cause for discipline, up to and including termination of employment or expulsion from the University. Participants in Discrimination Grievance Procedures should not be promised confidentiality beyond that stated herein.

2. **Support Measures.** The President or their designee may take appropriate interim supportive measures to protect the health or safety of the Grievant and Respondent. Any such Supportive Measures are different from Disciplinary Action resulting from the process. The range of supportive measures may include but is not limited to the imposition of a no-contact order; lateral changes in work or class schedule or location, job duties, housing or travel arrangements, class/teaching schedule or mode of delivery; restrictions in access to university facilities or co-curricular activities; or any other remedy that can be reasonably tailored to the individuals involved.

Violations of no contact orders and failures to comply with other interim measures may result in Disciplinary Action.

3. **Administrative Leave or Suspension.** The President or their designee may impose administrative leave, temporary suspension, or summary suspension as consistent with the applicable procedures in the Western Colorado University Student Handbook, Graduate Program Handbook or Catalog, Colorado State Personnel Board Rules and Director's Administrative Procedures, or Western Colorado University Handbook for Professional Personnel. For classified employees, the Appointing Authority will take appropriate action in compliance with Chapter 6 of the State Personnel Board Rules if warranted.

4. **Representatives:** Members of the Campus Community may be advised by a representative of their choice at any stage of the process but must speak for themselves.

5. **Independent Mediation.** Members of the Campus Community shall not attempt to independently investigate or mediate allegations of Discrimination, Harassment, or Retaliation.

Grievance Resolution Process for Student Respondents

In the event a student is identified as Respondent in a non-employment related Discrimination, Harassment, or Retaliation report or complaint, the Student Conduct Process in the Student Handbook will be followed to resolve the Grievance. Please refer to the Student Handbook for the Student Conduct Process and the Student Conduct Programs.

Grievance Resolution Process for Employee Respondents

In the event an employee is the identified Respondent, the Equal Opportunity Office, or other designee by the President (hereinafter Equal Opportunity Office), will arrange for and coordinate the Grievance Resolution Process and may extend

or shorten any time periods prescribed in this policy for good cause but shall not permit unreasonable delay.

It will be the Equal Opportunity Office's responsibility to keep the President and the Human Resources Office closely informed about any Grievances alleging Discrimination, Harassment, or Retaliation that arises within the University.

Step 1: Reporting

a. **Witness Reporting.** Any member of the Campus Community who observes or receives information about what they reasonably believe to be Discrimination, Harassment, or Retaliation shall promptly inform the Equal Opportunity Office in-person and/or by submitting an appropriate online reporting form so that appropriate action can be taken.

If the person reporting discrimination/retaliation is someone other than the alleged victim, the Equal Opportunity Office will ask the alleged victim(s) to confirm whether the reported conduct occurred.

If the alleged victim does not confirm that the reported conduct occurred, the matter will not be pursued.

If the alleged victim confirms that the conduct occurred, the alleged victim will be offered the opportunity to pursue resolution of the matter under this procedure.

If the alleged victim declines to pursue resolution of the matter through this procedure, the Equal Opportunity Office or President may require further investigation and the President may take appropriate Disciplinary Action.

b. **Filing a Grievance.** Any individual who believes they have been the target of Discrimination, Harassment, or Retaliation by an Affiliate or member of the Campus Community should report the conduct to the Equal Opportunity Office in-person and/or by submitting the Grievance of Discrimination, Harassment, or Retaliation Form found in Appendix N of the Handbook for Professional Personnel or the appropriate online reporting form.

c. Determination of Jurisdiction. The Equal Opportunity Office will determine whether the Grievance is within the jurisdiction of this Policy. Jurisdiction under this process is established when:

i. The Grievance is filed within thirty (30) days of the alleged Discrimination, Harassment, or Retaliation, or good cause is shown for not filing promptly;

ii. The Grievant has submitted a complete written Grievance which they have either completed themselves or met with the EEO Office to verbally relay to the EEO Office to complete a written complaint; and

iii. The Grievance sets forth facts that, if true, show reasonable cause to believe that a violation of this policy has occurred.

d. Non-jurisdiction. If jurisdiction under this policy is not established, the Equal Opportunity Office will serve the Grievant with written notice of this finding and may refer them to support services and/or the appropriate policy or office for resolving their concern.

e. **Appeal of Determination of Jurisdiction.** If jurisdiction under this Policy is not established, the Grievant may request the President's review of the determination by submitting a written request for review to the President and the Equal Opportunity Office within seven (7) calendar days of the delivery of the finding.

The President's determination of jurisdiction shall be rendered as soon as possible after the President receives the request for review. The President's determination of jurisdiction is final. The Grievant will be provided with a copy of the President's determination.

f. If jurisdiction under this policy is established, the Equal Opportunity Office will deliver a copy of the written Grievance to the Respondent; the Grievance will include the Grievant's name, and the Grievant's other personal information will be redacted.

g. The Grievant may choose to withdraw their Grievance at any point. Even if a Grievance is withdrawn or never filed as a Grievance, the Equal Opportunity Office or President may require further investigation and the President may take appropriate Disciplinary Action, if appropriate.

Step 2: Informal Resolution Efforts

a. The University strives to resolve perceived Discrimination, Harassment and Retaliation at the lowest possible level. Frequently, the most satisfactory process for resolving perceived Discrimination, Harassment or Retaliation is though facilitated discussion between affected parties, administrators, and/or outside mediators who will attempt to informally identify problems, develop understanding, reconcile differences and, if appropriate, redress allegations.

b. Informal Resolution Efforts are only available to members of the Campus Community. If either the Grievant or the Respondent are not members of the Campus Community, refer to Formal Resolution.

c. The Equal Opportunity Office will make every reasonable effort to bring Grievances to closure no later than thirty (30) calendar days after the date that Informal Resolution Efforts were initiated; however, the actual time required will depend on the circumstances of each Grievance and resolution efforts.

d. The Equal Opportunity Office may conduct a preliminary investigation of the situation in order to determine if Informal Resolution Efforts could meet the needs of the affected parties.

e. The Equal Opportunity Office may contact the Grievant to discuss options for Informal Resolution Efforts. If the Grievant wishes to pursue informal resolution efforts, the Equal Opportunity Office will prepare recommendations for Informal Resolution Efforts. The Informal Resolution Efforts may only include interaction between the Grievant and Respondent with the Grievant's consent.

f. Upon approval by the President and with consent of the parties, the Equal Opportunity Office may engage in the recommended Informal Resolution Efforts. If the parties do not consent or the President does not approve, any of them may choose to forward the matter directly to Formal Resolution.

g. Any remedy arising from Informal Resolution Efforts will be summarized in writing within seven (7) calendar days after the conclusion of Informal Resolution Efforts.

h. If either party is dissatisfied with the results of the Informal Resolution Efforts, they may choose to proceed with a Formal Resolution within seven (7) calendar days after the conclusion of the Informal Resolution Efforts.

i. Any agreements between the parties resulting from the Informal Resolution Efforts are approved by the President and are final.

Step 3: Formal Resolution

a. The Equal Opportunity Office will notify all parties when Formal Resolution has been initiated.

b. Within seven (7) calendar days after the initiation of Formal Resolution, the Respondent will file a written response with the Equal Opportunity Office using the Response to Grievance Form found in Appendix N of the Handbook for Professional Personnel or using the appropriate online form.

c. After receiving the Response, the Equal Opportunity Office will investigate to determine the facts by gathering evidence.

   i. If the Respondent fails to attend an interview for reasons other than a documented, unforeseeable emergency, such failure constitutes a knowing and voluntary waiver of the opportunity to participate in an interview, and the report may be rendered without Respondent's input.

   ii. If the Grievant fails to attend an interview for reasons other than a documented unforeseeable emergency, the Equal Opportunity Office, in consultation with the President, may deem the Grievance withdrawn and discontinue the process. The Equal Opportunity Office or President may require further investigation and the President may take appropriate Disciplinary Action, if appropriate.

d. The Equal Opportunity Office shall make every reasonable effort to bring Grievances to closure no later than thirty (30) calendar days after the Grievance was filed; however, the actual time required will depend on the circumstances of each Grievance.

e. The Equal Opportunity Office will promptly prepare and deliver to the President a written report summarizing the investigation that includes factual observations, a determination of whether any University policy was violated, and a recommendation for action, which may include Disciplinary Action in accordance with the appropriate disciplinary procedure.

f. The President shall review the report and take action as they deem necessary. The President may pursue Disciplinary Action in accordance with the appropriate disciplinary procedure.

g. The Equal Opportunity Office will notify the Grievant and Respondent when the investigation is complete, and that the President is pursuing actions they deem necessary and appropriate. If the Grievant is a member of the Campus Community, they will be informed of any action that is to be taken by the University to resolve the Grievance, except those actions which are otherwise confidential employment actions or information.

h. The University is committed to transparent communications on how it is addressing issues, while also understanding that those communications may be limited by protections of privacy and confidentiality of the individuals involved. To that end, administrators, such as the Director of Human Resources and members of Senior Cabinet, strive to communicate to the Campus Community regarding campus concerns of safety and justice or in response to incidents related to this Anti-Discrimination Policy wherever possible and appropriate.

VI. Cause for Discipline

1. **Discrimination, Harassment, and Retaliation. M**embers of the Campus Community who engage in Discrimination, Harassment, or Retaliation against any member of the Campus Community or against any Affiliate or Applicant may be subject to Disciplinary Action, up to and including termination of employment or expulsion from the University, as set forth in the Western Colorado University Student Handbook or any applicable Graduate Program Handbook or Catalog, the Colorado State Personnel Board Rules and Director's Administrative Procedures, or the University's Handbook for Professional Personnel.

Affiliates who engage in discrimination, harassment, or retaliation against any member of the Campus Community may be subject to removal and/or exclusion from campus, including cancelation or modification of

their contract, designating an individual as Persona Non-Grata (PNG) as discussed in the Western Student Handbook.

2. **Breach of Confidentiality.** Failure to observe the confidentiality requirements may be cause for discipline, up to and including termination of employment or expulsion from the University.

3. **Abuse of Process.** Fraudulent or bad faith allegations, knowingly false statements of fact or documentation, or otherwise behaving irresponsibly in connection with any part of a Grievance is grounds for discipline.

4. **Intimidation and Retaliation.** The intimidation of, unauthorized contact with, or retaliation against any individual because of that individual's involvement in a Grievance under this policy is a violation of this policy. Intimidation, unauthorized contact, or retaliation may be the subject of a Grievance and may result in discipline.

5. **Failure to Participate.** Except for the failure of a Grievant to attend an interview or discussion conducted pursuant to this policy, failure of any member of the Campus Community to cooperate with the University officials in pursuing allegations of Discrimination or Retaliation may be cause for discipline.

VII. External Processes

1. Those who believe they are victims of discrimination or retaliation may initiate outside legal action through private sources or the appropriate State or Federal enforcement agencies. These agencies are listed below. Since the physical addresses for each agency may change more frequently than the Trustees Policy Manual is updated, current contact information for each agency may also be obtained from the Equal Opportunity Office.

   a. Office for Civil Rights, Denver Office U.S. Department of Education

https://ocrcas.ed.gov/contact-ocr?field_state_value=643

http://www.ed.gov/ocr/Grievanceprocess.html

   b. U.S. Equal Employment Opportunity Commission

https://www.eeoc.gov/

http://www.eeoc.gov/denver/index.html

   c. Colorado Civil Rights Division

https://ccrd.colorado.gov/

http://www.dora.state.co.us/civil-rights/Grievance_process.htm

2. If an external Grievance or charge is filed with an equal opportunity enforcement agency or in State or Federal court while a Grievance is pending within the University and the Grievances arise out of the same incident(s) or make similar allegations of Discrimination, Harassment, or Retaliation, the University may discontinue the internal Grievance process. The University may nonetheless require an investigation of all credible allegations of Discrimination, Harassment, or Retaliation and take Disciplinary Action as appropriate even if the Grievance process has been discontinued. Nothing in this policy precludes a University employee from filing a Charge of Discrimination with the Colorado Civil Rights Division and/or Equal Employment Opportunity Commission related to their allegation(s) of discrimination, harassment, or retaliation. A University employee must file such a Charge within 300 days of the alleged discriminatory action.

VIII. Recordkeeping and Open Records Requests

1. The University's Equal Opportunity Office is the central repository for all written and verbal complaints of Discrimination, Harassment, Retaliation as handled under this Policy. All documents related to such complaints by or against employees are considered personnel records, as defined in C.R.S. § 24-72-202(4.5).

a. Records of complaints made pursuant to this Policy are not open to public inspection pursuant to C.R.S. § 24-72-204(3)(a)(II)(A).

b. Any records of a sexual harassment complaint or investigation shall not be made available for public inspection except as specified in C.R.S. § 24-72-204(3)(a)(X).

2. Records of the complaints, investigation results, or resolutions will be retained by the University's Equal Opportunity Office for at least five (5) years after the later of:

a. The date the University made or received the record;

b. The date of the personnel action about which the record pertains; or

c. The date of the final disposition of a charge of discrimination, harassment, or related action, as applicable.

d. The records may be retained for a longer period if other federal or state laws apply.

Section 2.3: Campus Free Expression Policy

A. Authority

This policy is promulgated by the Board of Trustees of Western Colorado University pursuant to C.R.S. § 23- 56-102(1).

i. Policy Statement

The First Amendment to the Constitution of the United States assures that "Congress shall make no law … abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble," Western acknowledges the rights of its faculty, staff, students, its constituents (together the "Western Community"), and members of the public to engage in free speech and peaceful assembly.

Western Colorado University recognizes that its educational mission can only be met—both inside and outside of the classroom—through an environment that encourages both freedom of thought and expression in order to meet its mission "to promote intellectual maturity and personal growth in its students and prepare them to assume constructive roles in local, national and global communities," as well as to support its civic role as a public institution of higher education in a democratic society. These highest goals of the university and society should be met in a context of respect for the rights and privileges of others and for the university's ability to accomplish its mission.

The purpose of this policy is to advise the Western Community and members of the public of the procedures and standards of conduct that must be observed while availing themselves of the use of University campus and facilities in the exercise of those rights. Hence, the primary use of Western's property and facilities is for activities that are directly related to Western's educational mission and purpose, including teaching, research, preparation of scholarly material, student activities or campus support operations. Consistent with the Constitution and applicable law, Western may impose reasonable and content-neutral time, place, and manner restrictions on the use of its property and facilities and restrict or limit use that disrupts or interferes with academic mission, business operations, or regular functions of the University. Western also prohibits unlawful activity that endangers the safety of the campus community, University property or facilities. This policy both facilitates free expression and exchange of ideas and protects the institution.

Members of Western's community are encouraged to recognize the virtue of listening with empathy and intellectual humility. Civil dialogue becomes possible when students, faculty, and staff work to sharpen their skills of moral discernment, self-criticism, and respectful listening, all of which can improve a community's ability to deliberate collectively and inclusively. Part of Western's investment in civic education is to nurture norms of respect and curiosity and to create opportunities for practicing respectful dialogues about difficult social, ethical, and political issues.

I. Definitions

For the purposes of this policy, the following definitions shall apply:

A. Free Expression Activities. "Free expression activity or activities" means any lawful verbal or written activity by which individuals may communicate ideas to one another, including all forms of peaceful assembly, protests, speaking verbally, holding signs, circulating petitions, and distributing written materials. Expressive Activities include voter registration activities, but do not include activities that are primarily for Solicitation. Nothing within this policy grants any person the right to engage in expressive activity or conduct that is not protected under the First Amendment of the United States Constitution or Article II, Section 10 of the Colorado Constitution.

B. Literature. "Literature" is defined as any written matter, photos and/or artwork that is not predominantly advertising or commercial in nature.

C. Solicitation. "Solicitation" is defined as approaching another person to communicate a commercial message, including but not limited to communication through the following means: offering information about services or sales; soliciting an email address, phone number or other contact information for commercial purposes; and distributing any sales flier, coupon book, sample, promotional item, coupon, or similar item. Solicitation of charitable donations is considered commercial speech. Solicitation may be regulated by Western to a greater extent than other free expression activities. Western is under no obligation to make any areas or facilities available for solicitation.

D. Unprotected Speech. "Unprotected speech" means expressive activities that are not protected by Constitution or law such as communicating in a manner that is defamatory, incites violence or unlawful action, constitutes harassment, is obscene, or consists of fighting words or threats of physical harm.

E. Sale. "Sale" is defined as any transaction that involves the exchange of money for an item.

II. Use of University Grounds, Buildings and Facilities

A. Outdoor Areas on Campus For purposes of engaging in free expression activities, Western will provide its students, faculty, staff, other members of the Western Community, and the public access to all public and open outdoor areas on Western's campus on a non-discriminatory, content-neutral basis, with the understanding that activities held or reserved by the Western Community shall have priority over the activities of other users. Western will not designate any area as a free speech zone or otherwise limit free expression to a predetermined and designated area of campus. Generally accessible outdoor areas on the campuses shall be available to members of the university community for free expression in accordance with campus policies authorized by this section.

B. Use of Indoor Facilities by Western Community In addition, Western will provide its enrolled students access to non-academic and publicly accessible indoor facilities that have traditionally been made available to enrolled students for purposes of free expression activities, subject to the limitations set forth in this section and relevant student and faculty policies.

C. Use of Facilities by Members of the Public Except for outdoor area use in conjunction with free expression activities, any member of the public or outside organization seeking to use Western's restricted outdoor campus spaces, indoor facilities, equipment, office, laboratory, or parking space or lots, must register the activity and obtain the approval of the VP for Student Affairs or his/her designee. Additionally, a member of the public or outside organization will be required to enter into the appropriate Facilities Use Agreement or appropriate facility rental agreement with Western specifying the terms and conditions under which the requested campus resources may be utilized.

D. Distribution of Literature Distribution of free literature is permitted outside buildings, provided that such distribution does not disrupt or interfere with normal or previously scheduled activities of a particular place or building, and does not impede ingress and egress to and from campus buildings and pedestrian or vehicular traffic on campus walkways, sidewalks, and streets. Unless otherwise provided in this policy, distribution of free literature that is not part of the teaching, research, or other official functions of the University or not otherwise sponsored by the University or any of its academic or administrative departments, divisions or units is not permitted inside any campus building or any enclosed or special purpose area (such as the stadium), or in any campus residential areas, including University residence halls, campus apartment complexes, and other student housing facilities. The publisher, editor, author or distributor of any literature distributed on campus must be clearly identified on the material distributed. The sale of literature is prohibited without University authorization.

E. Time, Place, and Manner Restrictions

1. Event Amplification. Amplified sound is generally prohibited on campus, but may be permitted for official University and registered student organization events with the prior approval of the VP for

Student Affairs or his/her designee. Amplification must take place during the normal office hours 8:00 am -5:00 pm, unless otherwise authorized. Sound levels are not to exceed 80 decibels at any time. Due to the proximity of classrooms, offices, laboratories, and the library, a Facilities Services staff member will monitor the sound level and may require lower sound levels when necessary to avoid undue disruption of others.

2. Campus Postings. Postings by members of the general public are limited to designated bulletin boards in common areas. Students, faculty, and staff may also post to these bulletin boards. Obscenity and libelous material are prohibited. No materials posted on designated bulletin boards may be posted more than two weeks. Posted materials that violate these restrictions are subject to immediate removal. Posting on all other bulletin boards and surfaces on campus is limited to Western academic or administrative departments, divisions, or units, or affiliated organizations or groups. All posted materials must clearly identify the sponsoring organization or group. Obscenity and libelous material will not be approved for campus posting. With the exception of internal postings by Western academic or administrative departments, divisions or units, no materials may be posted on campus more than two weeks, unless the VP for Student Affairs expressly permits an extension of this posting period. Failure to meet these requirements will result in immediate removal of the posted material and may subject the sponsoring organization or group to disciplinary action or prosecution. Chalking is allowed only on the horizontal concrete ground (not on steps, paving stones, buildings or walls) and must be at least 15 feet away from any building entrance. To prevent property damage, only washable chalk may be used; no spray chalk, paint, or similar materials may be used on University property. Violators may be charged for the cost of cleanup and/or prosecuted.

3. Campus Solicitation. Any activity that competes with an existing campus business (such as the bookstore) or businesses with which Western has entered into an exclusive contract (such as food service and beverage/snack vending services) and the solicitation, sale or vending of credit cards, alcohol, illegal drugs and drug paraphernalia, cigarettes or other tobacco products, and any item, product, or service prohibited by state or federal law are prohibited.

4. Other Restrictions. Any event, demonstration, meeting, assembly, or expressive activity, as well as any persons in attendance, must comply with the applicable rules and policies of the University, including applicable law and University policy regarding restrictions on the consumption and service of alcohol. Any act that unreasonably interferes with the rights of others to peaceably assemble or to exercise the right of free speech, disrupts the normal functioning of the University, damages property, or endangers health or safety is specifically prohibited. No person may attempt to, nor actually interfere with, impair or impede the institution's regularly scheduled classes, events, ceremonies, or normal and essential operations. The University is required by law to provide and maintain reasonable access to, and exit from, any office, classroom, laboratory, or building. This access must not be obstructed at any time. Vehicular and pedestrian traffic cannot be impeded by demonstrations or gatherings. The provision of medical care cannot be impeded by demonstrations or gatherings. The normal operations of the University (classes, scheduled meetings, events, ceremonies, or other educational purposes) must not be interfered with or disrupted.

F. Activity Registration

Activity held on Western's campus must be registered with the University by filling out and submitting an Event Request Form to the VP for Student Affairs, Facilities Director, Director of Business Operations, and Director of Security seven (7) days in advance of the proposed activity if the activity has any of the following characteristics:

1. 100 or more people are expected to attend or participate;

2. A member of the public seeks access to Western's indoor facilities for free expression activities;

3. A member of the Western Community seeks access to academic or publicly inaccessible indoor facilities that have traditionally not been made available for purposes of free expression activities

for such activities;

4. Authorized University officials determine that the event is likely to significantly affect campus safety and security, or significantly affect normal University operations, including but not limited to providing usual and customary services to students, faculty and staff, classes and educational activities.

The following information, at minimum, will be required: (1) contact information for the person organizing the activity; (2) nature and type of activity planned; (3) desired date, time, and duration of the activity; (4) estimated number of people expected to participate in the activity; and (5) the type of sound amplification devices, if any, that will be used. This coordination is required so as to prevent disruption of normal University educational activities, coordinate competing requests for the same venue, and avoid endangering the health or safety of persons and damage to property. In exigent circumstances, Western may waive the seven (7) day requirement for advance registration for activities meeting one of the four above characteristics. Such circumstances include where the organizer could not have reasonably anticipated the activity in advance. In such a circumstance, the Event Request Form should be submitted to the VP for Student Affairs, Facilities Director, Director of Business Operations, and Director of Security with the required information and a brief statement regarding the exigent circumstance, and will be reviewed as soon as reasonably practicable.

G. Activity Priority. Priority to use Western's campus and facilities for free expression activities will be given as follows:

1. Western Community members with an approved Event Request Form.

2. Other individuals or groups with an approved Event Request Form.

3. Western Students without a registered activity on a first come, first serve basis.

4. Other individuals or groups without a registered activity on a first come, first serve basis.

H. Objections to Free Expression Activities The University recognizes that individual or groups may be opposed to certain Expressive Activities or speakers. Disagreement with different opinions is acceptable. Sustained or repeated noise made in a manner that substantially interferes with another speaker's ability to communicate his/her message is not acceptable. Nothing within this policy grants any person the right to materially disrupt previously scheduled or reserved activities or to engage in expressive activity or conduct that is not protected under the First Amendment of the United States Constitution or Article II, Section 10 of the Colorado Constitution.

I. Response to Violations of Policy and Disruptive Activities Violations of this policy may result in removal from Western's campus, police arrest, and criminal charges. In addition, members of the university community are subject to discipline or consequences based under the applicable student or employment disciplinary policies. No disciplinary action may be taken against a student for expressive activities that are otherwise permitted by this policy based upon the content or viewpoint of the student's expression or the reaction or opposition by listeners or observers to such expression.

III. Freedom of Expression by University Faculty

A. When engaged in teaching and research, faculty enjoy the associated rights and observe the associated responsibilities of academic freedom. Western can engage in content-based evaluation of faculty who are operating within the professional educational context, as long as this evaluation is based on professional standards or peer assessments of the quality of scholarship or teaching.

B. University faculty are members of our Community and members of a learned profession. When university faculty speak or write as citizens, not in furtherance of their university duties or in the course

and scope of their university employment, on matters of political, academic, artistic, or social concern, the university shall not censor their expression, initiate disciplinary action against them, or otherwise subject the faculty members to adverse employment actions because it disapproves of the substance of their expression.

C. When university faculty speak or write in their personal capacities, not in furtherance of their university duties or in the course and scope of their university employment, they must make every effort to indicate that their expression is their own and does not represent the opinion or position of the university.

D. The freedom of expression recognized in this section does not grant university faculty the right to refuse to perform official duties, to materially disrupt the university environment or university activities, or to disregard applicable standards of ethical conduct, including but not limited to those expressed in Western's Handbook for Professional Personnel and Trustee Policy Manual.

IV. Freedom of Expression by University Staff

A. All staff of the university are members of our Community. When staff of the university speak or write in their personal capacities, not in furtherance of their university duties or in the course and scope of their university employment, on matters of political, academic, artistic, or social concern, the university shall not censor their expression, initiate disciplinary action against them, or otherwise subject the staff members to adverse employment actions because it disapproves of the substance of their expression.

B. When staff of the university speak or write as citizens, they must make every effort to indicate that their expression is their own and does not represent the opinion or position of the university.

C. The freedom of expression recognized in this section does not grant staff of the university the right to refuse to perform official duties, to materially disrupt the university environment or university activities, or to disregard applicable standards of ethical conduct, including but not limited to those expressed in Western's Handbook for Professional Personnel and Trustee Policy Manual.

V. Freedom of Expression by University Students

A. When engaged in educational activities, university students enjoy the associated rights and observe the associated responsibilities of academic freedom.

B. University students are members of our Community. When university students speak or write in their personal capacities on matters of political, academic, artistic, or social concern, not in furtherance of their studies or in the course of their academic duties, the university shall not censor their expression, initiate disciplinary action against them, or otherwise subject the students to adverse academic actions because it disapproves of the substance of their expression.

C. The freedom of expression recognized in this section does not grant Western students the right to materially disrupt the university environment or university activities or to disregard applicable standards of conduct, including but not limited to those expressed in Western's approved Student Handbook and Trustee Policy Manual.

CHAPTER 3: PERSONNEL / WELFARE

Section 3.1: Honorary Degrees and Other Awards

1. Honorary Degrees

In accordance with §23-2-102(8) C.R.S., an honorary degree is intended to indicate that the person receiving the degree is learned in any field of public service or has performed outstanding public service or has demonstrated proficiency in any field of endeavor without having completed courses of formal instruction or study or formal preparation or training.

An honorary degree may be approved by the Board only after the President has submitted a recommendation which contains sufficient justification for the Board to make an informed decision about awarding the degree.

2. Awards Other Than Honorary Degrees for Persons Outside the University

The Board encourages the University to establish awards other than honorary degrees to recognize distinguished service or accomplishments by graduates of the University, by members of the academic community, by friends of the University, or by other persons outside the University.

Institutional policies shall clearly articulate the criteria for such awards and for procedures for selection.

Although the University shall inform the Board prior to making such awards, Board approval is not required.

3. Posthumous Degrees

Western Colorado University may award a deceased student a posthumous degree if the following conditions are met at the time of death:

1. The student was enrolled or on an approved leave of absence.
2. The student was in good standing, both academically and with respect to conduct.
3. The undergraduate student substantially completed degree requirements, meaning 75% or more of baccalaureate degree requirements (90 credit hours).
4. The graduate student substantially completed degree requirements, meaning two-thirds or more of graduate degree requirements.
5. Requests for students who have not completed a substantial number of requirements in the program of study will require special consideration by the President.

Direct Certification: If a student who passes away is far enough advanced in their final term that the instructors can give grades in all courses and all other requirements are also satisfied, then the degree will be awarded as earned. In such a case, the transcript does not carry any special notation of a posthumous degree.

Posthumous Certificate of Accomplishment: In cases where it is determined the student did not meet the above requirements for a degree, a posthumous certificate may be awarded, if appropriate. A posthumous certificate recognizes the student's progress toward the degree and their accomplishments as a member of the Mountaineer community.

Section 3.2: Employment of Professional Personnel

Upon formal recommendation by the department head and approval of the appropriate vice president, appointments are subject to the approval of the Trustees as outlined in Section 3.3. Appointments of Professional Personnel are contingent upon funds being appropriated, budgeted, and otherwise being made available.

This *Policy Manual* and the *Handbook for Professional Personnel* set forth the conditions of employment. The University Enterprise Resource Planning (ERP) software provides Professional Personnel with the following information (1) position and title; (2) compensation; (3) duration of the appointment (if applicable); and (4) acknowledgements of the fact that the professional and the Board are subject to the policies set forth in this *Policy Manual*, the *Handbook for Professional Personnel*, and the laws of the State of Colorado, as amended from time to time.

Section 3.3: Standard Personnel Recommendation and Information Forms

Personnel action recommendations for the Board's approval and information will be submitted on standardized forms indicating the President's approval or disapproval. The recommendations and information to be submitted include but are not limited to:

Recommendations:

1. Initial appointments of non-temporary faculty and administrators
2. Awards of tenure
3. Conferral of emeritus status
4. Awards of honorary degrees
5. Sabbatical leaves

Information:

1. Faculty promotions
2. Leaves without pay
3. Administrative leaves longer than ten (10) days
4. Resignations
5. Nonrenewal of probationary faculty members
6. Termination of administrators
7. Denial of early tenure applications/offers of sixth-year terminal appointments
8. Transitional retirements
9. Final sabbatical leave reports

Other actions which require Board approval will be handled on a case-by-case basis.

Section 3.4: Policy Prohibiting Violence and Weapons Statement of

Purpose

The University is committed to maintaining a safe and secure educational and working environment for all employees and students. To that end, the University has zero tolerance for violence or threats of violence, or the presence of prohibited weapons. This Policy applies to students, employees, affiliates, and visitors to campus.

I. Prohibitions

1. Violent behavior. Violent behavior is prohibited. Violent behavior is any act or threat of physical or verbal aggression, or the destruction or abuse of property by any individual. Such behavior includes, but is not limited to:

    a. Intimidating behavior which includes language or actions that unreasonably disrupts the work or learning environment, unreasonably causes undue emotional distress to another, or creates a reasonable fear of injury to persons or property;

    b. Threatening behavior which includes physical actions without physical contact or injury and implied threats to people or property. Threats may include veiled, conditional, or direct threats in verbal or written form, resulting in intimidation, harassment, harm, stalking, or endangerment to the safety of another person or property. Threats may occur in person, by mail, over the telephone, by email, text message, or other electronic means; and,

    c. Any behavior which involves any physical assault with or without weapons, throwing objects, destroying property, and specific or expressed threats to inflict harm to people or to destroy property.

2. Weapons. The weapons described in this policy are banned from all areas of the University's campus, unless specifically exempted herein.

    a. Except as provided in the exemptions, no weapons, including but not limited to, firearms, explosives, pellet guns, paintball guns, air guns, bullets or other ammunition, black jacks, smoke machines, fireworks, knives (blades longer than 3 ½"), swords (metal or wooden), or bows and arrows are allowed on any University property or in any University buildings under any circumstances. Possession of such items in these places endangers the lives of others and is a serious violation of University policies. Dangerous weapons, including but not limited to, knives, regardless of the length of the blade used by or in the possession of a person with the intent to cause fear or assault to another person is included within the meaning of a firearm, explosive, or dangerous weapon. Any student or employee violating this policy faces immediate disciplinary action, which may include probation, suspension, termination, or expulsion.

    b. Certain exemptions apply, as stated below:

        i. Pepper spray may be allowed on university premises but limited to pepper spray and/or mace. Personal pepper sprays can range from a low of 0.18% to a high of 2%. Any other forms of pepper spray will not be allowed. Additionally, pepper spray is to be used for self- defense purposes only. Anytime pepper spray is utilized on campus against a person and/or animal, an investigation will occur. An individual found responsible for utilizing pepper spray in a non-self- defense situation will be in violation of this policy and will face immediate disciplinary

actions;

ii. State or federal law enforcement or peace officers or agents when carrying a weapon in conformance with the policy of his/ her employing agency or specific military orders;

iii. A member of the armed forces of the United States or Colorado National Guard while acting in their official capacity and in conformance with military orders;

iv. Security personnel employed by the University and carrying a firearm while engaged in their official duties and as approved by the President or President's designee;

v. For use in an educational program, as approved by the President or President's designee, which program includes, but is not limited to, any course designed for the repair or maintenance of weapons;

vi. For the purpose of an authorized public demonstration or exhibition pursuant to instruction in conjunction with an organized school or class if approved by the President or President's designee;

vii. For the purpose of participation in an authorized extracurricular activity or on an athletic team if approved by the Office of Student Affairs. Such items must be stored in a secure location and only be utilized during specific times in secure campus locations. Individuals must follow all campus policies as well as those outlined for their specific activity or team. Failure to comply will result in disciplinary action toward the campus organization and individual members;

viii. Students living in apartments or utilizing campus cooking facilities may have kitchen knives for appropriate cooking use;

ix. Carrying Firearms on campus:

A. Permitted concealed carry handguns may be carried only in the parking areas of the University as allowed under C.R.S. § 18-12- 105.5(3)(d.5). Permitted concealed carry handguns are prohibited in all other areas and buildings on campus.

B. Other lawfully owned firearms, besides permitted concealed carry handguns, may not be carried anywhere on campus, even in the parking areas of campus.

x. Storage of Firearms:

A. If a handgun, including a permitted concealed carry handgun, is left unattended in a vehicle, such handgun must be left unloaded in a locked hard-sided container that is placed out of plain view in a locked vehicle or locked trunk of the locked vehicle, including in a locked container that is permanently affixed to the vehicle's interior, as required under HB 24-1348 (C.R.S. § 18-12-114.5(1)(a)). All handguns, along with all other weapons, may not be stored on campus, unless or until the University designates a weapons storage location(s). Individuals are encouraged to locate secure storage facilities off-campus for the storage of any handguns.

B. Any lawfully owned firearms, besides handguns, left in a vehicle parked on campus must be stored unloaded in a locked hard-sided or locked soft-sided case that is placed out of plain view in a locked vehicle or in the locked trunk of a locked vehicle as required by HB 24-1348 (C.R.S. § 18-12-114.5(1)(b)). In accordance with the law, if a firearm is stored in a locked soft-sided container, the owner must have a locking device installed on the firearm while the firearm is stored in such a soft-sided container. All firearms, along with all other weapons, may not be stored on campus, unless or until the University designates a weapons storage location(s). Individuals are encouraged to locate secure storage facilities off-campus for the storage of legally owned firearms.

xi. The President's Residence is exempt from the weapons possession and storage policy.

II. Reporting Obligations

- In the case of any emergency or any actual or imminent act or threat of violent behavior, first call 911.
- Any employees or students who believe a crime has been committed have the right to report that information to law enforcement.
- The University also strongly urges employees and students to report any violent behavior or the presence of prohibited weapons to the Director of Campus Security, a member of the Human Resources staff, or local law enforcement in-person, by telephone, or by using the appropriate online reporting form.
- Supervisory-level employees who observe violent behavior or the presence of a prohibited weapon, or who receive a written or oral report making such allegations, have an obligation to report the information to a member of the Human Resources staff in-person, by telephone, or by using the appropriate online reporting form.
- Any employees or students who have obtained a court issued restraining/protective order or other judicial order are encouraged to provide a copy to the Director of Campus Security. Other parties may be informed when deemed necessary to protect the safety of the campus community.

III. Procedures Following a Report

1. Reports of violent behavior or the presence of prohibited weapons on campus will be investigated by the Office of Human Resources if involving employees or the Office of Student Affairs if involving students. Either Office may also refer an investigation to the Director of Campus Security or their designee. Any findings that the prohibited conduct occurred will be subject to consequences discussed below.

2. Other Policies Implicated.

    a. If the violent behavior is related to discrimination, harassment, or retaliation, as defined in the University's Discrimination, Harassment, and Retaliation Policy, the complaint, investigation, and any penalties or corrective action may be in accordance with that Policy in Section 2.2.

    b. If the violent behavior falls within the definition of sexual harassment set forth in Section 3.5, the complaint, investigation, and any penalties or corrective action may be in accordance with the Policy Prohibiting Sexual Misconduct in Section 3.5.

c. Nevertheless, in the event that a report or complaint implicates more than one applicable policy, the University will have the discretion to determine the most appropriate way to proceed in accordance with University policies and applicable laws. Options include concurrent investigations, joint investigations, deferring to the findings of one proceeding or using/sharing the investigation and findings of one as the basis of further investigation of violation of other policies. In the instance a report or complaint does not rise to the level of a violation of this Policy, the University reserves the right to refer matters for consideration and investigation under other University policies, including other policies in the Trustee Policy Manual, the Handbook for Professional Personnel, or the Student Handbook.

IV. Emergency Measures and Persona Non Grata Status.

1. Emergency Measures. When there is a perceived threat to campus safety and security, the University reserves the right to immediately remove individuals from campus and/or exclude them from campus, including designating an individual as Persona Non-Grata (PNG), as discussed below. The University reserves this right even when an investigation is not yet complete.

2. Persona Non-Grata (PNG) Status

   a. PNG Status. The University reserves the right to deny access to the campus property and/or its facilities to anyone who: does not comply with Section 3.4 of the Trustee Policy Manual, or any other University policy; causes a disruption to university operations; and/or presents a perceived threat to campus safety and security. Failure to comply with this status will be considered trespassing, and law enforcement will be notified.

   b. Removal of PNG Status. PNG status is an indefinite status unless the status is formally removed by the President or the President's designee. After at least one year has elapsed since an individual has been placed on PNG status, an individual may submit a petition in writing to remove their PNG status. The President, in their discretion, may consider a petition less than a year after an individual has been placed on PNG status if the individual presents good cause for the President to consider an earlier petition. The removal petition should address the circumstances and any steps the individual has taken to demonstrate their conduct is no longer a threat to campus safety and security or a disruption to campus operations, as well as include any evidence that any sentences in any criminal matters have been fully satisfied and any applicable protective orders have been lifted. The President or their designee shall review the petition and decide whether to remove the individual's PNG status. The President's decision is not subject to further appeal. If an individual's removal petition is denied by the President, an individual must wait another year before submitting any subsequent removal petitions.

   c. Temporary, Limited Access to Campus While on PNG Status. The President, or the President's designee, in their discretion, may allow individuals on PNG status temporary, limited access to campus for a specified purpose and if good cause is shown. Such access must be given in writing in advance, and the procedures or conditions for allowing temporary, limited access will be coordinated with the Director of Campus Security, or their designee.

V. Consequences

Any employee, student, visitor, or affiliate who engages in behavior prohibited by this policy may be subject to disciplinary action up to and including expulsion, exclusion from campus, criminal prosecution, termination of their employment or business relationship with the University, and/or

any other appropriate action.

The University reserves the right to remove individuals from campus and/or exclude them from campus, including designating an individual as Persona Non-Grata (PNG) as described herein.

Section 3.5: Policy Prohibiting Sexual Misconduct

I. Sexual Misconduct is Prohibited

The Board of Trustees and Western Colorado University ("WCU" or the "University) intend to maintain a campus community free from all forms of sexual misconduct, which includes sexual harassment, sexual assault, domestic violence, dating violence, and stalking, as defined below. It is the University's policy that all forms of sexual misconduct are prohibited and will not be tolerated. This policy is promulgated pursuant to Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. §§ 1681-88 et seq., and its implementing regulations, 34 C.F.R. part 106.

A. Addressing Sexual Misconduct

The University will take all necessary measures to deter sexual misconduct, including but not limited to preventive educational programs, supportive measures, prompt and thorough investigation of sexual misconduct incidents and formal complaints, and the imposition of appropriate disciplinary sanctions against policy violators.

B. Training and Education

The University shall continue to provide training and education programs to promote awareness of sexual misconduct, such as sexual harassment and sexual assault. These may include, but are not limited to: required online education programs for students and employees, dissemination of educational materials to students and employees, and periodic training programs for students and employees.

C. Retaliation

Retaliation is prohibited. Retaliation means intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulation, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Such retaliation shall be dealt with as a separate instance of sexual misconduct. A report of alleged Retaliation may be made to the Title IX Coordinator. Any Responsible Employee who receives a report of alleged Retaliation must promptly report the alleged Retaliation to the Title IX Coordinator. Retaliation may occur even where there is a finding of "not responsible" under this Policy. Good faith actions lawfully pursued in response to a report of Prohibited Conduct are not Retaliation. Retaliation should be promptly reported to the Title IX Coordinator and will be investigated and resolved by Human Resources, using the procedures in Section 2.2 Discrimination, Harassment and Retaliation of the Trustee Policy Manual, or the Student Conduct procedures in the Student Handbook, as applicable.

II. Scope of Policy

This policy applies to the entire Western Colorado University community, including, but not limited to, students, student organizations, faculty, administrators, and staff, whether on or off campus, and third parties such as guests, visitors, volunteers, invitees, and alumni when they are on the University's campus or participating in University's Education Programs or Activities - sponsored activities within the United States.

The University's response to sexual misconduct depends in part on its authority over the alleged individual(s). This policy applies when the alleged individual(s) is an employee, student or volunteer of the University, or was at the time of the alleged incident and intends to participate in an education program or activity of the University.

However, if sexual misconduct is reported when the University does not have authority over the alleged individual, the University still will work with the complainant regarding their options and appropriate supportive measures. The

University also will consider whether it is appropriate to take any other actions to protect the safety of the University community under these circumstances.

Incidents that fall outside the scope of this policy may be addressed under other university policies, including but not limited to: Section 2.2 and Section 3.4 of the Trustee Policy Manual.

Obligations in this policy assigned to a particular title, such as the Title IX Coordinator, may be designated as appropriate by the University.

Alleged incidents of Prohibited Conduct under this policy occurring on or after the original effective date of this policy will follow the protocols and procedures outlined in this policy. Resolution of reports made under this Policy shall follow the protocols and procedure in effect at the time the report is made. However, the definitions of sexual misconduct in effect at the time of the incident will govern, unless otherwise directed by the Title IX Coordinator.

III. Definitions

1. Coercion– Refers to unreasonable pressure for sexual activity. When someone makes it clear that they do not want to engage in sexual activity or do not want to go beyond a certain point of sexual interaction, continued pressure beyond that point can be considered coercive. The use of coercion can involve the use of pressure, manipulation, substances, and/or force. Ignoring objections of another person is a form of coercion.

2. Complainant– Any individual who has reported an experience of sexual misconduct or is alleged to have experienced sexual misconduct under this policy.

3. Consent—Affirmative, knowing, and voluntary words or actions that create a mutually understandable and clear agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that they have affirmative consent of the other or others to engage in the sexual activity. Silence, lack of protest, or resistance, by themselves cannot be interpreted as consent. Consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, by itself cannot be interpreted as consent. Consent is not effectively given if force, threats, intimidation, or coercion were involved, or if a person is incapable of giving consent due to use of drugs or alcohol, or due to intellectual or other disability.

4. 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
        iii. The frequency of interaction between the persons involved in the relationship.

5. Day– Unless otherwise specified, day refers to a business day which includes the hours between 8 a.m. and 5 p.m. Monday through Friday, excluding holidays and other times when the University is closed.

6. Domestic Violence includes , which is conduct that may constitute felony or misdemeanor crimes on the basis of sex under the family or domestic violence laws of Colorado that is committed by a person who is a current

or former spouse or intimate partner, is similarly situated to a spouse, is cohabitating or who has cohabitated as a spouse or intimate partner; or shares a child in common with the complainant. This includes the use or attempted use of physical or sexual abuse, or a pattern of any other coercive behavior committed, enabled or solicited to gain or maintain power and control over a complainant, including verbal, psychological, economic or technological abuse. This also includes acts committed against a youth or adult who is protected from those acts under the family or domestic violence laws of Colorado, where such conduct is on the basis of sex.

7. Education Program or Activity includes locations, events, or circumstances over which the University exercised substantial control over both the Respondent and the context in which the Sexual Misconduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

8. Force– Refers to the use of physical violence and/or imposing on someone physically to engage in sexual contact or intercourse. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance.

9. Formal Complaint–A signed written document (which may be electronic) filed by a Complainant who, at the time of filing, was either participating in or attempting to participate in a University education program or activity, including employment, that alleges sexual misconduct against a Respondent and requesting that the University investigate the allegation of sexual misconduct. The Title IX Coordinator also has the discretion to file a Formal Complaint on behalf of a Complainant who, at the time of filing, was either participating in or attempting to participate in a University education program or activity, including employment.

10. Incident Report – A report submitted by a Reporter or Complainant regarding an alleged incident that they experienced, witnessed, or were informed of after the fact. Incident reports alert the Title IX Office that there is a potential incident which should be investigated and prompt the Office to reach out to involved parties to provide support. Incident reports do not constitute a Formal Complaint.

11. Incapacitation--With incapacitation, an individual lacks the ability to make informed, rational judgments and cannot consent to sexual activity. Incapacitation is defined as the inability, temporarily or permanently, to give consent because the individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Incapacitation may result from the use of alcohol and/or drugs. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, unsteady gait, odor of alcohol, combativeness, or emotional volatility.

12. Preponderance of Evidence—The standard of proof is the amount of evidence needed to establish a violation of policy has occurred. This policy uses a “preponderance of evidence” standard, which means that the evidence demonstrates that it is more likely than not the alleged conduct or policy violation has occurred. This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.

13. Respondent– means any individual who has been reported to have engaged in sexual misconduct under this policy and who is subject to the University's authority.

14. Responsible Employee–An employee who has the obligation to report alleged sexual misconduct and/or sexual harassment and alleged retaliation to the Title IX Coordinator. Responsible employees are further described in Section IV. of this policy.

15. Retaliation–Intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by this policy, Title IX or its implementing regulation, or because

the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy. Such retaliation shall be dealt with as a separate instance of misconduct.

16. Sexual Harassment is—

a. An employee of the University conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct;

b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or

Sexual assault as defined in 20 U.S.C. § 1092(f)(6)(A)(v), dating violence as defined in 34 U.S.C.

c. § 12291(a)(1), domestic violence as defined in 34 U.S.C. § 12291(a)(8) or stalking as defined in 34 U.S.C. 12291(a)(30).]

17. Sexual assault means—

a. Rape, which is attempted or completed penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without consent of the victim.

b. Sexual Contact, which is the intentional touching of the clothed or unclothed body parts without consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation. The forced touching by the Complainant of the Respondent's clothed or unclothed body parts, without consent of the Complainant for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

c. Incest, which is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or

d. Statutory Rape, which is sexual intercourse with a person who is under the statutory age of consent.

18. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to

a. Fear for their safety or the safety of others; or
b. Suffer substantial emotional distress.

19. Supportive Measures means non-disciplinary, non punitive individualized services offered to the Complainant or Respondent. Supportive measures are discussed further in Section V. of this policy.

IV. Reporting Sexual Misconduct

The University encourages victims of sexual misconduct to talk to somebody about what happened – so that complainant(s) can get the support they need, and the University can respond appropriately, including coordinating supportive measures. This policy is intended to make individuals aware of the various reporting and confidential disclosure options available to them so that they can make informed choices about where to turn should they become a victim of sexual misconduct.

a. University Reporting

The University can only respond to allegations of sexual harassment or violence if they are reported. Reporting enables the University to promptly provide support to the impacted students, employees or third parties, and to take appropriate action to prevent a recurrence and protect the campus community.

b. Limits on Confidential Reporting

If the Complainant requests confidentiality or asks that the complaint not be pursued, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation consistent with its obligation to provide a safe and nondiscriminatory environment. If a Complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the University will inform the Complainant that its ability to respond may be limited. For Confidential Reporting Resources, see the appropriate section below.

c. University Reporting Resources

Any student, employee, or third party who believes they may be the victim of sexual harassment or violence is encouraged to report to the University through one or more of the following resources:

1. Title IX Coordinator

The Title IX Coordinator is the primary resource and facilitator for incidents related to Sexual Misconduct. Reports may be submitted to the Title IX Coordinator directly or through a Responsible Employee.

Title IX Office

Phone: 650.383.4753

Email: tixadministrator@western.edu

1 Western Way
Gunnison, CO 81231

https://western.edu/about/center-for-civil-rights/title-ix-sexual-harassment-and-discrimination-policies/

Sexual Misconduct Reporting Form (opens new tab on the Title IX Website)

2. Responsible Employees

Certain employees are required to report the details of an incident (including the identities of both the Complainant and the alleged Respondent) to the Title IX Coordinator. A report to these employees (called “Responsible Employees”) constitutes a report to the University and generally obligates the University to investigate the incident and take appropriate steps to address the situation.

A “Responsible Employee” is a University employee who has the authority to institute corrective measures on behalf of the University. The following categories of employees are the University’s Responsible Employees:

- Faculty,
- Academic Affairs Administrators,
- Student Affairs Administrators,
- Residence Life Staff including the
    - Director of Residence Life
    - Assistant Director of Residence Life
    - Resident Directors
    - Community Advisors and Resident Advisors
- Coaches,
- Supervisors, (any employee, including student employees, in supervisory or mentoring roles, including but not limited to managers, supervisors, faculty members, coaches, and paid student leaders),
- the Director of Human Resources,
- the President and
- Vice Presidents of the University.

d. Reporting Resources for Sexual Misconduct

Should a Complainant wish to speak with an individual in confidence, they are encouraged to speak with the University’s Counseling Center. Prior to making a report, the individual is encouraged to speak with a counselor about their reporting obligations. Counselors generally will only report to the University that an incident occurred without revealing any personally identifying information. Disclosures to these individuals will not trigger a University investigation into an incident against the victim’s wishes.

Individuals may report to the following campus resources that provide support and guidance:

<u>On-Campus Confidential Reporting Resources</u>

University Counseling Center Crystal Hall 104
P: (970) 648-7128 | M – F | 8:00 AM – 5:00 PM
After-hours Emergency P: (970) 252-6220

Campus Medical Clinic Tomichi Hall 104
P: (970) 943-2707 | M – F | 9:30 AM – 3:30 PM

Timelycare- Telehealth support for Mountaineers
Download the TimelyCare app and register via your school email address or Visit https://app.timelycare.com/auth/login
Log in by using your Western credentials

Off-Campus Confidential Reporting Resources:

Center for Mental Health
710 N. Taylor Street
P: (970) 641-0229
https://gunnisonhelp.com/item/center-for-mental-health/

Project Hope-Victims Support Services
P: (970) 641-2712
(24/7 Helpline) P: (970) 275-1193
www.hope4gv.org

Gunnison Valley Health
711 North Taylor Street
P: (970) 641-1456

Note: Victims of Sexual Assault are encouraged to report to the Gunnison Valley Hospital (GVH) Sexual Assault Nurse Examiner (SANE) to have evidence collected and stored for future legal system actions. Funds are available through the Office of Student Affairs to assist students with transportation options/costs.

On-Campus Non-Confidential Reporting:

Department of Safety and Security University Center, First Floor
P: (970) 901-9857 | 24/7

Restorative Justice & Title IX Office Library 122
P: (970) 943-2122

Off-Campus Non-Confidential Reporting:

Gunnison Police Department
910 W. Bidwell Ave
970.641.8200
Emergency 911

Gunnison Police Department Victim Advocate
970.641.8299

Victims of sexual assault are encouraged to report to the Gunnison Valley Hospital Sexual Assault Nurse Examiner to have evidence collected and stored for future legal system actions if the victim wishes to pursue that option.

e. Amnesty for Alcohol, Drug & Other Conduct Associated with Sexual Harassment

In those cases where individuals have been involved in incidents of sexual harassment while under the influence of alcohol and/or drugs, the University will not pursue disciplinary actions against those involved (or against a witness) for their improper use of alcohol or drugs (e.g. underage drinking, or under the influence at a campus function). Amnesty is intended to support the practice of individuals reporting incidents of prohibited discriminatory harassment, sexual harassment, and other violations of this policy, and to protect an individual's safety. Individuals experiencing or witnessing violations of this policy while themselves violating another University policy (for example, the University policy concerning alcohol and other drug use), are encouraged to report the violations of this policy that they experienced or witnessed.

V. Sexual Misconduct–Procedures

A. Fair and Equitable Process

The University will ensure a fair and equitable process for both Parties in a proceeding to address sexual misconduct . If at any point either Party feels the process is no longer fair or equitable, that Party is encouraged to reach out to the Title IX Coordinator immediately to remedy those concerns.

The University will ensure a fair and equitable process through the following steps:

i. No individual designated as a Title IX Coordinator, Deputy Title IX Coordinator, Investigator, Decisionmaker, Appeal Decision-maker or person designated to facilitate an informal resolution process may have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.

ii. The University will not make credibility determinations based on a person's status as a Complainant, Respondent or witness.

iii. A Respondent is presumed not responsible for alleged conduct until a determination regarding responsibility is made at the conclusion of the Formal Resolution Process.

iv. Throughout the processes described herein, The University will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence.

v. The formal and informal resolution processes described herein are subject to the State of Colorado suggested timeframes of 60-90 days to complete from the filing of a Formal Complaint. The timeframe for resolution may be dependent on the scope and complexity of the investigation, as well as whether any informal resolution processes are pursued before formal resolution processes. The timeframes may also be extended for good cause upon written notice to the Parties setting forth reason for such extension. Good cause may include considerations such as the absence of a Party, a Party's advisor or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

B. Reporting of Alleged Sexual Misconduct

At any time, any person may report sexual misconduct (whether or not the person reporting is the person alleged to be the victim of sexual misconduct), in person, by mail, by telephone, or by email to the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving a verbal or written report.

Any Responsible Employee who receives a report of alleged sexual misconduct/sexual harassment must promptly report the alleged sexual misconduct/sexual harassment to the Title IX Coordinator.

Upon receiving a report, the Title IX Coordinator will review the report to determine if the reported conduct is appropriate for the scope of this policy, which includes consulting with the Complainant and/or the reporter.

If the reported conduct is within the scope of this policy, The Title IX Coordinator will:

i. Inform the Complainant of the availability of supportive measures and University and community resources;
ii. Inform the Complainant of the right to file a Formal Complaint, if they are eligible to do so, and the right to seek an Informal Resolution after filing a Formal Complaint;
iii. Ensure that the Complainant receives a written explanation of all available resources and options, and is offered the opportunity to meet and discuss the resources and options;
iv. With the information reasonably available, assess any threat to the safety or well-being of the Complainant or the University community. A non-exhaustive list of safety factors to be considered by the University includes a Respondent's prior history, use of a weapon, use of physical violence, age of the Complainant, and other aggravating circumstances.
v. Where the Complainant requests that personally identifying information not be shared with the Respondent, that no investigation be pursued, and/or that no further action be taken, the Title IX Coordinator will seek to honor the preferences of the Complainant wherever possible taking into consideration safety factors and the University's legal and ethical responsibility to protect the University community from sexual misconduct.

C. Supportive Measures

The Title IX Coordinator will ensure that Supportive Measures are offered to the Complainant and/or Respondent as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent. Supportive Measures may be offered before or after the filing of a Formal Complaint, or where no Formal Complaint has been filed.

The purpose of Supportive Measures is to restore or preserve equal access to the University's education program or activity without unreasonably burdening the other Party. Supportive Measures include measures designed to protect the safety of all parties or the University's educational and employment environment, as well as measures designed to deter sexual misconduct/sexual harassment.

Supportive Measures may include but are not limited to:

i. Counseling
ii. Extensions of deadlines or other course-related adjustments
iii. Modifications of work or class schedules
iv. Campus escort services
v. Mutual restrictions on contact between the Parties

vi. Changes in work or housing locations
vii. Leaves of absence
viii. Increased security and monitoring of certain areas of campus
ix. Other similar measures

Supportive Measures do not include disciplinary sanctions. The Formal Resolution Process must be completed before disciplinary sanctions may be imposed on a Respondent.

The University will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide Supportive Measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

D. Emergency Removal

The University may issue an interim suspension or a persona non grata (PNG) from campus on an emergency basis if the Title IX Coordinator in collaboration with the Behavioral Intervention Threat Assessment (BITA) Team:

i. Undertakes an individualized safety and risk analysis;
ii. Determines that an immediate threat to physical health or safety of any student or other individual arising from the allegations of sexual misconduct/sexual harassment justifies removal; and
iii. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the suspension or PNG.

E. Administrative Leave

The University may place a non-student employee Respondent on administrative leave during the pendency of the Formal Resolution Process set forth below.

F. Formal Complaint

A Formal Complaint may be brought to the attention of the Title IX Coordinator by contacting:

Restorative Justice & Title IX Office
Phone: 650.383.4753
Email: tixadministrator@western.edu
Location: Savage Library 122A
Sexual Misconduct Reporting Form (on the Title IX Website)

The following elements must be included in the Formal Complaint:

i. Filed in writing and signed (electronically or otherwise) by a Complainant who, at the time of filing, was either participating in or attempting to participate in a University education program or activity, including employment;

ii. Alleges sexual misconduct against a Respondent;

iii. Requests that the University investigate the allegation of sexual harassment.

The Title IX Coordinator also has the discretion to file a Formal Complaint on behalf of a Complainant who, at the time of filing, was either participating in or attempting to participate in a University education program or activity, including employment.

The Title IX Coordinator will inform the Complainant of whether the University will take formal action on the Formal Complaint in writing. If the Title IX Coordinator decides to take formal action, the Title IX Coordinator will inform the Complainant of this decision prior to notifying the Respondent of the Formal Complaint. If the Complainant chooses not to participate in the Formal Complaint and the process that follows it, they are still entitled to receive all notices issued.

The Title IX Coordinator will consider the following factors when deciding whether to file a Formal Complaint on behalf of a Complainant:

i. The preferences and concerns of the Complainant;

ii. The nature and circumstances of the allegations in the report;

iii. The severity and impact of the reported conduct;

iv. Any known allegations of repeated behavior by the Respondent;

v. Whether the Respondent has admitted to the conduct;

vi. Whether there are multiple Complainants or Respondents;

vii. Whether the Respondent has threatened further sexual misconduct or violence against the Complainant or others;

viii. Whether the Respondent is an employee; and

ix. Whether the University possesses independent means to obtain relevant evidence if the Complainant is not willing or able to participate.

If a Complainant is not 18 years of age and is not enrolled in the University, the University must obtain the voluntary, written consent of a natural parent, guardian, or an individual acting as a parent in the absence of a parent or guardian before proceeding with an investigation.

The University will respond to all allegations in a Formal Complaint.

G. Initial Assessment of Formal Complaint and Written Notice

Upon receipt of a Formal Complaint, the Title IX Coordinator will conduct an initial assessment to determine whether the Formal Complaint properly alleges sexual misconduct under this procedure, whether the Complainant is participating in or attempting to participate in a University education program or activity and whether the Respondent is subject to the University's authority.

If the criteria for a Formal Complainant are not met, the Title IX Coordinator will refer the report as appropriate and work with the Complainant and University partners as appropriate to provide reasonably available supportive measures.

If the above criteria for filing a Formal Complaint are met, the Title IX Coordinator will issue written notice of allegations to the Respondent and Complainant. Written notice will be provided to each Party within five (5) days

of receiving the Formal Complaint. The notice of allegations will include:

i. Notice of this policy and the processes within this policy, including the Informal Resolution Process described below;

ii. The identities of the Parties involved, if known;

iii. The conduct allegedly constituting sexual misconduct/sexual harassment;

iv. The date and location of the incident, if known;

v. A statement that the Respondent is presumed not responsible for the alleged conduct;

vi. A statement that a determination regarding responsibility is made at the conclusion of a Formal Resolution Process;

vii. A statement that Parties may have an advisor of their choice, who may be, but is not required to be, an attorney;

viii. A statement that Parties may inspect and review evidence; and

ix. A statement that retaliation is prohibited and will not be tolerated.

If, during an investigation, the University decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances but not include in the earlier written notice, the University will provide notice of the additional allegations to the Parties whose identities are known.

H. Dismissal

The Title IX Coordinator will dismiss a Formal Complaint brought under this policy, or any specific allegations raised within that Formal Complainant, at any time during the investigation or hearing, if:

i. The conduct alleged in the formal complaint would not constitute sexual harassment as defined in this policy even if proved;
ii. The conduct did not occur in the university's Education Program or Activity, or
iii. The conduct did not occur against a person in the United States.

The Title IX Coordinator may also dismiss a Formal Complaint brought under this policy, or any specific allegations raised within that Formal Complainant, at any time during the investigation or hearing, if:

i. A Complainant notifies the Title IX Coordinator in writing that they would like to withdraw the Formal Complaint or any allegations raised in the Formal Complaint;
ii. The Respondent is no longer enrolled or employed by the University; or
iii. If specific circumstances prevent the University from gathering evidence sufficient to reach a determination regarding the Formal Complaint or allegations within the Formal Complaint.

If the Formal Complaint is dismissed before the Respondent is notified about the Formal Complaint, the Respondent will not be notified about the Formal Complaint. The Title IX Coordinator will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint,

and the reason for the dismissal, to the Complainant. The Complainant may appeal the dismissal using the appeal process in this policy.

If the Formal Complaint is dismissed after the Respondent is notified about the Formal Complaint, either party may appeal the dismissal using the appeal process in this policy. The Title IX Coordinator will promptly send written notice of the dismissal of the Formal Complaint or any specific allegation within the Formal Complaint, and the reason for the dismissal, simultaneously to the parties.

While part of a Formal Complaint may be dismissed under Title IX Regulation, campus safety is a priority and allegations which fall outside this policy may still be addressed through the other University processes, or applicable policies (such as Board of Trustees Policy Section 2.2, Discrimination, Harassment, and Retaliation Policy and Section 3.4, Policy Prohibiting Violence and Weapons).

I. Informal Resolution Process

A Complainant who wishes to file a Formal Complaint with the Title IX Coordinator, but who does not wish to pursue a formal investigative and hearing process may request a less formal proceeding known as an Informal Resolution Process.

Although informal, this is an official, voluntary, remedies-based, structured interaction between or among affected parties that balances support and accountability. The Informal Resolution Process could include, but is not limited to, restorative justice, mediation, and/or dialogue facilitation. The informal resolution process is designed to eliminate the conduct as alleged, prevent its recurrence, and remedy its effects in a manner that meets the needs of the Complainant while maintaining the safety of the campus community.

In order to pursue an Informal Resolution Process, the Complainant must choose to utilize this process and the Respondent must agree to engage in the Informal Resolution Process.

1. Availability of Informal Resolution Process

The Informal Resolution Process will not be available to parties who do not agree to pursue such a process or in the case of an incident between a student Complainant and an employee Respondent. The Title IX Coordinator may determine at any point prior to an agreement being reached that the informal resolution process is not an appropriate method for resolving the matter.

If the Title IX Coordinator determines that the informal resolution process is appropriate, The Title IX Coordinator may offer the Informal Resolution Process to the parties with the following conditions:

i. The Informal Resolution Process is only available after a Formal Complaint is filed and only if all Parties voluntarily consent, in writing, to the Informal Resolution Process.

ii. Any time prior to agreeing to a resolution, any Party has the right to withdraw from the Informal Resolution Process and resume the Formal Process described below.

iii. The Informal Resolution Process may be implemented any time prior to reaching a determination regarding responsibility if the above conditions are met.

2. Notice of Availability of Informal Resolution Process

If the Informal Resolution Process is available, the Title IX Coordinator will issue written notice to the

parties disclosing:

i. The allegations;
ii. The requirements of the informal resolution process, including the circumstances under which it precludes the Parties from resuming a Formal Complaint arising from the same allegations;
iii. Any consequences resulting from participating in the Informal Resolution Process, including the records that will be maintained or could be shared; and
iv. That either Party may withdraw from the Informal Resolution Process and resume the formal grievance process prior to agreeing to a resolution.

3. Informal Resolution Process Timeframe

The University will make a good faith effort to complete the Informal Resolution Process within an average of 60– 90 days without jeopardizing the rights of any Party.

After the Parties have agreed to a resolution that is accepted by the Title IX Coordinator, neither Party may appeal the resolution.

J. Formal Resolution Process

After the filing of a Formal Complaint, a Complainant or Title IX Coordinator may choose to pursue a Formal Resolution Process.

1. Consolidation

The Title IX Coordinator may consolidate Formal Complaints as appropriate, for example, if there are multiple Formal Complaints where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

The Title IX Coordinator may consolidate complaints alleging sexual misconduct against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

The University reserves the right to use this policy to adjudicate other allegations and conduct charges as defined by policies outside of the scope of this policy in instances when the conduct is associated with an alleged issue of sexual misconduct.

2. Advisor

Each party has the right to have an advisor of their choice. The advisor may be, but need not be, an attorney. The advisor may be present at any proceedings that are part of the formal resolution process. If a Party wishes to have an advisor present at a proceeding, the University will work within reason to schedule the proceeding so the advisor may attend without unreasonably delaying the progress of the formal resolution process. Parties are not required to have an advisor, except during the live hearing for the purpose of conducting cross-examination. If a party does not select an advisor, the University will provide an advisor free-of-charge to attend the hearing and conduct cross-examination.

Except as described below in the section on “Hearing,” a Party’s advisor may not speak on behalf of the

Party and will be expected to follow the University's Rules of Decorum for the Hearing.

3. Investigation

i. The University will investigate the allegations in a Formal Complaint.

ii. The University, and not the Complainant or the Respondent, has the burden of proof and the burden of gathering evidence sufficient to reach a determination.

iii. The University cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a health care professional acting in his or her professional capacity, and which are made or maintained in connection with the provision of treatment to the Party, unless the University obtains that Party's voluntary written consent to do so for the resolution process.

iv. Investigative Process:

a. During the investigation, each Party has an opportunity to present witnesses and evidence to the investigator.

b. The investigator will provide written notice of the date, time, location, participants, and purpose of the investigative interview or other meeting to any Party whose participation is invited or expected.

c. Prior to conclusion of the investigation, the investigator will send to each Party and to each Party's advisor, if any, all evidence obtained as party of the investigation, whether or not the University intends to rely on such evidence in reaching a determination regarding responsibility, that is directly related to the allegations raised in the Formal Complaint.

d. Each Party may submit a written response, which the investigator will consider prior to conclusion of the investigation and completion of the investigative report.

e. The written response, if any, must be submitted to the investigator by the deadline designated by the investigator, which will be at least ten calendar days after the investigator sends the evidence to the Party.

f. The investigator will create an investigative report that fairly summarizes relevant evidence.

g. The investigator must conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence.

h. At least ten calendar days prior to the scheduled hearing, the Title IX Coordinator will send to each Party and to each Party's advisor, if any, the investigative report.

i. Each Party may submit a written response, which the Title IX Coordinator will submit to the Decision-maker(s) for consideration at the hearing.

j. The written response, if any, must be submitted to the Title IX Coordinator by the deadline designated by the Title IX Coordinator.

4. Hearing

After the conclusion of the investigation, the Title IX Coordinator will refer the case to the Decision-maker(s). The Decision-maker(s) may be representative(s) from a third-party or a University hearing panel of up to three faculty and staff members. The Decisionmaker(s) will conduct a live hearing, either in person or virtually. The hearing will be conducted virtually upon request of either Party or the University.

i. Prior to the hearing, the Decision-maker will review the investigative report and the written responses provided by the Parties, if any.

ii. The hearing will occur live and either in person or virtually to allow participants to simultaneously see and hear the Party or witness answering questions.

iii. Hearings will be recorded. Audio recordings and/or transcripts will be available to the Parties for inspection and review.

iv. Standard of Evidence

a. The determination of responsibility will be made by the Decision-maker using the preponderance of the evidence standard.

b. The preponderance of the evidence is defined as just enough testimony and information to make it more likely than not that the fact sought to be proven is true. This preponderance is based on the more convincing information and its probable truth or accuracy, and not on the amount of information.

v. Relevant Evidence

In making a determination of responsibility or sanctions, the Decision-maker may only consider relevant evidence. Relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence to the determinations to be made more probable or less probable than it would be without the evidence. The Decision-maker will not consider:

a. Evidence about the Complainant's sexual predisposition or prior sexual behavior, except when offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant or evidence concerning specific incidents of the Complainant's prior sexual behavior with respect to the Respondent when offered to prove consent.

b. Information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

c. The Decision-maker must conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations may not be based on a person's status as a Complainant, Respondent or witness.

vi. Witness Examination

a. The Decision-maker will allow each Party's advisor to examine witnesses. Cross examination may not be conducted by either Party. Cross examination may only be conducted by an advisor acting on a Party's behalf.

b. Only relevant cross-examination questions may be asked of a Party or witness. Before a Party or witness answers a question, the Decision-maker will determine whether the question is relevant and explain any decision to exclude a question as not relevant.

5. Remedies/Sanctions

Remedies/sanctions are designed to restore or preserve equal access to the University's education programs or activities. Remedies/sanctions may be disciplinary or punitive and do not need to avoid burdening the Respondent.

The Decision-maker(s) are responsible for identifying appropriate remedies and sanctions. The Title IX Coordinator is responsible for the effective implementation of remedies and sanctions. The Decision-maker(s) will base the remedies/sanctions on the University's core values of student development and education, and a safe campus. If a Respondent is found responsible for sexual misconduct/sexual harassment under this procedure, potential sanctions include, but are not limited to:

• completion of appropriate educational, rehabilitation, or training programs,

• removal of leadership or supervisory roles,

• removal or suspension from university clubs, organizations, athletic teams, or other University education programs or activities,
• revocation of honorary titles, or other university-granted rights or privileges;
• removal from University housing,
• reprimand,
• probation,
• suspension from the University,
• expulsion from the University,
• corrective action,
• a fine,
• temporary adjustment of pay to a lower step in the assigned pay grade,
• demotion,
• reassignment with or without a salary adjustment,
• suspension with or without pay,
• termination.

Sanctions as applicable to students may also be found in the University's Student Handbook in the Student Conduct Procedures.

6. Written Determination

After considering the investigative report, including any Party's written response to the investigative report, and all relevant evidence presented at the hearing, the Decision-maker(s) will issue a written determination within ten (10) days of the hearing. The Title IX Coordinator will provide the written determination simultaneously to the Parties.

The written determination will include:

i. Identification of the allegations constituting sexual misconduct/sexual harassment;

ii. A description of the procedural steps from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews, site visits, methods used to gather other evidence and hearings held;

iii. Findings of fact supporting the determination;

iv. Conclusions regarding the application of the Board of Trustees Policy Section 3.5: Policy Prohibiting Sexual Misconduct.

v. A statement of, and rationale for, the result as to each allegation, including;

a. A determination regarding responsibility;

b. Any disciplinary sanctions imposed on the Respondent;

c. Remedies provided to the Complainant; and

d. Procedures and permissible bases for the Parties to appeal.

vi. The written determination becomes final seven (7) days after it is sent to the Parties, unless an appeal is filed.

7. Appeals

A. Either Party may appeal:

i. Dismissal of a Formal Complaint or any allegations therein; or

ii. A determination regarding responsibility.

No other issue may be appealed.

B. Bases for Appeal

A Party may only appeal on one or more of the following bases:

i. Procedural irregularity that affected the outcome of the matter; or

ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made and that could reasonably affect the outcome of the matter.

iii. The Title IX Coordinator, investigator or Decision-maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

This basis for appeal is not satisfied simply because evidence was not presented during the proceedings, if the evidence was reasonably available at the time the determination was made. Disagreement with the findings is not a sufficient basis for appeal.

C. Filing an Appeal

If a Party wishes to file an appeal, the Party must complete the Appeal Form by contacting the Title IX Coordinator to request the form. The Appeal Form must be submitted no later than seven (7) days after the notice of dismissal or written determination is sent to the Party.

The written appeal must state with specificity:

i. The issues being appealed; and

ii. The bases for the appeal.

Incomplete Appeal Forms will not be accepted.

D. Timeframe

The University will make a good faith effort to complete the appeal within fourteen (14) days. The timeframe for completion may be extended for good cause. If the timeframe for completion of appeal is extended, the Title IX Coordinator will notify both Parties in writing of the delay or extension and the reasons for the delay or extension.

E. Appeal Procedure

i. After receiving a timely written appeal, the Title IX Coordinator will notify the Parties in writing:

a. That the appeal was filed; and

b. The process for submitting a written statement in support of, or challenging, the issues being appealed.

ii. The appeal, including any written statements submitted by the Parties, will be considered by the Appeal Decision-maker(s). While the Appeal Decision-maker(s) may also consider the investigative report, including any Party's written response to the investigative report, all relevant evidence presented at the hearing, and the audio recording and/or transcript of the hearing, the appeal process is not a re-investigation or re-hearing of the case.

iii. The Appeal Decision-maker(s) may consist of one to three University employees, separate from those utilized in the Hearing process, as designated by the Title IX Coordinator.

iv. The Appeal Decision-maker(s) will issue a written determination of appeal, which will describe the result of the appeal and the rationale for the result.

v. The Title IX Coordinator will provide the written determination of appeal simultaneously to the parties.

vi. The result of the appeal is final.

8. Requesting Accessibility Accommodations

This policy does not alter any University obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973.

Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the grievance process. Accommodations will be granted if appropriate and that do not fundamentally alter the process in this policy. The Title IX Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other University programs and activities.

Requests for accommodations in connection with allegations of sexual misconduct should be made to the University's Title IX Coordinator. The University will provide information about the party's request for accommodation only to those having a need to know such information in order to implement the

accommodations.

9. Clery Act Obligations

The University participates in federal student financial aid programs and is subject to the requirements of the Clery Act. The Clery Act requires institutions of higher education to provide current and prospective students, employees, the public and the Department of Education with crime statistics and information about campus crime prevention programs and policies annually. (See the Annual Security Report (Opens New Tab) on Western's Security Services web page). Crime statistics do not include personally identifying information.

Section 3.6: Presidential Authority over Certain Personnel Matters

I. Delegated Powers. Under the authority granted to it by §23-5-117, C.R.S., the Board delegates the following powers over professional personnel matters to the President. For the purposes of this section, "professional personnel" means professional personnel as defined in the *Handbook for Professional Personnel* and includes all personnel offered employment or employed as probationary faculty members, tenured faculty members, administrative personnel, administrative/regular personnel, and temporary personnel as those expressions are defined in the *Handbook for Professional Personnel*. Board approval shall not be necessary to give effect to personnel actions authorized by this subsection.

The powers to suspend professional personnel in accordance with section 4.02 of the *Handbook for Professional Personnel* and to dismiss or nonrenew faculty members and regular/administrative personnel for cause in accordance with section 3.09 of the *Handbook for Professional Personnel*, is hereby delegated to the President. These powers shall be exercised in conformity with sections 2.10, 3.09, and 4.02 of the *Handbook for Professional Personnel*, and applicable institutional and Board policies, and shall include the authority to give all notices and take other actions which may be necessary to comply with such policies. However: (1) No faculty member shall be dismissed due to a reduction in force unless the Board has first authorized a reduction in force for one or more of the reasons listed in section 3.09 of the *Handbook for Professional Personnel* and approved the identification of the faculty members to be terminated, in accordance with section 3.09 of the *Handbook for Professional Personnel.* Once a reduction in force has been authorized by the Board, the University shall carry out the reduction in force, including notification of the faculty members to be terminated, in accordance with section 3.09 of the *Handbook for Professional Personnel*; (2) The Board retains the power to review and take action on initial decisions of hearing officers in all suspension, dismissal and nonrenewal cases (including dismissals due to a reduction in force) in which hearings before hearing officers are authorized by and timely requested and conducted under *Handbook for Professional Personnel* sections 2.10, 3.09, and 4.02.

II. No sub-delegation. Unless authorized by the *Handbook for Professional Personnel*, institutional policies or other Board policies, the personnel powers delegated to the President by this section may not be sub-delegated to subordinate officers or employees of the University. Policies or procedures providing for peer or supervisory review, evaluations, or recommendations shall not in any event be or be deemed to be sub-delegations of the powers delegated to the President.

III. Retained Powers. The Board retains the following personnel powers:

A. All powers relating to the appointment, employment, compensation, evaluation, and termination of the President of the University.

B. The power to award or deny tenure to the President, and all newly appointed or currently employed professional personnel recommended for tenure by the President.

C. The power to approve appointments of all non-temporary faculty members and administrative personnel. The President or their designees are authorized to offer such appointments on the Board's behalf; however, **no appointments shall be binding or effective unless and until approved by the Board.**

D. The power to authorize a reduction in force at the University for one or more of the reasons listed in section 3.09 of the *Handbook for Professional Personnel*.

E. The power to review or take action on the initial decisions of hearing officers in all cases in which hearings are authorized by and timely requested and conducted under sections 2.09, 2.10, 3.09, and 4.02 of the *Handbook for Professional Personnel* in connection with

disciplinary actions, dismissals, nonrenewal, or suspensions of professional personnel (including terminations due to a reduction in force).

F. The power to dispose of grievances filed under sections 2.09 and 3.09 of the *Handbook for Professional Personnel* in all cases in which grievances are heard and reports are filed by hearing officers.

G. The power to confer emeritus status on retiring professional personnel.

H. The power to award honorary degrees.

I. The power to grant sabbatical leaves.

J. The power to make, adopt, review, approve, amend, modify, rescind, or repeal any and all University personnel policies including, without limitation, *Handbook for Professional Personnel* policies, salary administration plans, performance evaluation systems, promotion policies, and tenure policies. No institutional personnel policy shall have any force or effect unless adopted or approved by the Board.

K. All professional personnel powers not specifically delegated to the President by subsection 3.6.I are retained by the Board.

L. Reporting and Accountability: Before each regularly scheduled meeting of the Board, the University shall report personnel actions occurring since the preceding regularly scheduled Board meeting.

Section 3.7: Drug-Free Workplace Policy

Section has been repealed.

Please refer to Section 3.8: Substance Abuse and Impairment in the Workplace.

Section 3.8: Substance Abuse and Impairment in the Workplace

I. Background and Purpose

Western Colorado University (the University) strives to maintain a safe, healthy, secure, and efficient work environment for its employees and for the students that it serves. Employees whose decisions, behavior or performance are impaired while at work due to alcohol or drugs pose safety and health risks to themselves, University staff, and the students we serve. While the University strongly supports and encourages employees in their efforts to seek counseling and treatment for alcohol and drug-related issues, it is the University's intent through its policies and procedures to comply with all applicable local, state, and federal laws including, but not limited to, the Drug Free Workplace Act and The Drug-Free Schools and Communities Act.

For more information on the University's policies under the Drug-Free Schools and Communities Act Amendments of 1989, 20 U.S.C. Section 1145(g), including the University's Drug and Alcohol Prevention Program, please refer to the University's Drug Free School's Policy Statement, available at https://western.edu/campus-life/student-affairs/drug-free-schools-policy-statement/ (opens new tab), which is incorporated by this reference. To the extent any terms in the University's Drug Free School's Policy Statement conflict with the terms in Section 3.8, the terms of this Section 3.8 shall apply.

II. Application

This policy applies to all University employees, including student-employees while acting in the scope of their employment, volunteers, contractors, and any person performing work or conducting business on behalf of the University. This includes, but is not limited to, permanent full-time and part- time employees, faculty, temporary employees, off-site employees, contractors, sub-contractors, applicants, volunteers, apprentice participants, and interns.

For drug and alcohol policies applicable to students, please refer to the Student Handbook as well as any applicable academic, athletics, and/or residence hall policies.

III. Policy

To ensure a safe and productive work environment, the University prohibits the unlawful possession, manufacture, or use, of drugs or controlled substances by University employees on University property or during work hours. The University further prohibits the possession, manufacture, or use of alcohol by University employees on University property (except for the President's residence) or during work hours except for specific events or activities approved by the University. All University employees are further prohibited from reporting to work or being subject to duty while their ability to perform job duties is impaired due to use of alcohol or other drugs.

This policy applies during all work hours, whenever conducting business or representing the University and while on-call. If a University employee tests positive for alcohol-impairment or other drugs during work hours, he or she may be in violation of this policy.

All University employees are responsible for abiding by this policy and shall comply with all procedures regarding drug and alcohol use and testing. Violations of this policy shall be cause for management or supervisor intervention that may result in corrective or disciplinary action up to and including termination of employment. This substance abuse policy and any related policies and procedures within the University shall adhere to all applicable confidentiality laws, rules and requirements.

IV. Definitions

a. "Alcohol" shall mean any beverage containing not less than 0.5% ethyl alcohol by weight.

b. "Drugs" shall mean any substances (other than alcohol) that have known mind or function altering effects on a person. These include, but are not limited to, substances prohibited or controlled by Colorado and federal controlled substance laws. These include controlled substances listed in Schedules I – V of the Controlled Substances Act, 21 U.S.C. 812, and related federal regulations, 21 C.F.R. Sections 1308.11 – 1308.15, as they may be amended from time to time and Schedules I-V of title 12, article 22, part 3 of the Colorado Revised Statutes as it may be amended from time to time.

c. "Impairment" or "Impaired" shall mean an employee's behavior or condition that adversely affects performance (e.g., reduced alertness, coordination, reactions, responses or effort) or threatens the safety or himself /herself or others, or property. Impairment is determined through observation and documentation by the supervisor and another member of management.

d. "Property" shall mean any property owned, leased, rented, chartered, or occupied by the Board, the University, or University employees for conducting the business of the University including motor vehicles, boats, trailers, and aircraft.

V. Prohibitions

The University hereby prohibits:

A. The unlawful manufacture, possession, use, or distribution of drugs by University employees on University Property or while performing work on behalf of the University. Please note that although Colorado's state law allows for the legal use of marijuana and psilocybin mushrooms under certain circumstances, because the university receives federal grant funding, and because marijuana and psilocybin mushrooms are still prohibited under federal law, the use of marijuana or psilocybin mushrooms while at work, or outside of work if the use impairs an employee's ability to perform their job, constitutes a violation of this policy.

B. The manufacture, possession, use, or distribution of alcohol by University employees on University Property (except for the President's residence), or while performing work on behalf of the University except for specific events and activities approved by the University.

C. Reporting to work or being subject to duty while their ability to perform job duties is impaired due to use of alcohol or other drugs.

D. The possession or consumption of, or impairment by, alcohol or drugs when operating a University vehicle or machinery, or vehicles or machinery used to conduct University business.

VI. Employee and Applicant Drug and Alcohol Testing

To promote a safe and productive workplace, the University will conduct the following types of Drug/Alcohol tests for its employees:

1. Reasonable Suspicion Testing

2. Return-to-Duty / Follow-up Testing

3. Commercial Driver's License Alcohol and Controlled Substance Testing

VII. Procedures

A. Reasonable Suspicion Testing: An employee will be asked to submit to tests for alcohol and/or drugs when the employee is reasonably suspected of being impaired in the performance of his or her job. The following steps must be taken in order to move forward with reasonable suspicion testing:

1. A supervisor or department head may determine by reasonable suspicion that an employee covered by this policy is impaired by observing the person's behavior, presentation, appearance, and/or odor. When a supervisor or department head has reasonable suspicion to request testing, the supervisor or department head must complete the Reasonable Suspicion of Impairment Checklist (Checklist can be obtained from the Human Resources InsideWestern webpage for Supervisor Resources) to document the behaviors and signs present to warrant testing. The objective indicators should be clearly documented on the Checklist.

2. Upon completion of the Reasonable Suspicion of Impairment Checklist, the supervisor or department head, in consultation with human resources, must identify and notify an approved collection site of the required alcohol / drug test.

3. The supervisor or department head should escort the employee to the testing site to complete the test. If the employee refuses to submit to a drug or alcohol test, such test will be considered a positive test and the employee will be presumed to be impaired.

4. Following the test, the supervisor or department head should arrange for the employee's safe transport home and the employee must be placed on paid administrative leave until the test results are received.

B. Return-to-Duty / Follow-up Testing: If the University elects to allow an employee to return to work following a positive test result, the employee must first pass a drug and alcohol test, and the university, in its discretion, may require additional testing.

C. Commercial Driver's License Alcohol and Controlled Substance Testing: For employees operating vehicles requiring a commercial driver's license, refer to Western Colorado University's Commercial Driver's License Alcohol and Controlled Substance Testing Program and Procedures.

VIII. Prescription and Over-the-Counter Drugs

Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may affect his/her ability to safely and efficiently perform his/her job duties. An employee whose prescription or over-the-counter drugs may affect job performance must contact his/her supervisor or Human Resources. If the use of a medication could compromise the safety of the employee, fellow employees, or the public, it is the employee's responsibility to notify his/her supervisor or Human Resources to avoid unsafe workplace practices.

For purposes of this policy, 'prescription' and 'prescribed medication' means a written or oral order for a pharmaceutical drug for use by a particular person given by a practitioner in the course of professional practice, this includes controlled substances prescribed in accordance with the regulations promulgated by the director of the United States drug enforcement administration pursuant to the federal drug abuse control laws. This definition does not include a prescription or recommendation for use of medical marijuana or psilocybin mushrooms because marijuana and psilocybin mushrooms are still prohibited under federal law; therefore, the use of marijuana or

psilocybin mushrooms while at work, or outside of work if the use impairs an employee's ability to perform their job, constitutes a violation of this policy.

IX. Violations

Employees who violate this policy may be subject to remedial or disciplinary action, up to and including termination from employment. In addition, violations that implicate crimes will be reported to law enforcement for criminal prosecution.

X. Reporting Obligations

All University employees are required to notify their supervisor and/or the University's Director of Human Resources in writing, no later than five days after the incident, of any arrest, charge, summons, or conviction related to the employee's use, possession, manufacture, sale, or transfer of illegal drugs or alcohol. A "conviction" is a finding of guilt (including a plea of no contest or nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the criminal drug statutes.

XI. Voluntary Treatment

The University supports sound treatment efforts. Whenever practical, the University assists employees in overcoming drug, alcohol, and other problems which may affect employee job performance. If an employee seeks treatment for drug or alcohol use, the employee may be eligible to enter a drug and/or alcohol treatment program either through a medical insurance program or at his/her own expense.

XII. Confidentiality

All University employees involved in the implementation of this policy shall maintain the confidentiality of all information pertaining to an employee's counseling or treatment, including the fact that the employee was referred to mandatory testing, or the fact that they have sought help, the nature of their problems, purpose of their treatment, attendance and completion of the treatment.

Any University employee having the aforementioned information about another employee is prohibited from disclosing that information to anyone else.

XIII. Implementation

The University shall implement drug and alcohol abuse prevention programs which, at a minimum, meet the requirements of the Drug-Free Schools and Communities Act Amendments of 1989, 20 U.S.C. Section 1145(g), and shall review their programs biennially to determine their effectiveness, implement changes if needed and ensure that the sanctions authorized by this policy are consistently enforced.

XIV. Other Policies

This policy is supplemental to, and does not repeal, other related State, Board, or University policies including the Drug-Free Workplace Policy Statement adopted on April 13, 1989, the State of Colorado Substance Abuse Policy promulgated by the Governor and Trustees and institutional codes of professional and student conduct. For policies concerning drug and alcohol use applicable to students, please refer to the Student Handbook, as well as any applicable academic, athletics, and/or residence hall policies.

Section 3.9: Electronic Mail and Other Electronic Communications; Retention, Archiving, and Destruction of Records Kept Only in Digital or Miniaturized Form

I. Electronic Mail and Communications: The University shall adopt written policies on any monitoring of electronic mail and other electronic communications transmitted over its electronic communication facilities and the circumstances under which such monitoring will be conducted. The policy shall include a statement that employee correspondence in the form of electronic mail and other electronic communications may be a public record under the Colorado Public Records Act, §24-72-201 *et seq*., C.R.S., and may be subject to public inspection under §24-72-203 of the Act.

II. Retention, Archiving, and Destruction of Records Kept Only in Digital or Miniaturized Form. The University shall adopt a policy governing the retention, archiving, and destruction of public records kept only in digital or miniaturized form including, without limitation, records kept only on magnetic or optical disks, tapes, microfilm, and microfiche. Such policies and concomitant institutional practices shall comply with §24-72-203(1)(b), C.R.S. and other provisions of the Colorado Archives and Public Records Act, §24-80-101 *et seq*., C.R.S. governing state archives and public records and any rules, regulations, policies, or programs adopted by the Department of Personnel relating to the retention, archiving, and storage of such records.

Section 3.10: Background Checks And Employee Self-Reporting Requirements

Western Colorado University is committed to providing students with an outstanding education in a safe environment. To fulfill this commitment, careful selection procedures are necessary to hire qualified individuals. Background checks are an important part of a thorough selection process, reducing the risk of a poor hiring decision and helping ensure the University is a safe and secure environment for students, faculty, staff, and visitors.

Western Colorado University conducts background checks on newly hired employees and on rehired employees in order to verify the information provided by candidates and to determine their suitability for employment. A criminal background check and a check of the National Sex Offender Public Registry is conducted post-offer for employees as described in the policy scope.

The University may also check candidates' professional, personal, and other employment related references, employment history, and proof of required credentials. If job responsibilities dictate, post-offer credit and driving records of newly hired employees and rehired employees may be checked. Further, due to an employee's job duties or access to certain information, the University may conduct background investigations post-hiring.

Offers of employment will be contingent upon the completion of an acceptable background check.

Current employees are required to self-report to Human Resources post-employment criminal convictions and felony charges. Current employees with primary driving responsibilities are required to self-report to Human Resources driver's license suspensions and revocations.

I. Scope

A. Criminal background and sex offender registry background checks apply to:

1. All faculty, administrators, and classified staff newly hired (post-offer). Personnel hired for less than a 15-day term of service may not be subject to a background check.

2. All faculty, administrators, and classified staff rehired after one year or more break in service. Personnel hired for less than a 15-day term of service may not be subject to a background check.

3. Independent contractors, depending upon their responsibilities on campus. Note that independent contractors and their regular employees or sub-contractors who are required to perform criminal record and sex offender registry background checks may be required to do so at the independent contractor's cost as a condition of their contract with the University.

4. Students employed in Residence Life, Campus Security, and athletic camps, or students who have responsibility for the care, safety, or security of students are subject to a background check and screening through the National Sex Offender Public Registry.

5. Any employee subject to a criminal background check under the KeyPolicy.

6. Any employee whose job duties or qualifications specifically require a criminal record or sex offender registry background check.

B. Professional and personal references, employment history, and proof of credentials background checks apply to all new employees.

C. Credit history and driving record background checks may apply to new hires (post- offer) only when qualifications for the job require or the job duties are substantially related to the check. Unrelated to hiring, the University driving policy may also require driving record checks.

D. Federal tax information background checks apply to any employee, contractor, or other individual, who may have access to federal tax information (FTI) (as defined in Federal Internal Revenue Service Publication 1075, as amended) received from the federal government, These individuals will need to complete a fingerprint-based criminal history record check through the Colorado Bureau of Investigation (CBI). Subsequent background checks must be conducted within five (5) years from the date of the previous background investigation for each employee, contractor, and individual requiring access to FTI. Negative information revealed during the background investigation process may result in the denial of access to FTI and/or other adverse employment actions or sanctions as discussed herein.

II. Responsibilities

A. Human Resources: The Western Colorado University Office of Human Resources is responsible for carrying out the procedures related to criminal background checks, National Sex Offender Public Registry checks, credit history checks, and driving record checks on all employees of the University, as defined under the scope of this policy. This responsibility includes adherence to applicable laws, including, but not limited to the Fair Credit Reporting Act, §24-5-101, C.R.S. and proper recordkeeping and retention of sensitive information. It is the responsibility of the Office of Human Resources to obtain a completed Acknowledgement and Authorization form from an employee or candidate before background checks are conducted. The University considers information received in response to a background check as highly confidential. Information obtained for the purpose of a background check will be retained by the Office of Human Resources separate from other personnel records.

The Office of Human Resources shall include on its website a statement that Western Colorado University conducts background checks prior to employment and any offer of employment is contingent upon completion of an acceptable criminal background check.

It is the responsibility of the Office of Human Resources to obtain employees' official transcripts and or licenses, as applicable, as proof of required credentials.

It is the responsibility of the Office of Human Resources to check professional and personal references for candidates in classified personnel system searches.

B. Search Committees: Search committees are responsible for checking professional and personal references for faculty and administrator candidates.

C. Appointing Authorities: The appointing authority is responsible for making offers of employment for appointments within the scope of this policy contingent upon acceptable results of the background check.

Once an offer of employment is made, the Office of Human Resources is responsible for having the candidate or employee sign an electronic Acknowledgement and Consent form to allow the background check vendor to conduct a background check. The candidate will complete the form electronically through the background check vendor. Individuals who fail or refuse to complete the form or who provide false or misleading information may be removed from consideration as a candidate.

Appointing authorities are responsible for the costs associated with conducting background checks.

Appointing authorities are responsible for consulting with the Office of Human Resources when considering the relevance of credit history and driving records to the vacant position's job responsibilities.

D. Campus Security: The Office of Campus Security may be given joint responsibility with the Office of Human Resources in carrying out any of the background check procedures, to the extent permitted by applicable law.

III. Adverse Action Considerations and Procedures

A. Considerations: When a background check yields records that may affect hiring or employment decisions, the Director of Human Resources, in consultation with legal counsel when necessary, and the appropriate vice president or appointing authority, will determine the relevance of such information to the hiring or employment decision. Having a criminal history, a criminal conviction, an arrest, or a motor vehicle violation does not necessarily preclude employment or continued employment. The nature of the offense, the relationship between the offense and the position's duties, responsibilities, and work performed, information provided that demonstrates rehabilitation and good conduct, the time that has elapsed since the conviction, are considered and weighed on a case-by-case basis and in compliance with the law. Other factors considered are as follows:

- Falsification of application material pertaining to the conviction(s);
- Date of arrests and conviction(s);
- Subsequent employment record;
- Length of university service and performance;
- Number and nature of crime(s);
- Potential opportunity, through possible abuse of work-related functions or situations, to cause financial or property loss or other harm.

Western Colorado University reserves the sole right to make the determination concerning the relevance of information obtained from a background check and the sole right to make employment decisions.

B. Adverse Action Procedures. If information is revealed in a report resulting from a background check permitted under this policy that could potentially result in an adverse employment decision, the University will take the following steps:

1. Pre-Adverse Action Notice: The Office of Human Resources, or designee, will notify the candidate or employee that negative information was revealed during the background check process which may impact the University's employment decision. As applicable, the Office of Human Resources, or designee, will provide a copy of the supporting report to the candidate or employee, a copy of, or a link to, "A Summary of Your Rights Under the Fair Credit Reporting Act," and the contact information for any consumer reporting agency that provided information. The candidate or employee will be provided no less than five calendar days to challenge the information provided in the report and take steps to correct inaccuracies or provide explanation.

2. Decision Stay: A final employment decision will not be made until the candidate's or employee's information or response has been considered or such time that the candidate or employee fails to respond as required. However, current employees may be placed on leave during the response and decision time period and/or have their access restricted to University buildings, equipment, systems, or facilities.

3. Adverse Action Notice: After considering any candidate or employee response, an appointing authority, in consultation with the Office of Human Resources, will determine if the negative information revealed results in an adverse employment decision. The appointing authority's decision will be communicated to the candidate or employee. The appointing authority's decision will be deemed final.

IV. Employee Self-Reporting Requirements

A. Criminal Conviction or Felony Charge. All current employees are required to self-report to Human Resources post-employment criminal convictions or felony charges filed against them within three business days of the conviction or felony charge. Employees failing to self-report may be subject to

disciplinary action, up to and including termination.

B. Driver's License Suspension or Revocation. All current employees with primary responsibility for driving, as demonstrated in the position description, are required to self-report to Human Resources the post-employment suspension or revocation of a driver's license within three business days of the suspension or revocation. Employees failing to self-report may be subject to disciplinary action, up to and including termination.

V. Sanctions for Violation

Violations of any provision of the background check policy, including but not limited to, providing false information or failure to self-report, may result in disciplinary actions, up to and including termination of employment. Failure to disclose convictions in the application process is deemed falsification of the employment application and shall result in termination of employment, if employed.

3.11 High Risk Information Confidentiality and Security Policy

I. Introduction

Information security is critically important to the University. All members of the University community have a responsibility to protect the confidentiality, integrity, and availability of data generated, accessed, modified, transmitted, received, stored, or used by the University, irrespective of the medium on which the data resides and regardless of format, such as in electronic, paper, or other physical form.

The University collects private and sensitive information from prospective students, applicants, enrolled students, parents, employees and dependents, alumni, and other individuals for administrative, management, and business purposes.

This policy establishes the conditions for access, use, and distribution of this private and sensitive information, collectively known as high-risk confidential information or HRCI. This information, if disclosed to an unauthorized person (intentionally or unintentionally), or maliciously obtained and misused, carries a high risk of causing personal, financial, or reputational damage to its owner and/or the institution.

II. Scope

- This policy applies to all members of the University community who are provided access to HRCI and/or University information technology systems, including but not limited to all students, faculty, employees, and contractors.

III. Definitions

High-risk confidential information (HRCI):

- Any combination of full name, SSN, date of birth, permanent address, driver's license number/passport/other government-issued identification number, credit/debit card number, financial account information, biometric data, personal medical information, and academic records; or
- Credentials, i. e. a username or email address in combination with password, biometrics, security questions and answers, or any other authentication method, that would permit access to a university account.

IV. Policy

- The University treats all HRCI as confidential.
- Access to HRCI must be limited to only those employees whose job responsibilities require it.
- HRCI must not be revealed to anyone who does not have the right to view or know the information.
- Unauthorized access to or use of HRCI violates University policy and is not permitted. It may also violate state and federal law.
- Authorized users of HRCI must take reasonable care to prevent inadvertent disclosures of HRCI.

V. Acceptable Use

- Authorized HRCI users, such as employees whose job responsibilities require access to HRCI, must follow these acceptable use guidelines:
    - Use of HRCI shall be limited to the purpose required to perform University business.
    - Users must respect the confidentiality and privacy of individuals whose records they access, handle HRCI ethically, and abide by applicable laws with respect to accessing, using, or disclosing information.
    - Users must Users must protect HRCI from loss, theft, unauthorized access, unauthorized modification, unauthorized destruction, and/or unauthorized disclosure.
    - Users must never share their account credentials or use another's account credentials unless otherwise authorized by the Chief Information Officer.
- Users shall not use HRCI:
    - To abuse, harass, intimidate, stalk, or discriminate against others.
    - For personal gain, commercial or otherwise.
    - To misrepresent themselves or others in electronic communications or for any deceptive activity.

VI. Use and Storage of HRCI

Physical Documents

- Users must limit the production of hard-copy documents containing HRCI to the extent practical.
- Hard copy documents containing HRCI must remain in secured locations on campus unless otherwise authorized by the overseeing Vice President.

- Users must secure hard copy documents containing HRCI by locking such documents in secure, designated areas (such as a locked desk or file cabinet) unless in active use. If no locking storage areas are available, documents must be removed from plain sight.
- Users must immediately retrieve documents containing HRCI from printers or retrieve such documents at the printer using a password to avoid accidental disclosure.
- Users must shred hard-copy documents containing HRCI as soon as they are no longer needed.

Digital Information

- HRCI stored in electronic format must comply with all applicable Information Technology Services policies.
- HRCI kept in electronic format should be stored in University owned and managed locations as specified in the IT Services *Managing High Risk Confidential Information Procedure*. Storage of HRCI data in any other location that specified in the *Procedure*, including but not limited to, desktop hard drive, personal computers, phones, USB Drives, personal email, and personal cloud storage, is prohibited.
- Devices with access to stored HRCI data must be password protected and locked or logged off when unattended.
- Electronic documents containing HRCI must be destroyed as soon as they are no longer needed, in compliance with applicable retention policies.

Disclosure and Transmittal

- From time to time, the University may need to disclose or transmit HRCI for legitimate business or legal purposes.
- Users must ensure that all disclosures and transmittals are made to authorized persons in compliance with applicable laws. Users may contact the Chief Information Officer if they have questions about whether disclosures of HRCI are legal and permissible.
- Users responsible for electronic transmission of HRCI must contact Information Technology Services to establish the appropriate method for secure transmission.

Immediately Report Violations of Policy or Suspected Breaches of HRCI

- Employees must immediately report to their supervisor any known or suspected violations of this policy.
- Users must immediately report to their supervisor any known or suspected misuse or unauthorized disclosure of HRCI.
- Employees must immediately report any suspicious computer activity, including any known or suspected data breaches, to the IT Services Department at: help@western.edu or call 970-943-3131.

VII. Security Awareness Training

All employees must complete information technology security awareness training annually or as directed by Information Technology Services.

Security & Data Protection Assessments

The University shall regularly conduct, or cause to conduct, assessments of data risk to improve the policies and procedures related to information security and data protection.

VIII. Accountability

All faculty, employees, and student employees are required (as a condition of employment) to sign a confidentiality agreement and provide a signed acknowledgment of this policy.

Violations of this policy or other Western University technology policies can result in consequences up to and including termination of employment.

Section 3.12: Data Protection and Security Policy

Western Colorado University collects information from prospective and enrolled students and parents, employees and their dependents, alumna, and donors for administrative, management, or business purposes. This policy establishes requirements on data security and protection of high-risk confidential information.

The same definition of HRCI as set forth in Section 3.11, applies in this Section 3.12.

Access to HRCI must be limited to only those employees whose job responsibilities require it. HRCI is to remain confidential and must not be revealed to anyone who does not have the right to view or know the information. Unauthorized access to and use of HRCI violates University policy, and state and federal statute, and is not permitted.

Employees whose job responsibilities require access to and use of HRCI must take steps to physically secure this information and must follow these guidelines:

1. Employees must take all steps necessary to ensure that HRCI displayed on computer monitors is not subject to unauthorized viewing by others. Such steps include, but are not limited to, minimizing application windows while in the office, locking the Desktop, closing applications, and logging out of computers when not working.
2. Employees must ensure physical protection for all devices storing HRCI. When not directly in use, office and suite doors must be locked and any easily transportable devices not in the possession of the employee should be secured in locked cabinets or drawers.
3. Employees must limit the production of hard-copy documents containing HRCI to the extent practical. Hard copy documents containing HRCI must remain in secured locations on campus unless otherwise authorized by the President or overseeing vice president.
4. Employees must secure hard copy documents containing HRCI by maintaining a clean desk and locking such documents in secure, designated areas (such as a locked desk or file cabinet) when they are not working. If no locking storage areas are available, documents must be removed from plain sight.
5. Employees should supervise and protect incoming and outgoing mail collection points and fax machines so that unauthorized individuals do not pick up documents containing HRCI.
6. Employees must immediately retrieve documents containing HRCI from printers or retrieve such documents at the printer using a password.

HRCI kept in electronic format should be stored exclusively in secured network drives and databases (e.g., Banner, document management system). Storage of HRCI data on any device, including but not limited to, desktop hard drive, laptops, PDAs, phones, USB Drives, CD/DVD, and diskettes is prohibited unless otherwise authorized by the President or overseeing vice president.

Devices with access to stored HRCI data must be password protected and locked or logged off when unattended. Employees must follow these guidelines for password protection:

1. Employees accessing password protected computing resources are required to use strong passwords that are difficult to guess or crack, including a combination of alpha, numeric, and other characters.
2. Passwords are not to be posted on, under or around a computer or in the workplace.
3. Employees must never provide their password to anyone else and never let anyone else use their computer account.
4. Passwords must be changed when there is reason to believe the password has been compromised.

All campus departments whose business practices require access to and use of HRCI must develop policies surrounding the retention and disposal of information that are consistent with state or federal law. All policies must be approved by the Cabinet prior to implementation.

Employees must immediately report to their supervisor any violations to this policy or incidents of misuse of HRCI.

The University shall regularly conduct, or cause to conduct, assessments of data risk to improve the policies and procedures related to data protection.

Section 3.13 Amorous Relationships Policy

I. Definitions

"Amorous Relationship" refers to any relationship which is romantic, intimate, or sexual in nature and to which both parties' consent. This definition includes marriage and civil union.

"Professional Relationship" refers to any evaluative, instructional, advisory, directive, mentoring, coaching, supervisory, or administrative activity, either directly or indirectly, an employee may undertake relative to a student or another employee.

"Supervisor," for the purpose of Section 3.13 and the Amorous Relationships Policy, refers to any employee in a position to exercise power over another employee or a student employee in a Professional Relationship. Faculty members may have responsibilities to one another that are supervisory in nature, such as when a faculty member serves as department chair, or when tenured faculty members evaluate a candidate for promotion.

II. Purpose

Students should be free to develop relationships that supplement formal classroom instruction and employees should be free to develop friendships and engage in social contact with students. Likewise, employees should be free to develop friendships and engage in social situations with coworkers. In most cases, social interaction between members of the campus community is beneficial by promoting the interchange of ideas, building mutual trust and respect, facilitating communication, and reducing misunderstandings.

However, when a person in a position of power and authority abuses or appears to abuse that position, mutual trust and respect are lost and the academic environment suffers. Western employees exercise power and authority over Western students with whom they have a current or potential Professional Relationship. This inherent power imbalance makes consent to any Amorous Relationship between a Western employee and a student suspect and may impede the real or perceived freedom of the student to thereafter terminate or otherwise alter the Amorous Relationship. The Amorous Relationship may create real or apparent impropriety, loss of objectivity, and a conflict of interest in any evaluative, supervisory, advisory, instructional, or other professional activities which Western employees may undertake relative to the student.

Similarly, there is a power imbalance in a Professional Relationship between a Supervisor and subordinate employee. Concurrent Professional Relationships and Amorous Relationships between a Supervisor and subordinate employee create conflicts of interest, call into question the objectivity of the Supervisor and may negatively affect the work environment for other employees. Issues such as whether concurrent Professional and Amorous Relationships are genuinely consensual and conflicts surrounding the termination of either the Professional or Amorous Relationship can also arise.

Sex-based harassment situations can occur when Amorous Relationships are not genuinely consensual, when such relationships are terminated, or when such relationships impair any student's education opportunities or when such relationships create a hostile work environment for any employee. Sex-based Harassment is prohibited under Sections 2.2 and 3.5 of the Trustees Policy Manual. Therefore, to avoid the breakdown of mutual trust and respect, which may result within the campus community from such Amorous Relationships, the following policies apply.

III. Policy regarding Amorous Relationships between employees and students

1. Concurrent Amorous Relationships and Professional Relationships between Western employees and Western students are prohibited.

2. The prohibition policy notwithstanding, an employee engaged in an Amorous Relationship with a

student with whom they have a concurrent Professional Relationship must immediately report the concurrent Amorous Relationship and Professional Relationship to the employee's Supervisor and to the Director of Human Resources. It is the responsibility of the employee, in coordination with their Supervisor and the Director of Human Resources, to remove themself from the Professional Relationship, and from any actual or apparent activity or decision affecting the student, and to otherwise take appropriate action to minimize any potential preferential or adverse consequences to any student. Reasonable arrangements shall be made to prevent interference with the student's educational opportunities. A student shall not be subject to retaliation for such an Amorous Relationship. Likewise, retaliation is prohibited against any student complaining of sex-based harassment precipitated by such an Amorous Relationship.

3. Amorous Relationships between an employee and a student with whom the employee does not have a current Professional Relationship are strongly discouraged. Because a student's interests may change over time, and because the nature of Amorous Relationships may change or end, Western employees cannot assure relationships with students will not result in conflicts.

IV. Policy regarding Amorous Relationships between Supervisors and subordinate employees

A Supervisor who is engaged with a subordinate employee in concurrent Amorous and Professional Relationships must immediately notify their supervisor and the Director of Human Resources. The Supervisor, their own supervisor, and the Director of Human Resources will work together to ensure that the Supervisor no longer has authority to evaluate or make decisions affecting the subordinate employee with whom they are involved. Options for resolution of this conflict of interest may include, but are not limited to, the following: Supervisors may be reassigned, responsibilities for evaluation and decisions related to the subordinate may be reassigned to another Supervisor, or the subordinate employee may be transferred to a position with equal status and pay for which they are qualified. Retaliation is prohibited against any employee complaining of sexual harassment precipitated by such an Amorous Relationship.

V. Policy regarding Amorous Relationships between University co-workers

Amorous relationships between co-workers may not involve an immediate and direct conflict of interest or appearance of impropriety. However, each employee must refrain from participating in institutional decisions that affect the other's career. Co-workers involved in Amorous Relationships are required to exercise discretion in order to maintain a professional and productive work and educational environment.

VI. Sanctions

Any employee violating these policies shall be subject to prompt and appropriate corrective or disciplinary action, up to and including termination of employment.

Section 3.14: Pregnancy and Parenting Policy

This policy is upheld and interpreted in accordance with federal and state laws, including but not limited to, the Pregnancy Discrimination Act (Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq.), Education Amendments of 1972 (Title IX, 34 C.F.R. §106.40(b)(1)), Pregnant Workers Fairness Act (42 U.S.C. §§ 2000gg), Americans with Disabilities Act Amendments Act of 2008 (29 C.F.R. Part 1630), Fair Labor Standards Act Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act) (P.L. 117-328), the Family Medical Leave Act of 1993 (29 U.S.C. § 2601), the Pregnant Workers Fairness Act (C.R.S. § 24-34-402.3), the Workplace Accommodations for Nursing Mothers Act (C.R.S. § 8-13.5-104), the Colorado Healthy Families and Workplaces Act (C.R.S. § 8-13.3-401 et seq.), and the Colorado Paid Family and Medical Leave Insurance Act (C.R.S. § 8-13.3-501, et seq).

The University prohibits and does not discriminate on the basis of sex, gender, sexual orientation, marital status, parental status, pregnancy, or pregnancy-related conditions. The purpose of this policy is to assist individuals with understanding expectations for protecting pregnant and parenting rights. This policy is intended to make employees and students aware of the services and resources available to ensure that pregnant and parenting individuals receive equitable opportunities within the University.

I. Scope of Policy

This policy applies to all employees and students, regardless of their sex.

This policy applies to the University's educational program or activity, including University–sponsored programs and events, whether on or off campus. This may include, but is not limited to: international programs, field trips, conferences, camps, classroom activities, residence halls and all academic and student facilities and events.

II. Requesting Services or Accommodations

A. Students

The University connects pregnant and parenting students to supportive measures, campus resources and community resources. Students who are pregnant or parenting should review the University's Student Handbook for procedures related to requesting services, accommodations, and potential supportive measures.

B. Employees

The University connects pregnant and parenting employees to supportive measures, campus resources and community resources. Requests for accommodations, supportive measures, or information on campus and community resources can be made to the Restorative Justice and Title IX Office or Human Resources.

III. Supportive measures or accommodations may include, but are not limited to:

- Leaves of absence
- Ability to utilize reasonable break time and space to express breast milk while at work
- Adjustments to employment schedules

- Protection for employees' standing until and upon their return from an authorized leave of absence

IV. Documentation for Medical Necessity

In assessing an individual request for supportive measures or accommodations, the University may request documentation from a physician concerning the length of a leave of absence or the nature of the need for restrictions. For details, students should refer to the University's Student Handbook. Employees should review the Handbook for Professional Personnel and/or contact Human Resources.

V. Reporting Discrimination

In cases of discrimination based on pregnancy or pregnancy-related conditions, marital or parental status, individuals are encouraged to file a report or complaint with the Restorative Justice and Title IX Office. The University may refer reports or complaints for resolution under Section 2.2 (Discrimination, Harassment, Retaliation) of the Trustee Policy Manual. If upon an investigation, it is determined that a student or employee is being denied a lawful accommodation that is necessary and related to needs as a pregnant or parenting individual, the Restorative Justice and Title IX Office may collaborate with the University administration and/or Human Resources for appropriate accommodations.

The University reviews all complaints and incidents reported regarding infringement on the protections of pregnant and parenting rights. Contact the Restorative Justice and Title IX Office for more information.

Section 3.15: Digital Accessibility Policy

Introduction

Commitment to Digital Accessibility: The Board of Trustees (Board) and Western Colorado University commits to ensuring that the information and communication technology (ICT) and digital content it purchases, distributes, and actively uses is accessible to individuals with disabilities, including those who use assistive technologies. An accessible information technology environment enhances usability and access for everyone.

The purpose of this policy is to establish the Board's commitment to improving digital accessibility, identifying resources and responsibilities to achieve that goal, and to demonstrate the University's compliance with applicable state and federal accessibility laws and standards.

Applicable Laws and Standards

- Americans with Disabilities Act 1990 (ADA)
- Section 508 of the U.S. Rehabilitation Act of 1973 Chapters 3, 4, 6 and C.R.S. 24-85-101 to 24-85-104, ARTICLE 85
- Colorado House Bill 21-1110
- Colorado Senate Bill 23-244
- Colorado House Bill 24-1454
- Web Content Accessibility Guidelines (WCAG) version 2.1, level AA criteria

Policy Statements

An individual with a disability, with reasonable accommodation, must have access to the same information, engage in the same interactions, and enjoy the same services offered to other individuals, with the same privacy, independence, and ease of use as exists for individuals without a disability.

All University personnel who use, create, purchase, or maintain ICT and/or digital content for university programs, services, and activities are responsible for developing accessible content according to this policy.

To assist University personnel in meeting accessibility standards, the University will make available training and resources for faculty and staff who are responsible for creating, selecting, purchasing, and/or maintaining any information technology/digital content in any University program, service, or activity. The training and resources shall include how to make information technology/digital content accessible, how to check accessibility, and how to request assistance.

The University shall establish and maintain Digital Accessibility Committee charged with upholding this policy and ensuring the University is reaching accessibility goals. Responsibilities of the Committee include:

1. Developing, maintaining, and publishing the Western Colorado University Accessibility Statement.
2. Developing and maintaining methods for reporting accessibility challenges and responding to those reports.
3. Developing and maintaining the Standards for the Accessibility of Information Technology and Digital Content (Standards).
4. Developing a Digital Accessibility Plan for implementation of the Standards.
5. Identifying and distributing best practices and resource information regarding accessible information technology and digital content.
6. Reviewing and granting exceptions to this policy or the Standards.
7. Determining the content and facilitating delivery of Digital Accessibility training for all new university personnel, as well as annual training for all personnel.
8. Developing required supporting policies and procedures.

9. Reviewing and recommending updates to this policy.

Roles and Responsibilities

Responsible Administrator: Associate Vice President of Information Technology Services and Chief Information Officer (CIO)

Responsible Office: Information Technology Services

Policy Contact: Associate Vice President of Information Technology Services and Chief Information Officer (CIO)

Section 3.16: Policy on Responding to Requests From Immigration Enforcement Authorities

Purpose: Western Colorado University adopts this policy in accordance with Colorado Senate Bill 25-276, which requires Colorado public institutions of higher education to adopt policies for employees, students, parents, and other individuals concerning the university's procedures for the release of information and to provide access to non-public areas of the university's campus in response to requests by federal immigration enforcement authorities/officials.

Procedures Concerning Requests for Personal Identifying Information and the Release of that Information to Immigration Enforcement Officials

The university is governed by certain laws concerning the release of personal identifying information. For instance, under the Family Educational Rights and Privacy Act (FERPA), student personal identifying information can be released only as specified under that law.

If federal immigration enforcement officials request the personal identifying information of students, employees, parents, or other individuals, any university employee in receipt of such a request should direct the request to Western's designated records custodian under the Colorado Open Records Act, CORA@western.edu. The custodian may involve other university administrators, as appropriate, in responding to such requests.

Before responding to such a request, the university will review and document the requesting immigration enforcement official's identifying information, including, as applicable, their name, employer, and badge number, as well as a copy of the legal process documents authorizing access or information. In response to such a request, the university will release personal identifying information in its custody and control, which may be otherwise protected, in response to a subpoena issued by a federal judge or magistrate, an order issued by a federal judge or magistrate, or a warrant issued by a federal judge or magistrate.

Information may also be released if such release is permitted by applicable federal or state laws. For example, the university must report certain information to federal immigration officials about students with F-1 or J-1 visa status.

When it is permissible, the university will attempt to notify the individual, who is the subject of the request, of the request, by sending a notification to the individual's last known mailing address or e-mail address that the university can locate in its files.

Procedures Concerning Requests for Access to Non-Public Areas of Campus By Immigration Enforcement Officials

Federal immigration enforcement officials are subject to access restrictions and must present certain legal process documents to enter areas of campus that are not generally open to the public. As a public university, portions of Western's campus are open to the public. However, access is restricted in certain areas due to operational, privacy, safety, and security purposes. These areas are described, in general, as follows:

Public Areas are those areas open to the general public during business hours (which may vary by building), where entry is not restricted or limited. These spaces are freely accessible to the public and may include outdoor and common-use areas. These areas may also include common areas, reception desks, and dining areas open to the public.

Non-Public Areas include spaces that may be generally unlocked during business hours but that are not considered public due to their function, including but not limited to, offices, classrooms, laboratories, locker rooms, and operational facilities, such as kitchens and storage areas. Non-public areas also include those areas that require a key card, locked doors, or monitored entryways for access to maintain safety and privacy, including but not limited to, housing facilities and residence halls.

If a federal immigration enforcement official requests access to non-public areas of campus, any university employee approached by such an official should not authorize access, but instead contact the Director of Campus Security at 970.943.3084 or the Campus Security duty cell phone at 970.209.1020 so that the Director can interact with the official.

The Director of Campus Security will review and document the immigration enforcement official's identifying information, including their name, employer, badge number, as well as a copy of the legal process documents authorizing access or information. Access to non-public areas of campus will be authorized if the federal immigration enforcement officials present a valid warrant or court order issued by a federal judge or magistrate.

CHAPTER 4: BUSINESS/FINANCE AND PHYSICAL PLANT

Section 4.1: Financial Authority

The Board delegates to the President the authority and responsibility to establish, maintain, and manage a financial budget and accounting system for all sources of funds. This includes appropriated programs, auxiliary enterprise funds, student activity fees, sponsored programs, gifts, contracts and grants, capital construction, controlled maintenance, and other funds.

All funds must be budgeted in conformance with instructions, guidelines, and formulas established by funding or coordinating agencies (e.g., the Colorado Commission on Higher Education, Office of State Planning and Budgeting, and the Joint Budget Committee).

All funds must be reported or accounted for in conformance with generally accepted accounting principles and practices promulgated by the American Institute of Certified Public Accountants and the National Association of College and University Business Officers.

The expenditure of all funds must be audited in accordance with Colorado Revised Statutes, particularly §2-3-101 through 2-3-110 C.R.S., as amended, and in conformance with generally accepted auditing principles and practices.

The President is authorized to establish process, procedures, and timeliness in accord with such instructions, guidelines, and formulas.

The President is responsible for the review, coordination, and external communication of all such financial information.

The President is charged with recommending fiscal year budgets annually for all funds to the Board for review and action. Periodic status reports shall be presented for Board review and action.

Section 4.2: Tuition and Fees

The Board has the responsibility and authority to set tuition and fees in accordance with the policies established by the Colorado Commission on Higher Education ("CCHE").

A. The President shall annually submit a recommended tuition and fee schedule for the upcoming fiscal year to the Board. While the timeline and format of such presentation may vary, the schedule shall compare proposed tuition rates and structure and all fees with the previous year's charges. Appropriate justification and support materials must accompany the presentation.

B. Actions regarding all student fees (new or modified) must be approved by the Board. The Trustees intend that the University consult with its student government in establishing rates and allocating funds related to student activity fees. Student fees cannot be used to support academic construction; nor should increase academic fees be used to minimize tuition rate proposals by shifting tuition increases to special fee increases.

The proposed distribution of funds among the various student activities and a comparison with previous year's budgets will be submitted to the Board for review and action.

C. The Board is authorized to establish fees for the acquisition, construction and maintenance of parking facilities and debt service related thereto.

Specific fees requiring Board authorization shall include but not be limited to:

Application	Housing and Dormitory
Tuition	Meal Plans
Transcript	Bond
Placement Service	Student Activity
Drop/Add	Laboratory
Parking	Deposit

Section 4.3: Instructional Courses and Job-Related Training for Employees

Consistent with the Colorado *Fiscal Rules*, Rule 2-8.04, "Miscellaneous Compensation and Other Benefits (Perquisites)," the University may authorize its employees to enroll in job-related and career enhancement courses at no cost or at a reduced cost. Only enrollment in courses that will benefit the State and enhance employees' performance is authorized by this policy and the *Fiscal Rules*.

The University shall adopt procedures providing for review and approval by the President or a delegate of employee requests to enroll in instructional courses and job-related training at no cost or at a reduced cost. Approval of any such request shall be in writing and must be received before the employee enrolls in the course or training. No request shall be approved unless the President or delegate concludes that enrollment in the course or training will benefit the State and enhance the employee's performance.

Section 4.4: Delegation of Signature Authority

The Board delegates to the President full and complete authority to execute, on behalf of the Trustees of Western Colorado University, all lawful contracts, leases, and rental agreements or amendments thereto deemed necessary by the President for any academic or administrative function of the University, except the following:

1) Capital construction contracts as defined in §24-30-1301, C.R.S. (2019) the individual cost of which equals or exceeds $100,000;
2) Contracts for the purchase of real property or any interests therein;
3) Contracts, leases, rental agreements, licenses, easements, or other instruments selling or otherwise conveying any interests or rights in state-owned real or personal property to another party or parties;
4) Contracts under which the University's or Board's obligation for the payment of consideration and other costs exceeds $250,000 in any one fiscal year;
5) Leases and rental agreements under which the Board's total obligation for the payment of rent under the lease exceeds $100,000 or which are for a term exceeding three (3)years.

Notwithstanding the Board's reservation of authority as to capital construction contracts set forth in Section 4.4(1) above, with regard to capital construction projects which the Board has approved under Section 4.5(IV)(B), the Board delegates to the President the authority to execute all contracts, amendments, and related documents that the President deems necessary to the successful completion of an approved capital construction project. Any such contracts that obligate the Board to an amount in excess of $500,000 shall be brought to the Board for approval prior to execution by the President, or in the event that delay would be substantially to the economic detriment of the University, for ratification at the next regular Board meeting.

The President may subdelegate to appropriate University officials so much of their authority hereunder as will facilitate the efficient administration of the University. Subdelegations shall be in writing and shall clearly state the limitations on the authority subdelegated including the limitations set forth herein and any additional limitations deemed necessary or prudent by the President. Copies of any subdelegations shall be provided to the Board at the time of the subdelegation. A current record of all accounts, signatories, and dates of Presidential subdelegation shall be kept on file at the University.

All contracts, leases, and rental agreements or amendments thereto shall be executed by the President or their subdelegate in the name of "The State of Colorado by and through the Trustees of Western Colorado University for the use and benefit of Western Colorado University." If necessary, the Chief Financial Officer of the University, in their capacity as Deputy Secretary to the Board, may attest the signature of the President or their subdelegate and affix the Board's seal to the instrument.

Pursuant to §24-30-202, C.R.S. (2019) and the State of Colorado Fiscal Rules (as amended), all contracts, leases, and rental agreements or amendments thereto executed by the President or their subdelegate which require the expenditure of state monies must be approved by the State Controller or their designee and, in certain cases, by the Attorney General's Office or other state agencies as required by law. The President or their subdelegates shall strictly comply with the review, approval, and contract routing provisions of the Fiscal Rules.

No contract, lease, or rental agreement subject to the Western Colorado University Procurement Rules (as amended), created in accordance with §24-101-105(1)(b), C.R.S. (2019) shall be executed by the President or their subdelegate unless it was awarded in strict compliance therewith.

Section 4.5: Delegation of Authority for Budget Administration

The Board shall delegate budget authority to the President as indicated below.

I. Operating Budgets for Appropriated Programs

A. Budget Allocations: Authority is granted to the President to effect budget allocations to the University with the approval of the Board. Initial allocations shall be made and approved by the Board before the beginning of the fiscal year. Revised allocations shall be made and approved by the Board at regular intervals throughout the year.

B. Budget Transfers and Revisions: Authority is granted to the President to make changes to the budget approved by the Board when in their judgment it is advisable to do so based upon changes in expenditure plans. Any changes which exceed the threshold levels noted below must be approved by the Board.

1. Thresholds: Revised total income/expenditure budgets of $100,000.

Academic or administrative program changes of $100,000.

All tuition rate, structure, and fee changes must be approved by the Board.

2. Cumulative Changes: Individual budget changes which are less than the above threshold levels but which, on a cumulative basis, exceed three (3) times the above threshold levels for any type of change must be approved by the Board.

3. Regular Reporting to the Board: <u>All</u> budget changes will be reported to the Board in the presentation of periodic budget rewrites.

II. Operating Budgets for Auxiliary or Other Self-Funded Activities

A. Budget Allocations and Revisions: Authority is granted to the President to effect budget allocations to the various activities with the approval of the Board. Initial allocations shall be made and approved before the beginning of the fiscal year. Changes in total expenditure or revenue flows in auxiliary or other self-funded activities which result from increases or decreases in services delivered shall not require prior approval by the Board.

B. Regular Reporting to the Trustees: All budget changes will be reported to the Board in a year-end report.

III. Operating Budgets for Contract, Grant, and Gift Activities

A. Budget Allocation and Revisions: The President is given the authority to approve or amend budgets for contracts, grants, and gifts previously accepted by the Board.

B. Regular Reporting to the Trustees: All budget changes will be reported to the Board in a year-end report.

IV. Capital Construction

A. Definition: For purposes of all policies within the Trustees Policy Manual, and in particular for Section 4.5, "Capital Construction" is defined a s in §24-30-1301(2), C.R.S. (2019) including any construction, demolition, reconstruction, remodeling, or repair of any building or utility system, site development, or purchase, repair, or installation of equipment for instruction or scientific use the individual cost which equals or exceeds $100,000 for appropriated, auxiliary, self-funded, contract, grant, or gift activities.

Activities or equipment meeting the above capital construction definitions but costing less than $100,000 will be considered as part of the operating budget and subject to the constraints of subsections I, II, and III of Section 4.5.

B. Project Approval: Prior to commencing any Capital Construction project as defined above, approval of the Board must be obtained for program plans, financial plans, and architect selection, as appropriate.

Exception: Equipment for instruction or scientific use financed by contracts, grants, or gifts shall not require separate approval so long as:

a. the contract, grant, or gift has been accepted by the Board; and

b. said equipment has been approved by the authority and criteria of the relevant contract, grant, or gift.

C. Planning Documents

a. The Five-Year Capital Improvements Program ("CIP") schedule; and

b. The Five-Year Controlled Maintenance Program ("CMP") schedule

Both of these planning documents are customarily submitted to the CCHE, the Office of State Planning and Budget ("OSPB"), and the State Buildings Division ("SBD") during mid-August of each year, for the funding cycle which commences a full year hence. Accordingly, the CIP and CMP schedules shall be submitted by the President to the Board for approval on or before July 1 of each year.

Section 4.6: Operating Budget Management System Budget Decision Rules

The Long Bill appropriation for the Board will be booked and reported in the University set of accounts. Initial operating budgets will be recommended by the President of the University to the Board for final review and action. The level of detail of the operating budgets will be that of the traditional appropriation state budget format.

I. Operating Budget Decision Rules: The following decision rules will be used in the administration of the operating budgets:

A. Revenue - If revenues are not meeting the budget plan, the President is obligated to make appropriate expenditure reductions to maintain a balanced budget. Exceptions to this operating rule may be considered by the Board.

B. Reporting lines - The points of control will be the state budget format lines most recently approved by the Board.

C. Transfers among budget reporting lines - The President is authorized to make transfers among Board approved operating control lines as follows:

1. Transfers may not change the approved budget for any line by more than $25,000 or two (2%) percent whichever is higher, up to a maximum of $100,000 if two (2%) percent of a given control line exceeds that amount.

2. The combined line item transfers within the approved budget shall not exceed $100,000.

3. The transfer limits apply to cumulative and individual changes for approved budget line items.

4. Transfers greater than these amounts will be proposed by the President for approval by the Board.

D. FTE Reporting - The number of FTE in the Administration state budget format shall not exceed the approved budget levels without Board approval. It is the Board's intent to limit increases for all administrative costs. FTE in other state budget formats may exceed the approved budget levels within the dollar restrictions established above.

E. Cash Funds - Cash funds in excess of the revenue budget approved by the Board are not authorized for expenditure.

F. One-time Savings - Any one-time savings (e.g., salary and benefit savings resulting from vacant faculty or staff positions) shall not be used for continuing budget items.

II. Reporting: All changes in Board-approved control lines will be reported as part of the periodic reporting to the Board

A. Internal line item detail will be developed by the University in agreement with approved operating budgets.

B. Regularly scheduled reviews of the basic expenditure budgets will be made to review emergent needs and release of contingency reserves and program reallocations.

Section 4.7: Guidelines, Review Procedures, and Reporting Policies for the Provision of Goods and Services by Colorado Public Postsecondary Institutions

I. Guidelines for the Provision of Goods and Services

A. Introduction

The primary mission of postsecondary institutions such as the University is to create and disseminate knowledge. To perform this mission, it is often necessary to provide, and charge fees for, goods and services that enhance, promote, or support the University's teaching, research, and public service functions. The University is mindful that the provision of goods and services may be in competition with private businesses and is sensitive to the interests of private businesses.

The purpose of Section 4.7 is to define the legitimate purposes of the provision of goods and services by the University and to establish a mechanism for addressing complaints of unfair competition by private businesses. The guidelines adopted in Section 4.7 were developed by CCHE in accordance with §24-113-101 *et seq.* C.R.S., in consultation with governing boards for each public postsecondary institution and modified as applicable to the University by the Board, October 10, 2003.

B. Exclusions

In recognition of the teaching, research, and public service missions of postsecondary institutions, these guidelines shall not apply to the following situations:

1. instructional charges;
2. services provided in the experiential aspects of instructional and research programs;
3. services for fees in extracurricular or residential life programs, including residence halls, food services, athletic, recreational and cultural programs;
4. the provision of free medical services or equipment to indigent students in association with a community service health program; or
5. public service radio and television stations licensed to a governing board or to an institution under its control.

C. Guidelines

It is appropriate for the University to provide and charge for goods and services to students, faculty, staff, and invited guests, under the following conditions:

1. the good or service is authorized by statute;
2. the good or service offers a valuable educational or research experience for students as a part of their education;
3. the good or service fulfills the public service mission of the University.

D. Criteria for Provision of Goods and Services to Students, Faculty, and Invited Guests

In determining the appropriateness of a good or service to the campus community, consideration shall be given to the following criteria:

1. whether the good or service is substantially and directly related to the instructional, research, or public service mission of the University;

2. whether the good or service is necessary or convenient for the campus community;

3. whether the intended use of the good or service is for students, faculty, staff, or invited guests rather than the general public. "Invited guests" are defined as persons who enter a campus for an educational, research, or public service activity, and not primarily to purchase or receive goods and services not related to the educational, research, or public service mission of the campus;

4. whether the price charged reflects the direct and indirect costs and overhead costs of the good, as well as the price in the private marketplace;

5. whether in establishing the price of the good or service, consideration was given to the price in the private marketplace; and

6. whether there is a demand by the general public for the good or service.

E. Criteria for Sales to the External Community

In assessing the validity of providing goods or services to the external community, both of the following criteria must be met:

1. The good or service represents a resource that is directly related to the University's educational mission, not commonly available or otherwise easily accessible, and for which there is a demand from the external community; or the goods or services are byproducts of the University's instructional, research, or public service activities; or the University has specific statutory authority to sell the good or service; or the good or service is produced from the business-like management of the assets of the University for the exclusive benefit of the University; and

2. The price charged is sufficient to recover the full costs, including both direct and appropriate indirect costs, of the good and service. The price of such items in the private marketplace shall be taken into account in establishing the price or fee.

F. Circumvention of Guidelines

The University shall not provide goods, services, or facilities for or through another state agency or unit of local government if providing them directly would violate these guidelines.

II. Guidelines for Grievance Review Procedures

In the event that the provision of a good or service by the University is perceived to be in competition with a privately owned business, that business shall be provided the opportunity for a hearing of such complaint according to the following guidelines:

1. The complaint shall first be heard by the President of the University or their designee.

2. If resolution is not reached as a result of the initial review by the President, appeal may be made to the Board.

III. Reporting Procedures

1. The Board shall submit, by February 1 and August 1 of each year, semiannual reports to

CCHE regarding the outcome of grievances reviewed pursuant to the procedures established in accordance with subsection II of these Section 4.7 guidelines.

2. The CCHE shall report annually to the Governor and the General Assembly as to the implementation of the grievance review procedures.

Section 4.8: External Communication on Financial Matters

All communication on financial matters with external agencies, individuals, or groups will be the responsibility of the President. Unless specifically requested to do so, University personnel are not to provide information directly to external agencies but rather must submit it to the President's Office. When responding to such requests, the University shall provide copies of both the request and the proposed response to the Board in a timely fashion.

The President of the University or their designee will be responsible for transmitting all budget requests to state agencies (e.g., budget request for appropriated programs, supplemental requests, capital construction, controlled maintenance, etc.).

When a contract requires approval by the Office of the Attorney General prior to execution, requests for action shall be made by the President or their designee.

Section 4.9: Enrollment Reporting

Student FTE enrollment shall be reported according to the requirements of *Guidelines for Reporting FTE Enrollments for Statewide Budgeting* adopted and amended by the CCHE.

The President or their designee shall develop and verify all required data and shall be responsible for transmitting all such University enrollment data to external agencies (e.g., CCHE, OSPB, Joint Budget Committee, etc.).

Section 4.10: Official Expense Allowance for Travel for Board and University Staff

Consistent with *Fiscal Rules* of the State of Colorado (Chapter 1, Section 1), all official travel by Board members must be for the benefit of the State. All travel should be completed at the most economical and reasonable cost.

Out-of-State Travel

The President shall be responsible for granting prior written authorization for all out-of-state travel for the Board members and the University staff. The Out-of-State Travel Request and Authorization form should be submitted with the travel reimbursement voucher.

Rental or Lease Car

Authorization to rent or lease a car will be granted only by the President or their authorized designee. Renting or leasing a car should occur only when no state vehicle or privately owned vehicle is available or practical to use.

Types of Expenses That Are Reimbursed

Receipts are required except where specified below:

1. Registration fees for conferences and seminars;
2. Official telephone calls;
3. Commercial transportation costs;
4. Mileage for use of private vehicle (no receipt required);
5. Rental car cost;
6. Tips fifteen percent (15%) maximum;
7. Lodging;
8. Meals (receipts required only if charges exceed amounts authorized by Fiscal Rules), and tips to be included; and
9. Other appropriate expenses.

Section 4.11: Insurance Plan for Life, Health, and Long-term Disability

The University shall have an insurance plan for life, health, dental and long-term disability. All professional employees appointed for 0.50 FTE or more in a fiscal year are eligible and required to participate in the insurance plan for life, health, and dental coverages. Participation in the plan's long-term disability coverage is required for all professional employees appointed for 0.50 FTE or more in a fiscal year and hired on or after July 1, 1969, and coverage is elective for such employees hired before that date.

Some or all of these coverage requirements may be waived for religious or military reasons, or if the employee has coverage from another source.

Trustees, acting individually, may elect to participate in the system-wide life and health group insurance plan at their own cost.

Persons who retire from the University may, upon retirement, elect to participate in Trustee-endorsed retiree life, health, and dental plan(s), if offered, subject to the conditions governing their participation in that plan.

The Higher Education Insurance Benefits Alliance is responsible for administering and managing the group insurance plans and recommending to the Board rates, benefits, and sources of funding as part of the operating budget setting process. While the timeline and format for presentation may vary, the funding for such plans should be included as part of the annually approved fiscal year budget.

Section 4.12: University Foundation: Acceptance and Management of Gifts and Donations

It is Board policy that the University shall establish and operate a nonprofit, independent corporate foundation (the "Foundation") for the purpose of accepting, controlling, and managing funds and other gifts received as donations to the University. Articles of incorporation are to be reviewed by the Board and kept on file in the President's Office.

Gifts to the Foundation and expenditure of Foundation funds must be consistent with the role and mission of the University and must contribute to institutional goals and objectives.

Any gift or activity funded through the Foundation that requires or is likely to require, the use of state appropriated program funds must have prior approval of the Board. In addition, any activity requiring capital construction or renewal for a public postsecondary institution should be approved by the CCHE, consistent with §23-1-106, C.R.S. (2019) unless it is exempt under §23-1-106(9), C.R.S.

The Foundation shall submit, by October 1 of each year, an audit report and a written annual report to the Board which shall include:

1. a statement of sources and uses of funds for the prior fiscal year; and

2. a report of projects funded by the Foundation in the prior fiscal year.

Section 4.13: Naming of University Buildings

The Board shall approve the names of all University buildings.

Section 4.14: Approval of Memorials (Fountains, Monuments, Buildings, etc.)

All proposals and plans for the construction of memorials which require the expenditure of funds from any source shall be submitted to the Board for review and action. Subsequently, the project shall follow the standard capital construction approval process.

Section 4.15: Ceding Authority to Regulate and Control University Driveways

Ceding of authority to regulate and control University driveways shall be accomplished by formal action of the Board. The following resolution format shall be used:

> RESOLVED: That the Trustees of Western Colorado University, with the concurrence of the City of Gunnison, hereby cede jurisdiction to the municipality of Gunnison, Colorado, to regulate and control the use of the driveways on the Western Colorado University campus; provided that such jurisdiction shall not be deemed to convey the right, title, or interest in said driveways; and provided further that such jurisdiction shall extend only to the use and control of said driveways; and provided further that the Trustees reserve the right to revoke powers hereby granted, as provided by statute. A driveway necessarily includes all areas which are adjacent to and adjoining that part used for vehicular travel and which are essential for parking purposes and includes all sidewalks used for fire protection lanes.

Section 4.16: Fire and Safety Inspection Reports

The University shall appoint an administrator who is responsible for safety and for fire inspections. This person shall be responsible for compliance with state and local building and safety codes.

Quarterly fire and safety reports, including descriptions of necessary corrective action, shall be submitted to the President on September 30, December 31, March 31, and June 30.

Section 4.17: Use of Tax-free Alcohol on the University Campus

The University shall be permitted to procure and use tax-free alcohol for instructional purposes provided such procurement and use are in strict compliance with the Colorado Beer Code §44-4-101 *et seq.*, C.R.S., and the Colorado Liquor Code, §44-3-101 *et seq.*, C.R.S. The President shall be responsible for the proper acquisition and use of alcohol and shall have the authority to delegate to appropriate individuals on the campus the authority to sign the necessary applications and documents for licenses and requisitions.

Section 4.18: Processing Surplus Property

The University is authorized to process property through the Colorado Surplus Property Agency consistent with §§17-24-106.6 and 24-82-401 *et seq.*, C.R.S. The President is delegated the authority to designate authorized representatives to obligate funds and obtain property from the Colorado Surplus Property Agency, upon and subject to the terms and conditions set forth in Administrative Regulation 450-03 (eff. 3/1/20), of the Colorado Surplus Property Agency. Disposal of qualified University surplus property should proceed consistent with Administrative Regulation 450-03, Form 450-03(D) and Form 276.

Additions to or deletions from the list of authorized representatives shall be forwarded immediately to the Colorado Surplus Property Agency.

Section 4.19: Criteria for Approval of Tax-Sheltered Annuity Programs

The University will extend to its employees as a benefit, the administration of a payroll deduction tax-sheltered annuity plan in accordance with the Internal Revenue Service Code, 403(b). This plan will be administered by the Executive Vice President and Chief Operating Officer, who shall be known as the "Plan Administrator."

A. Vendor Selection, Authority and Monitoring

1. Selected companies – known as "Authorized Vendors" – will be authorized to provide tax-sheltered annuity ("TSA") and investment products that conform to Internal Revenue Code Section 403(b) requirements. Additional vendors may be added from time to time by the Board.

2. Changes to the list of Authorized TSA Vendors will be determined by the Plan Administrator, as deemed necessary, who will inform the Board of any changes before they become effective.

3. Companies selected as Fund Sponsors for the Board's Defined Contribution Pension Plan may, during the terms of their contracts as Fund Sponsors, be considered Authorized TSA Vendors, provided they comply with the same standards as other vendors (including entering into an administrative contract as specified in Part B, below), except that they need not participate in the competitive bidding process in Paragraph A.1, above, which will be considered as having been done by being selected as a Fund Sponsor**.**

4. Only Authorized TSA Vendors will be allowed to solicit employee participation in a 403(b) payroll deduction program at the University. Solicitation will be governed by Section C, below.

5. The Plan Administrator will periodically review the financial stability and fund management practices of each of the Authorized Vendors and report to the Board the results of the review. The Plan Administrator may choose to terminate an administrative contract based on the findings of the review.

6. The Plan Administrator is authorized to suspend an administrative contract at any time if it appears that the funds invested in the accounts of an Authorized Vendor are in substantial jeopardy.

7. Notwithstanding the monitoring activities specified in Paragraphs A.5 and A.6 above, each employee participant will be informed that the Board provides this tax-sheltered annuity program as a service to its employees and does not guarantee any specific level of financial performance.

B. Administrative Contract Required

In order to qualify as an Authorized TSA Vendor pursuant to Part A above, the company must enter into a formal administrative contract ("Contract") with the University. This Contract, which must be signed by an authorized officer of the company, will stipulate, *at a minimum*, the following:

1. All products sold to University employees meet the requirements of Section 403(b) of the IRS Code.

2. Front-end loads or charges will be limited to a fixed amount or percent as stipulated in the Contract.

3. If a front-end load is not charged, a back-end or surrender charges may be used but will be limited to a fixed amount or percent as stipulated in the Contract.

4. Yearly account maintenance fees, if any, will be limited to a fixed amount or percent as stipulated in the Contract.

5. Product contracts must allow for increases and decreases in premium payments (salary reductions) without penalty to the participant.

6. The University will be indemnified from suit and from liability arising from actions or inactions either of the Authorized TSA Vendor or its agents, or the employee-participant.

7. Authorized TSA Vendors a will be required to supply the Plan Administrator financial reports, transaction information, sample annuity contracts or certificates, advertising, and promotional materials, upon request or on a routine basis.

8. Failure to comply with the provisions of the Contract, misstatement of fact, misrepresentation to employees or employer, mismanagement of employee accounts, or any other actions deemed not to be in the best interest of participants or the University, that do not comply with the IRS code, or that may jeopardize the participant's equity beyond the normal risks of any investment, may be cause to suspend or terminate the Contract.

9. Authorized TSA Vendors will assist participants in executing a University's Salary Reduction Agreement ("SRA") when required by the University or the IRS, and Vendors will prepare a Maximum Exclusion Allowance analysis when required by the University. Prior to the executing of an SRA, authorized TSA vendors will prepare a Salary Reduction Contribution Limitation Analysis ("SRCLA") which takes into consideration the impact of the employer match discussed in Part F below as well as all relevant variables that determine a participant's maximum tax deferral for the year. This analysis will be summarized on a form provided by the Administrator.

C. Solicitation

Solicitation of new business will be limited by the following:

1. The Authorized TSA Vendor will not conduct solicitation during normal business hours on University premises. This does not preclude visiting an employee on campus by appointment during the employee's free time, or during University-sponsored events such as benefits fairs.

2. The Authorized TSA Vendor will not have more than two (2) representatives authorized to solicit the employees of the University. These representatives' names will be registered with the Human Resources Office of the University.

3. Mass telephone solicitation of any kind will not be permitted. Telephone secretaries, professional calling services, professional appointment secretaries, or any other mass calling systems are not authorized. Only the registered account representatives, working on a referral basis, may make telephone calls for appointments.

4. Mailings to employees will be subject to the University's policies regarding distribution of mailing lists and use of campus mail.

D. Payroll Deduction Procedures

1. All payroll deductions for 403(b) TDAs must be continued or initiated by the completion of a

SRA.

2. New SRAs, changes and terminations are to be completed and filed with the Human Resources Office no fewer than five (5) business days before the payroll completion deadline established by the University.

F. Implementation of Employer Match for some Tax-Deferred Account Contributions

In accordance with §24-51-408.5 C.R.S., beginning January 1, 2001, Tax-Deferred Account ("TDA") Participants who are Active Members of PERA may have their voluntary salary reduction amounts matched to the extent established annually by the PERA Board. A member of certain Defined Contribution Plans may be ineligible for the match under §24-51-408.5(1-2), C.R.S. (2019). It is the Board's intent to implement this employer match in a manner that ensures participants can benefit fully in the maximum employer match allowed, while at the same time ensuring that no participant exceeds the maximum amount of salary reduction permitted under the IRS Code. Pursuant to this intent, the following policies and procedures are adopted, effective upon Board approval.

1. Any employer match must be invested with the same Authorized Vendor in the same investment options as the employee contributions which are being matched.

2. The Authorized Vendor will include the maximum allowed employer match amount in the calculations used to develop the SLCRA. If this analysis shows that the maximum employer match would result in the employee's exceeding their salary reduction maximum for the Trustees' Plan.

3. Over-deferring. The employee will adjust their salary reduction to conform by either lowering the amount or shifting a sufficient amount of the salary reduction to another employer authorized plan.

4. In each case where the employer match could result in an over-deferring situation as described above, the Authorized Vendor will notify the Human Resources Director, in writing, immediately. In these cases, the employer is authorized, and hereby directed, to reduce the employee's salary reduction to an amount that is equal to the maximum allowed employer match until such time as the employee corrects the possible over-deferring situation.

Section 4.20: Leases of Real Property

Acquisition or use of real property by a state-supported institutional of higher education shall proceed congruent with §§23-1-106 and 23-1-106.3, C.R.S. (2019) (as amended). When approval of CCHE is necessary is should be sought consistent with CCHE Policy and Procedure, Section III, Capital Assets, except that where there is a conflict between the statute and the policy, the statute controls.

"Real property" is defined as land, and generally whatever is erected or growing upon or affixed to land.

The Board may delegate to the President authority to review and approve leases of real property for which the total cost of the lease is $100,000 or less and if the lease is for three (3) years or less. Administrative approvals must be reported to the Board annually in June.

Lease, rental, or other real property use agreements executed prior to the effective date of this policy shall not be construed as invalidated.

Section 4.21: Defined Contribution Pension Plan

The Board may create a Defined Contribution Pension Plan ("DCPP"), pursuant to §24-54.5-101 *et seq.*, C.R.S. (2019) (as amended). The conditions, restrictions, and operation of the DCPP are to be specified in the Plan Document. The Plan Administrator shall be the University's Executive Vice President and Chief Operating Officer, who is authorized to implement the DCPP.

The DCPP shall operate as a qualified retirement plan under Section 401(a) of the Internal Revenue Code and is a "governmental plan" as defined in Internal Revenue Code Section 414(d).

The Plan Document may be amended from time to time by the Trustees. A copy of the Plan Document shall be maintained in the Human Resources Officer at all times.

DCPP Participation Criteria

A. Participation in the DCPP is required for the following employees:

1. Faculty and administrators who are exempt from the State Personnel System and who have an appointment of 0.5 FTE or greater and, who upon initial appointment by the Trustees,
   (a) were not permitted to elect membership in the Colorado Public Employees Retirement Association ("PERA"), or
   (b) were permitted to elect membership in PERA and elected to participate in the DCPP instead.

2. Employees who have been DCPP Participants in the past but have a less-than-0.5 FTE appointment.

3. PERA retirees and PERA Transitional Retirees who have 0.5-or-more FTE appointments and have not suspended their PERA retirement benefits.

4. DCPP retirees and DCPP Transitional Retirees with 0.5-or-more FTE appointments.

B. Participation in the DCPP is not permitted for the following employees:

1. Classified State Employees.

2. Faculty appointed on a per-credit-per-term basis.

3. Faculty and administrators who are exempted from the State Personnel System, who are on a less-than-0.5 FTE appointment, and have NEVER been DCPP participants.

Section 4.22 University Officer Titles

For purpose of exemption from the State Personnel System some of the professional and administrative staff of the University, pursuant to Article XII, Section 13 (2) of the State Constitution and §24-50-135(1)(a), C.R.S., the following position titles are designated as "Officers of the University." It is the intention of Section 4.22 to allow, but not require, that the University designate positions with these titles as University Officers. It is also the intention of Section 4.22 to permit a position to have a "working title" that is different than its official title.

TITLE

President
Executive Vice President
Vice President
Associate Vice President
Assistant Vice President
Dean
Associate Dean
Assistant Dean
Business Manager
Controller
Chief Executive Officer
Chief Financial Officer
Executive Director

Section 4.23: Debt Management

The University may incur debt financing for a variety of reasons. Debt can be used to pay for capital construction and capital improvements over a period of time rather than pay for these improvements at the time of purchase or acquisition. However, there are other reasons for borrowing besides the financing of facilities, for example, the need for working capital or to finance an entrepreneurial activity.

Debt management includes many forms of debt financing and refinancing. There are also different sources of funds for the financing of facilities. The capital markets are a primary source of debt financing for the University, but gifts and investments are also sources of funds. Each involve certain financial responsibilities and, at the same time, potential risk. Section 4.23 provides guidelines the Board will use in the consideration, implementation, issuance, and use of external new debt or refinancing of existing debt.

I. Initial Bond Issues

A. Contemplated Debt Requirements

Preliminary considerations of contemplated bond issues and debt requirements should be discussed at the President's Cabinet meetings.

B. Preliminary Analyses

Preliminary analyses will be provided by University staff to the President and will include, but will not be limited to, the following:

Existing debt service requirements;
Purpose, goals, and objectives of contemplated debt;
Financing alternatives and revenue sources;
Debt capacity analysis;
Schedule and timing of debt acquisition and use;
Market conditions; and
Cross pledging among funds.

C. Preliminary Discussion for Proceeding with Debt Financing

If the above analyses favor seeking debt financing, a preliminary discussion agenda item will be prepared for the Board and the appropriate University staff. The Board can approve, disapprove, postpone, or table the preliminary proposal. If the proposal is approved, the Cabinet, with help from University staff, will oversee a Request for Proposals ("RFP") process to select an outside investment banker to structure the financial arrangements for the debt financing. If necessary, the University can seek bond counsel through the Colorado Department of Law, consistent with §24-31-101, C.R.S. to implement debt financing.

D. Outside Approvals

A program plan, if and as required by CCHE, will then be assembled. The Board must approve the program plan before it is submitted to CCHE. Other necessary approvals will be obtained to proceed with the plan. These approvals may involve, but not be limited to, some or all of

the following agencies and constituencies: the General Assembly (or corresponding committees); the CCHE; the Attorney General at the Colorado Department of Law; the Division of Purchasing; and, the student body of the University through its Student Government Association.

E. Financial Plan

After program plan approvals have been obtained and external financial and legal advisors have helped the University formulate a financing strategy, a financial plan will be developed. The options considered in developing the financial plan should include, but not be limited to, the following:

Lowest possible interest rates;
The cost of issuance;
The debt financing mechanism;
The term of the debt;
Acceptable projections for meeting debt service requirements;
Repair and replacement and other reserve requirements;
Insurance and surety bonds;
Current and possible ratings for bond issuance;
Ability to meet reasonable operating expenses after debt service and other requirements; and
Funding options for issuance costs.

This financial plan, along with a discussion of the options considered, will be presented for review and approval by the Board of Trustees, if required, may subsequently be submitted to CCHE. The Board may, at this time, approve the issuance of bonds or the continuation of the particular debt financing structure selected. Early Board approval will be particularly helpful when market conditions are volatile and unpredictable or the timing is critical.

F. Policies over the Life Cycle of Debt Instrument(s)

Within six (6) months after the issuance of debt, the University will submit to the Board an initial report and include a plan which addresses the following issues:

1. Closing of the debt instrument;
2. Final interest rate;
3. Premiums, discounts, and costs of issuance; and Insurance;
4. Debt service reserve;
5. Covenant and other reporting requirements.

II. Refinancing of Existing Debt

Under federal law, tax-exempt revenue bonds issued after 1986 can only be refinanced one (1) time in advance of the call date, which is the first date when the bond can be paid off in full -- usually ten (10) years after the date of issue (on a twenty (20) or twenty-five (25) year bond). It is therefore essential that the University and the Board receive maximum benefits from this single refinancing opportunity. Only the Board has the authority to refinance debt for the University.

A. Preliminary Analyses

Preliminary analyses will be provided by University staff to the President and will include, but will not be limited to, the following:

Reason for seeking re-financing;
Savings, cash flow, or increased funding;

Method of calculation; and
Revised debt service, reserve, and insurance requirements.

B. Proceeding with Re-Financing

Procedures for refinancing existing debt will parallel the procedures for issuing new debt and will require the full analyses required for the issuance of new debt financing.

Section 4.24: Reporting Requirements for Tax-Exempt Debt

Any tax-exempt debt incurred by the University, including bank qualified debt, must be approved by the President or their designee, prior to the issuance of the debt instrument (e.g. bonds, lease purchase agreements, etc.). This action shall be reported to the Board as an information item at the next scheduled regular Board meeting.

Section 4.25: Reserve Policy for the Education and General ("E&G") Fund

The Board recognizes the importance of maintaining a reserve to safeguard against unforeseen fiscal emergencies. The Board also recognizes the importance of utilizing the University's financial resources to the maximum benefit of the University's students, faculty, and staff, and the State of Colorado. Accordingly, the Board establishes Section 4.25 on reserves for the educational and general ("E&G") fund.

The University shall have as its goal the maintenance of a reserve equivalent to fifteen percent (15%) of the budgeted E&G revenue net of the scholarship allowance for the then-current fiscal year (the "Reserve"). The Reserve goal shall be periodically reviewed and adjusted by the Board, in its discretion.

The President is delegated the authority to utilize the Reserve within the spending authority parameters delegated to the President in Section 4.4 of the *Policy Manual* unless:

A. The University has not achieved the Reserve; or
B. Spending would drop the Reserve balance below the range stated in this policy; or
C. Spending from the Reserve would result in a commitment to ongoing costs or expenditures.

If any of the above conditions exist, Reserve spending must be approved by the Board prior to Reserve expenditure.

If the University cannot establish or maintain a Reserve, the University shall develop a plan to achieve a Reserve. The Board must review and approve any Reserve plan, which shall not extend beyond three (3) years.

For the purposes of Section 4.25, Reserve is further defined as the fiscal year-end fund balance within the E&G fund, before recognition of the compensated absence liability.

CHAPTER 5: ACADEMIC AFFAIRS

Section 5.1: Academic Planning

Colorado Statute (C.R.S. 23-1-108) and CCHE Policy (I.O.) require that academic planning occur on all campuses. CCHE policy specifies that "each higher education governing board shall ensure that all institutions under its authority have appropriate planning processes established, that have developed planning documents, and that incentives have been established for placing planning documents into use." The CCHE policy requires governing boards to report on academic planning by the last working day of January of each year.

I. Process

The University is required to develop for Board approval the following:

A. Western's Strategic Plan which includes academic planning. The plan should reflect State and Board goals and priorities as well as the institution's mission, goals, values, and priorities. The plan shall be based on an analysis of all academic programs at the University. The plan will be used for the purposes of resource allocation and reallocation, program enhancement/restructuring/reduction, and in the planning processes for technology and facilities on the campus.

B. A set of institutional goals and objectives related to the strategic plan which provides a framework for implementing the academic planning.

Section 5.2: Approval, Modification and Discontinuation Procedures for Degree and Submajor Programs

I. New Degree or Submajor Program Approval

The University is expected to keep the curriculum current by introducing needed programs and eliminating obsolete programs. New degree or submajor programs include: new undergraduate majors or graduate degree programs, new emphases within undergraduate majors, new minors, and new certificates.

A. Process

Proposals shall first be reviewed and approved within the institution using normal shared governance procedures for curriculum approval. The proposal shall then be submitted to the Board for approval prior to submission, and when required, to the Colorado Department of Higher Education which evaluates the program fit within Western's role and mission, and to the Higher Learning Commission (HLC). New program submissions to the Board for approval should include: a justification for offering the new program, a program description, and resource implications.

II. Academic Degree Program Discontinuance

A phase out plan will be implemented by the institution immediately upon notification of a program's discontinuance and will continue in effect during the period preceding the termination date.

A. Process

1. Notifying all affected students and faculty members of the change in status.

2. Ceasing enrollment of new students in the program.

3. Limiting enrollment only to continuously enrolled students.

4. Counseling students into alternative programs when completion of the program is not feasible.

5. Ensuring required courses are offered to the greatest extent possible before the termination or changes take place.

6. Implementing institutional reduction-in-force plans, as appropriate.

7. Reporting to the Board the program's discontinuance and annually reporting to the Board on the University's progress toward the discontinuance of the identified program.

8. Reporting to CDHE for appropriate entry in SURDS.

Section 5.3: Academic Calendar

The University shall operate on a semester system during the academic year. The period and duration of summer terms are to be scheduled by the University to respond to the distinctive needs of the University and of its students and faculty. Innovative scheduling of mini-semester, short courses, and non-traditional programs is encouraged.

Section 5.4: Admission Requirements of the University

Colorado Revised Statute 23-1-113 authorizes the Colorado Commission on Higher Education (Commission) to establish academic admissions standards for first-time and transfer students at all state-supported baccalaureate and graduate institutions of higher education in the state. The Commission is also required to review and revise these standards. The Board has the responsibility and authority to establish the admission requirements for the University provided that such requirements do not include admission standards lower than those set by the CCHE Policy I-F. The admission requirements which are to be stated in the role and mission statements of the University may not be changed in any way without prior approval of the Board. Any changes in admission requirements approved by the Board involving admission standards may not be implemented until such time as it may be approved by the CCHE.

I. Process

Western follows the CCHE admissions policy for the incoming class of fall 2019 and thereafter. The Admissions Standards Policy directly supports the shift in focus from enrollment to student success. The policy seeks to align postsecondary admissions and remedial education expectations with high school graduation requirements. Further, the policy increases flexibility for institutions to determine their own specific admissions requirements and increases the number of tools they may use to do so. The policy presupposes that institutions will develop admissions requirements and admit students whom they are best able to serve reflecting their statutory role and mission.

All applicants receive a holistic application review, and the final admission decision is based on the student's potential for attaining a degree at Western. Western uses a combination of academic performance indicators to determine college readiness. Applicants are also evaluated on the basis of a variety of factors including an essay, letter of recommendation, leadership potential, diversity of experience, and the depth of participation in extracurricular activities.

Section 5.5: Transfer of Earned Credits

The University adheres to the "Statewide Transfer Policy Adopted by the CCHE". The University develops and implements processes for students to test out of core courses and to determine credit for prior learning consistent with Colorado law (C.R.S. § 23-1-125).

Section 5.6: Remedial and Supplemental Academic Instruction (SAI) Education

In accordance with *Colorado Revised Statutes* 23-1-113.3 and the Colorado Department of Higher Education's Statewide Remedial Education Policy, the University may offer cash funded remedial curriculum in Mathematics and English and Supplemental Academic Instruction, defined as co-requisite coursework in university gateway courses for students with limited academic deficiencies.

I. Process

A. Ensure that each first-time undergraduate has the appropriate advising information regarding the necessity to enroll in remedial skills or SAI courses during the first semester and that students needing remediation are informed of the responsibility to complete the coursework within the first 30 semester hours.

B. Offer remedial and SAI coursework on a regular basis so as to ensure the timely completion of Essential Skills courses.

Section 5.7: Intellectual Property

I. Purpose and Introduction

In our dedication to teaching, learning, creative and research activity, Western respects the intellectual property of all Western employees, students, and those outside the University. The purpose of this policy is to delineate the specific allocation or sharing of rights related to intellectual property created by members of the Western community.

Intellectual property exists in a wide range of creative works. Some examples of the types of works covered by this policy are manuscripts, manuals, books, plays, poems, articles, images (in any format), music such as sound recordings, lyrics, or musical scores, and computer software such as programs, mobile applications, databases, web pages, and courseware.

Western employees have a history of disseminating scholarly and creative endeavors for public and private use and benefit. This policy applies to all Western employees. Students employed by Western, or who use substantial Western resources, are also covered by this policy. Students own the intellectual property they create, unless such intellectual property is part of a larger work over which Western has intellectual property rights.

Where intellectual property is to be owned by Western, the author, creator, inventor or researcher will reasonably cooperate in the execution of any applications, notices, assignments, or other documents necessary to acquire, perfect, or register the intellectual property in Western's name. Nothing in this policy is intended to interfere with an employee's right to create works in conjunction with publishers, where those publishers require assignment of intellectual property rights.

II. General Rule for Protection

Western encourages creative work by all its employees. Intellectual property is owned by its authors, creators, inventors, or researchers, except in the special situations described in this policy.

A. Works created using substantial university resources.

1. Sometimes Western devotes substantial resources to a project. Substantial resources mean resources of a degree or nature that are not customarily provided by Western to employees. Substantial resources include items such as equipment, facilities, or staff support beyond those ordinarily available to employees, and/or supplemental pay or reassigned/reduced time from regular duties to develop or complete the work.

2. Where funding or support for such projects comes from an entity other than Western, the author, creator, researcher, or inventor must abide by the intellectual property provisions, if any, specified by the funding entity. If the funding entity does not specify any intellectual property provisions, Western's Intellectual Property Policy will prevail.

3. Where specific and substantial funding or support comes from Western's resources, Western may ask each author, creator, researcher, or inventor to sign an agreement that allocates intellectual property rights as negotiated with Western. In the absence of such an agreement, intellectual property relating to such works is owned by Western.

B. Commissioned works

1. Commissioned works created pursuant to contracts entered into with Western are owned by Western, unless otherwise agreed in writing.

C. Institutional works

1. Federal law defines a "work made for hire" as a work prepared by an employee within the scope of their employment. When a work is a "work made for hire," the employer is considered both the author and the copyright owner of the work.

2. Any work created by a non-faculty employee as part of their regular job duties is owned by Western. For example, work created by employed artists, programmers, video camera operators, or communications personnel is owned by Western. Any employee who wishes to have a nonexclusive right to use the work at any time (including after that employee no longer works at Western), may seek written approval from the University President or their designee to obtain such a right.

D. Special events

1. Contests: A contest sponsored by Western may include a request that entrants submit creative works as a part of the contest. For any such contests, the terms and conditions of the contest will describe the intellectual property rights granted to Western by entrants as a condition of participating in the contest.

2. Specially created works: Any work created at Western's request, for a specifically identified purpose, is owned by Western.

III. Rights to Educational Materials

Although current copyright law generally allocates ownership rights to Western as the employer, Western assigns any ownership it has in educational materials to the individuals who create such materials subject to the conditions and exceptions stated herein. Educational materials include but are not limited to, teaching materials, textbooks, electronic media, course shells, syllabi, tests, assignments, monographs, papers, models, musical compositions, works of art, and unpublished manuscripts. If no exception in Section III. applies, educational materials for classes, learning programs, including electronically deliverable courses, shall be the property of the faculty creator(s), subject to Western's license. Western shall retain a non-exclusive, non-assignable license to use any educational materials for administrative purposes, such as accreditation, for the continuity of teaching or instructing an educational program, or for research purposes. Western's usage rights shall extend beyond the creator's employment with Western.

IV. Rule for Discoveries and Patents

This policy also includes discoveries, which as used in this policy, means an inventive idea and its reduction to practice. That reduction to practice can be in the form of patentable work such as machines, processes, materials, biological agents, devices, and software excluded from copyright.
Discoveries resulting from federally funded research are governed by the Bayh-Dole Act (Act). The Act, enacted into law in 1980, allows universities to own, patent and commercialize discoveries developed under federally funded research programs. In return, the Act requires universities to create procedures for disclosing these discoveries to the federal government and to attempt to develop and

commercialize discoveries, among other requirements.

Intellectual property rights associated with third party research funding or private sponsors may be stipulated in contracts between Western, the employee, and the funding entity.

Every Western employee, student, and user of Western facilities shall comply with this policy and agree:

1) To report all discoveries to Western in writing. Such report shall be made within a reasonable time after the discovery is made and within reasonable time prior to its submission for publication;

2) To cooperate with Western in the development of any patent applications, licenses, or other commercial applications;

3) To assign to Western, its designee, or a third party or sponsoring agency if required under agreements governing research, any and all rights in and to discoveries in which Western has an interest, as determined by the terms of this policy;

4) To execute all documents necessary to complete a patent, license, or other commercial application, and all documents necessary to accomplish a licensing agreement or other agreement for commercial development; and

5) To cooperate reasonably with Western in obtaining, protecting, and maintaining rights necessary to the commercial development of discoveries in which Western has an interest.

It will be the responsibility of Western to disseminate this policy to all Western employees, students, and users of Western facilities. However, the failure of the University to do so shall, in no way, affect the rights and obligations of the University or of included persons under the terms of this policy.

V. **Other Documents**

Specific details of the intellectual property rights described in this policy may be contained in other documents, such as negotiated written agreements, contracts for commissioned works, terms and conditions for contests or events, grant documents, and other documents requesting that specific work be done for particular projects. Ownership rights specified in this policy may be altered by mutual written agreements.

Section 5.8: Summary of Copyright Law Fair Use Provisions and Agreement on Guidelines for Classroom Copying

Federal Copyright Law Revision of 1973, 17 U.S.C.A. § 107, provides that "fair use" of a copyrighted work, including use by reproduction in copies, for purposes such as "teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright." Statutory criteria used to determine whether the use made of a work in any particular case is a "fair use" include:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.

In 1976, the Ad Hoc Committee of Educational Institutions and Organizations on Copyright Law Revisions, the Authors League of America, Inc. and the Association of American Publishers, Inc. entered into an agreement entitled *"Agreement on Guidelines for Classroom Copying in Not-For- Profit Educational Institutions*" (the "Agreement") which states the minimum standards of educational fair use.

The Agreement provides that teachers may make or have made single copies of: a chapter from a book; an article from a periodical or newspaper; a short story, essay, or poem; or a chart, graph, diagram, drawing, cartoon or picture for scholarly research or use in teaching or preparation to teach a class. Multiple copying for classroom use cannot exceed the number of pupils in a class, must meet strict tests of brevity, spontaneity, and cumulative effect, and must include a notice of copyright. "Brevity" is defined as no more than two hundred fifty (250) words from a poem, no less than five hundred (500) but not more than one thousand (1000) words of an excerpt of prose and up to two thousand five hundred (2500) words of a complete article, story or essay. "Spontaneity" requires teacher inspiration and time pressures that make it unreasonable to request permission. "Cumulative effect" limits copying by each instructor of a given item to only one (1) course in the school, not more than nine (9) instances of multiple copying for one (1) course during one (1) class term, and not more than one (1) item from the same author nor three (3) from the same collective work or periodical volume during one (1) class term. In addition, copies may not be: 1) used as substitute for anthologies, compilations, or collective works; 2) made of "consumables" such as workbooks; 3) a substitute for purchases, directed by higher authority, or repeated with respect to the same item by the same teacher from term to term; 4) the subject of a charge to the student beyond actual copying cost.

Recording of television programs for classroom use from commercial television programming should be tested by the above statutory criteria for fair use. Before videotaping television programs for classroom use from a public broadcasting agency, the University should contact the local public broadcasting station for a list of programs which schools may record off-the-air.

University faculty and employees desirous of using copies of material created by others are responsible for determining its copyright status and should obtain written permission from the copyright owner before using the material, except when the "fair use" criteria stated above have been met.

CHAPTER 6: STUDENT AFFAIRS

Section 6.1: Disciplinary Action Policy and Student Due Process

A. Disciplinary Action Policy

Acts by students which interfere with the rights of others, disrupt, or impair the normal functioning of the University, damage property, impair the health or safety of others, or otherwise violate University policies may be grounds for suspension or expulsion from the University pursuant to University disciplinary procedures.

B. Student Due Process

The University shall establish procedures to provide due process to students against whom disciplinary action is initiated.

Section 6.2: Intercollegiate Athletics

A. Philosophy

1. Preface

The Board of Trustees considers intercollegiate athletics an integral part of the role and mission of the University. Intercollegiate athletic programs are present in the University as part of the overall educational plan of the University. Participation in intercollegiate athletic programs contributes significantly to student development and shall be available to any student in good academic standing.

2. Level of Competition

The Board recognizes that the University should participate at the level of competition prescribed by affiliation with the Rocky Mountain Athletic Conference ("RMAC").

3. Student Fees

Student fees represent the primary source of revenue for the operation of intercollegiate athletic programs. The Board shall approve setting of all student fees, any portion of which is used to support any aspect of the University's intercollegiate athletics program. The University should have an athletic advisory body with student and faculty representatives.

4. Drug and Substance Abuse

The Board recognizes that drug and substance abuse is a serious national problem. A program of education, awareness-building, and counseling is required to address the problem vigorously and responsibly. The Board supports the establishment of such a program.

B. Control of Intercollegiate Athletics

Consistent with the above philosophy the University shall establish a formal mechanism for overseeing, supervising, and evaluating athletic policy and programs. This formal mechanism, described in writing in the University procedure manuals required by the Board, will contain the following minimum features:

1. An athletic policy-setting board or committee with faculty and student representation.
2. Institutional policies governing intercollegiate varsity and club sports.
3. The assignment of responsibility for implementing the athletic policies of the institution.
4. A description of the sources and regulations for staffing and financing the athletic program.
5. Reasonable provisions for the health and safety of participants in the athletic program.
6. Rules governing the eligibility of students.
7. A listing of the sports in which the University will participate and an indication of whether they are a club or varsity program.
8. Rules requiring compliance with the regulation of conferences and athletic associations with which the University is affiliated.

Section 6.3: Recognition and Funding of Student Groups

Student groups have the right to petition for official organizational status if the policy and procedures governing recognition of student organizations are followed throughout the petitioning process. Furthermore, officially recognized student organizations have the right to petition for funding support from the student government of the University, providing the policies and procedures governing funding for student organizations are followed throughout the petitioning process.

Section 6.4: Role of the Student Referenda

Whenever student referenda are included in the decision-making process of student government, the referenda are to be advisory to the individuals or organizations charged with decision making responsibilities.

CHAPTER 7: UNIVERSITY PRESIDENT

Section 7.1: Duties and Responsibilities of the University President

Reporting directly to the Board of Trustees, the President of Western Colorado University (Western) serves as the University's chief executive officer, providing leadership to support the institution's mission to promote intellectual maturity, critical thinking, and personal growth in its students and prepare them to assume constructive roles in local, national, and global communities.

The President will provide effective, visionary leadership for the periodic review of institutional programs, policies, and performance to fulfill the overall goal of achieving excellence in teaching, research, and service, presenting reports to the Board regularly on progress, timely issues, policy and program direction.

The President will be a significant presence on campus, within the regional community, and within the State of Colorado. The President will work with community, state, and federal elected leaders to enhance the financial sustainability of Western. The President will provide leadership in engaging with donors, alumni, other stakeholders and entities in the development of fundraising activities.

The President will be a leader in strengthening Western's academic enterprise by building innovative and creative partnerships to grow enrollment, assure political and financial support for Western and public higher education, and accomplish special public initiatives and goals.

As the chief executive officer, the president shall be responsible for the academic, administrative, and fiscal matters of the university and for compliance of all university matters with applicable Board of Trustees policies and state and federal constitutions, laws, and regulations.

In furtherance of the mission, vision, and values of the University, the President of Western shall be evaluated with regard to any duties set forth in their Employment contract, the criteria listed in the Trustee Policy Manual as Appendix D, progress in achieving the University's Strategic Plan, represented through the plan's performance metrics and any other measures determined appropriate by the Board.

Section 7.2: Evaluation of the University President

I. Policy.

The Board of Trustees shall evaluate the President of Western Colorado University on an annual basis.

II. Purpose.

The purpose of this policy is to establish and communicate the Board of Trustees expectations of the President of Western Colorado University and to establish procedures to evaluate performance. Presidential evaluations assess the performance of the President in achieving goals and metrics as established by the Board often in concert with the President, as well as performance criteria as set forth in Section 7.1, Duties and Responsibilities of the University President.

III. Procedures.

The annual evaluation will occur by December 15th of each year for the evaluation period July 1st – June 30th of each year. Mid-year evaluations may occur at the Board's discretion.

1. A performance review occurs annually and is conducted in about 30 days without an external assessor and will:
    a. Rely on President's self-evaluation
    b. Review progress / performance indicators as assessed by the Trustees (as per the evaluation criteria specified in section 7.1. and Appendix D)
    c. The Board will hold an annual meeting with the President to review its evaluation of the President's progress toward achievement of the criteria for Presidential evaluation, the Strategic Plan, and any other matters set forth in the Employment Contract with the President or elsewhere. The Board of Trustees, in conjunction with the President, will develop a performance plan and set targets annually.
2. A Comprehensive 360 Assessment will occur every 3 years and be conducted over several months, guided by an experienced assessor (usually a current or former CEO):
    a. In addition to President's self-assessment and the Board assessments as explained in 1. a. and 1. b. above, it seeks appraisals of performance from a representative number of stakeholders including, but not limited to, faculty, staff, and students.
3. The Board will hold an annual meeting as set forth above in this section, which will include development of a performance plan, establishment of annual targets, and communication of major expectations of the President for the future.

IV. Evaluation Criteria.

Key, though not exclusive, to the implementation of the mission, vision, and values of the University are the criteria listed in the Trustee Policy Manual as Appendix D.

Section 7.3: Terms of Appointment and Conditions of Employment for the University President

A. Terms of Appointment. The University President shall be appointed by the Board. The position shall be exempt from the State Personnel System.

B. Rank and Tenure. If the President has earned academic rank in a previous position, the Board, after consultation with the impacted department, may award rank and tenure in the appropriate discipline. If the President comes from a background where it was not possible to earn academic rank, the Board may grant rank and tenure in the discipline that matches the President's education and experience.

C. Involuntary Termination of Presidential Appointments. Following the Board's adoption of a resolution of termination, the Chair of the Board shall give written notice thereof to the President.

A President who has been notified of termination shall receive their salary through the effective date of termination and shall be entitled to pay for up to forty (40) days of unused vacation time accruing through the date of termination.

D. Resignation. If the President resigns, they are not entitled to compensation beyond the effective date of resignation approved by the Board other than payment for up to forty (40) days of unused vacation time accruing through the date of resignation.

E. Exercise of Tenure. If the President has tenure, upon leaving office through termination or resignation, unless the termination is for cause, the President may remain at the University as a professor with a tenured appointment. Any such tenured appointment is subject to the terms of the *Handbook for Professional Personnel*. The initial salary shall be no less than the salary of the highest paid full professor in the impacted department.

F. In addition to salary, the President is provided with the following:

1. The President shall accrue vacation, sick, and other leave and shall participate in the insurance and retirement programs in accordance with the *Handbook for Professional Personnel.*

2. Housing. The President and their family may occupy the residence provided by the Board or, receive a housing allowance. In the case of a state-owned residence, utilities, telephone charges for state- related business, and maintenance are to be provided.

3. Automobile. There is to be available to the President either a state-owned or leased car, a fixed rate automobile allowance, or a mileage reimbursement on a private car for state-related business. For a state-owned or leased car, attendant automobile expenses such as insurance and maintenance are to be provided. Expenses for state-related business shall also be provided on a per diem basis as provided by the State Fiscal Rules.

4. Official Functions. Official functions will be underwritten within the limit of University resources and in keeping with State Fiscal Rules.

5. Limited professional and consulting assignments may be accepted by the President provided such assignments do not interfere, or conflict with the operation of the University, and are approved by the Chair of the Board of Trustees.

Section 7.4: Policies and Procedures for Selection of the University President

The selection of the President is solely the responsibility of the Board. The Board will seek the advice and participation of the campus and community in identifying and evaluating presidential candidates.

A. Search and Selection Procedures. When the position of President becomes vacant, the Board shall adopt search and selection procedures appropriate for filling the vacancy. Presidential searches will comply with Board policies and the Colorado Revised Statutes.

B. Appointment of Acting Campus Presidents, Interim Presidents, and Defined Term Appointments. In the event that a President shall be absent from the position for a period of thirty (30) days or longer, but *is expected to return*, the Board may appoint an **acting** President with the authority to administer the University during the period the President is absent.

If the position of President is to be vacant while a search for a new president is proceeding, the Board may appoint an **interim** President to serve until the new President takes office.

The Board, in its discretion, may fill a presidential vacancy without a search by appointing a President for a defined term or series of defined terms of such length as it may choose. At the end of the defined term(s) the Board may conduct a search to fill the presidency, or continue to fill a presidential vacancy without a search by appointing a President for a defined term or series of defined terms of such length as it may choose, congruent with Colorado Law. The President who was appointed for the defined term(s) shall be eligible to be a candidate for the presidency.

Section 7.5: University or Presidential Memberships in Clubs

Organizational memberships for the University or individual memberships for the President in private clubs or athletic clubs may be approved by the Board if the following criteria are judged to be satisfied:

1. The welfare and development of the University will be enhanced as a result of the membership.

2. The membership will make available to University personnel facilities and services not readily or conveniently available through the University or public facilities.

3. The memberships are not to be used for the exclusive benefit of the President.

4. Funding for the memberships is approved by the Board.

5. The clubs do not discriminate on the basis of race, ethnicity, religion, gender, sexual orientation, national origin, age, or disability.

Section 7.6: Presidential Inaugurations

The University will not hold formal inauguration ceremonies to celebrate and publicize the installation of a newly appointed President.

Section 7.7: Distinguished Professorships for University Presidents

Upon leaving office, any President who served at least ten (10) years as President may be appointed Distinguished Professor if it is their wish. In this capacity, the person becomes a professor serving the University or the Board and will perform assignments in keeping with their interests and the needs of the University. The Distinguished Professor shall be accorded the same rights and privileges as a faculty member, acquire time toward retirement, and participate in the faculty benefits program. A person so appointed may serve for an indefinite period of time. The Board will arrange the funding for the Distinguished Professor and will set its salary annually. The Board may choose to grant administrative leave to a President moving to a Distinguished Professorship in order to assure a satisfactory transition.

At the Board's discretion, it may offer appointment as Distinguished Professor to any outgoing President even though they may have fewer than ten (10) years of service as President. In such instances, the appointment will be for a specified period of time with its circumstances to be designated by the Board.

Section 7.8: Designation of a Person to be Responsible in the Absence of the University President

The President shall formally designate a specific person who will be the responsible professional when the President is not available. The name of the individual so designated shall be made known to the University community.

Appendix A

Colorado Revised Statutes
Title 23 Higher Education and Vocational Training Article 56 Western Colorado University

§23–56–101. University established—role and mission

There is hereby established a university at Gunnison, which is known as Western Colorado university. Western Colorado university is a general baccalaureate institution with selective admission standards. Western Colorado university offers undergraduate liberal arts and sciences and professional degree programs, developmental education courses receiving resident credit pursuant to section 23–1–113.3, and a limited number of graduate programs. Western Colorado university also serves as a regional education provider.

§23–56–102. Board of trustees—creation—members—powers—duties

(1)(a) There is established the board of trustees for Western Colorado university, referred to in this article 56 as the "board of trustees", which consists of eleven members and is the governing authority for Western Colorado university. The board of trustees is, and is hereby declared to be, a body corporate and, as such and by the names designated in this section, may:

(I) Acquire and hold property for the use of Western Colorado university;

(II) Be a party to all suits and contracts; and

(III) Do all things necessary to carry out the provisions of this article 56 in like manner as municipal corporations of this state, including but not limited to the power to demand, receive, hold, and use for the best interests of Western Colorado university such money, lands, or other property as may be donated or devised to or for the university.

(b) The board of trustees and its successors have perpetual succession, have a seal, may make bylaws and regulations for the well-ordering and governance of Western Colorado university, and may conduct the business of the university in a manner not repugnant to the constitution and laws of this state. The board of trustees shall elect from the appointed members a chairperson, whose duties and responsibilities are prescribed in the duly adopted bylaws of the board of trustees. The board of trustees shall also elect a secretary and a treasurer, who are not members of the board and whose duties and responsibilities are prescribed in the duly adopted bylaws of the board of trustees. The staff of Western Colorado university shall provide staff support for the board of trustees.

(2) The governor shall appoint, effective July 1, 2003, with the consent of the senate, nine members of the board of trustees. Members initially appointed to the board of trustees shall have the authority to act on behalf of the board of trustees prior to obtaining confirmation by the senate. The members first appointed to said board shall take office on July 1, 2003. Appointments of members to take office on July 1, 2003, shall be made so that three members of the board have terms expiring on January 1, 2005, two members of the board have terms expiring on January 1, 2006, two members of the board have terms expiring on January 1, 2007, and two members of the board have terms expiring on January 1, 2008; thereafter, the terms of the nine appointed members of the board of trustees shall be four years. Notwithstanding any other provision of this section, the term of each member serving on the board of trustees as of May 26, 2006, shall be extended to expire on December 31 of the calendar year in which the member's appointed term would otherwise expire. Members appointed on or after January 1, 2007, shall serve terms of up to four years, expiring on December 31 of the third calendar year following the calendar year in which the member is appointed. For terms ending on or after December 31, 2006, the governor shall appoint a succeeding member on or before March 1 immediately following the expiration of the term. Of the nine members appointed by the governor, no more than five members shall be from the same political party. Of the nine members appointed by the governor, at least two shall reside in Gunnison county. Each trustee following the initial appointments shall hold office for the term for which the trustee has been appointed and until the trustee's successor is appointed and confirmed by the senate.

(3) The tenth member of the board of trustees is a full-time junior or senior student at Western Colorado university, elected by the members of the student body of Western Colorado university. The term of the student member is one year, beginning July 1, 2003, and beginning July 1 each year thereafter. The student member is advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24–6–402. The student member shall have resided in the state of Colorado for not less than three years prior to the student's election.
(4) The eleventh member is a member of the faculty of Western Colorado university elected by other members of the faculty for a term of two years, beginning July 1, 2003, and beginning July 1 every odd-numbered year thereafter. The faculty member is advisory, without the right to vote and without the right to attend executive sessions of the board of trustees, as provided by section 24–6–402.
(5) A vacancy of an appointed member of the board of trustees shall be filled by appointment by the governor for the unexpired term. A vacancy of either of the elected members of the board of trustees shall be filled by election for the unexpired term. Each member of the board of trustees shall take an oath or affirmation in accordance with section 24–12–101.
(6) Except as otherwise provided in this subsection (6), the powers, duties, and functions formerly performed by the trustees of the state colleges in Colorado with respect to Western Colorado university are hereby transferred to the board of trustees. Policies, resolutions, procedures, and agreements previously approved by the trustees of the state colleges in Colorado and applicable to Western Colorado university remain in force and effect unless and until changed by the board of trustees.
(7) In addition to those powers conferred elsewhere in this article 56, the board of trustees has the power to:
(a) Appoint a president of Western Colorado university;
(b) Appoint such other executive officers of the university as may be required;
(c) Appoint faculty and employees as may be required;
(d) Determine the compensation to be paid to the president, executive officers, faculty, and professional staff;
(e) With the advice of the faculty, prescribe the degree programs for the university; and
(f) Prescribe the student admissions qualifications.

§23–56–103. Board of trustees for Western Colorado university fund—creation—control—use—repeal
(1) There is created in the state treasury the board of trustees for Western Colorado university fund, referred to in this section as the "fund", which is under the control of and administered by the board of trustees in accordance with the provisions of this article 56. Except as otherwise allowed by state law, including but not limited to section 24–36–103(2), all money received or acquired by the board of trustees or by Western Colorado university must be deposited in the fund, whether received by appropriation, grant, contract, or gift or by sale or lease of surplus real or personal property or by any other means, whose disposition is not otherwise provided for by law. All interest and income derived from the deposit and investment of money in the fund is credited to the fund. The money in the fund is continuously appropriated to the board of trustees and remains in the fund and shall not be transferred or revert to the general fund of the state at the end of a fiscal year.
(2) The money in the fund remains under the control of the board of trustees and must be used for the payment of salaries and operating expenses of the board of trustees and of Western Colorado university and for the payment of any other expenses incurred by the board of trustees in carrying out its powers and duties.
(3) Moneys in the fund that are not needed for use by the board of trustees may be invested by the state treasurer in investments authorized by sections 24–36–109, 24–36–112, and 24–36–113, C.R.S. The board of trustees shall determine the amount of moneys in the fund that may be invested and shall notify the state treasurer in writing of the amount.
(4) Repealed by Laws 2012, Ch. 254, § 4, eff. July 1, 2013.
(5) Repealed by Laws 2020, Ch. 400 (H.B. 19–1178), § 3, eff. July 1, 2020.

§23–56–104. Status and control
The buildings and premises of the Western Colorado university form a part of the school system of the state and are controlled and managed by the board of trustees.

§23–56–105. Board of trustees empowered to lease grounds
For the purpose of providing dormitories, living and dining halls, or cottages and equipment for the use of Western Colorado university, and to enable the construction, financing, and ultimate acquisition thereof, and to aid in improving undeveloped portions of the grounds of the Western Colorado university, the board of trustees is empowered to lease grounds under its control to private persons or corporations for a term not exceeding fifty years and subject to regulations as it may prescribe, and upon the condition that the private persons or corporations shall construct and equip on the leased grounds buildings or improvements as the board of trustees designates or approves and secure reimbursement for money invested therein from the rentals of the buildings or from their sale to the board of trustees acting for the state.

§23–56–106. No authority to obligate state
Nothing in this article 56 constitutes authority to enter into a contract that in any way creates a debt or obligation upon the state on account of the construction of buildings or improvements; but buildings and improvements erected on lands under the control of the board of trustees and devoted to the uses of Western Colorado university under the terms of this article 56 and the leasehold interest are exempt from taxation so far as permitted by the state constitution.

§23-56-107. Buildings--control of
The management of buildings erected and equipped under the terms of this article and the scale of rentals thereof shall be subject to the approval of the board of trustees.

§23-56-108. Board of trustees may rent buildings
The board of trustees is authorized to lease or rent buildings constructed under the provisions of this article from the private persons or corporations constructing the buildings upon such terms as it deems satisfactory as to current rental, maintenance, and ultimate purchase, paying therefor out of the revenues derived from the operation of the buildings by the board of trustees or from other funds under its control available for general maintenance purposes.

§23-56-109. To be state property at lease end
Upon the termination of a lease or contract executed under the terms of this article providing for the construction and equipment of buildings, the buildings shall become the property of the state, together with all equipment, furnishings, or appurtenances therein contained or thereto attached; except that personal goods or effects of an occupant may be removed.

§23-56-110. Leasehold interest may be sold
Nothing in this article shall prevent the transfer or sale of the leasehold interests prior to their expiration, subject to the approval of the board of trustees.

§23-56-111. Board of trustees may rent rooms
Upon the termination of a lease or contract executed with private persons or corporations for the construction of buildings under the terms of this article, the board of trustees is empowered to rent rooms or quarters in buildings erected under leases or contracts for reasonable compensation as the board deems best in relation to current operation, maintenance, and upkeep costs.

Appendix B

This Appendix B provides the preferred draft agenda for the Board of Trustees' Regular meetings. The Board may revise the order or omit items from the agenda on an as necessary basis. This template is meant to provide University staff a general outline for preparing the Board's agendas. The Board prefers to discuss the contents of its subsequent regular meetings at the conclusion of the preceding regular meeting.

Proposed Meeting Agenda

DATE
TIME

Information regarding how the public may observe the meeting.

0:00	I.	Call to Order
0:00	II.	Attendance
0:00	III.	Approval of the Agenda
0:00	IV.	Approval of the Minutes from DATE
0:00	V.	Review of Previous Action Items Listed in Minutes
0:00	VI.	Oral Reports (limit to 5 minutes)
		A. Board Chair
		B. President
		C. Student Trustee
		D. Faculty Trustee
		E. Faculty Senate Chair
		F. Mid-Managers
		G. Foundation Executive Director
		H. Legal
		I. Legislative
0:00	VII	Public Comment
0:00	VIII.	Action Items
0:00	IX.	Discussion Topics
0:00	X.	Written Reports
0:00	XI.	Set Next Meeting's Agenda (DATE)
0:00	XII	Executive Session, appropriate under Section 24-6-402(3), C.R.S.
0:00	XIII.	Other Business
0:00	XIV.	Est. Adjournment

Appendix C

This Appendix C provides the protocol and standards of use for the Joint Trustees' Email Account and comments submitted through the website comment function (jointly "Electronic Communications").

1. Electronic Communications are staffed by a University Designee, either the Assistant to the President or the Director of Human Resources.

2. Either the Designee or the President will provide copies of all received Electronic Communications to the Board. If the communications involve personnel matters or individual privacy these will be provided to voting Trustees only. The President's office or an appropriate University administrative designee will act on these inquires in a timely manner. Presidential personnel matters will be referred to the Human Resources Department.

3. Anonymous electronic communications will not receive a response. If a response will not be given, the President's office may, nevertheless, bring forth a recommendation for the Board to review and approve.

4. When contact information is provided, and the inquiry does not involve a personnel matter or individual privacy, a reply from the Board may be considered. In this case, the President's office may draft a response on the Board's behalf and seek the Board's input and approval.

5. Inquiries to the Joint Trustees' Electronic Communications will receive the following automatic bounce back response:

The Western Colorado University Board of Trustees has received your inquiry and we appreciate your input. Please know that this account is not checked daily. By law, the Board must make decisions together as one body, which occurs during scheduled Board meetings. To ensure a timely response to your inquiry the President's office or a designee may contact you. Anonymous inquires will not be responded to, nor will those involving personnel matters given their confidential nature. If appropriate, any response to your inquiry by the Board will be considered at the next regularly scheduled meeting. You may attend the Board's regular public meetings in person. A copy of the Board's meeting schedule can be found at https://western.edu/about/leadership/board-of-trustees/#. For further assistance, please contact Human Resources Director Kim Gailey at KGailey@western.edu or (970) 943-3142.

Thank you for your inquiry,

Western Colorado University's Board of Trustees

6. No individual Trustee will respond unilaterally or substantively to any electronic communications, unless asked to do so by majority vote of the Board, after consideration of the same during a duly noticed public meeting.

Appendix D

In furtherance of the mission, vision, and values of the University (as shown in Exhibit I), the President of Western shall be evaluated based on the criteria and metrics outlined below.

1) **Leadership**: Leads the University with a philosophy that is understood, widely supported, consistently applied, and effectively implemented; sets a personal standard for strong ethical behavior and compliance; demonstrates a sense of purpose, empathy, fairness, responsibility, and accountability; builds a culture of trust and unity; and makes timely and effective decisions.
    a. Strategic Plan metrics to demonstrate effectiveness:
        i. Campus climate survey
        ii. Faculty and staff turnover rate
    b. Other considerations to demonstrate effectiveness:
        i. Shared governance
        ii. Alumni engagement
        iii. Board relations
        iv. Governmental support
        v. Community involvement and influence
        vi. Professional organization involvement
        vii. Student enrollment
2) **Academic Excellence and Student Success**: Promotes intellectual inquiry, critical thinking, and personal growth in Western's students; prepares students for constructive roles in their local, national, and global communities; safeguards academic freedom; sets high standards of scholarship and individualized learning; improves student retention and graduation rates; recruits and retains highly competent faculty; builds unity among academic and professional disciplines; supports a robust academic program ensuring equal opportunity for all students and an inclusive, diverse student life.
    a. Strategic Plan metrics to demonstrate effectiveness:
        i. First year student retention rate
        ii. Undergraduate graduation rate (6-year)
        iii. Alumni career success and satisfaction survey
        iv. Student loan default rate
        v. Campus climate survey
    b. Other considerations to demonstrate effectiveness:
        i. First Destination Survey
        ii. Faculty recruitment and retention
        iii. Innovative academic programming

3) **Financial Stewardship**: Establishes annual operating and capital budgets and long-term financial goals; enhances the financial sustainability of the University; manages all campus operations and protects institutional assets; advocates for growth in state appropriations; implements an advancement and alumni relations program to build WCU Foundation assets; and seeks to diversify revenue streams.

    a. Strategic Plan metrics to demonstrate effectiveness:

        i. Composite Financial Index (CFI)

        ii. Foundation assets under management

    b. Other considerations to demonstrate effectiveness:

        i. State appropriations (operating and capital)

        ii. Elevate Western Campaign (or other capital campaign) results

        iii. Innovative programming that diversifies revenue streams and drives increases in net income

        iv. Balanced budget

4) **Enrollment**: Advances a sustainable enrollment management plan; diversifies programming to reach underserved students; grows brand awareness through marketing strategies; supports the expansion of academic programming that reflects student interests and regional and state workforce needs; and ensures a Western Colorado University education is financially attainable.

    a. Strategic Plan metrics to demonstrate effectiveness:

        i. Enrollment market share: CO resident students

        ii. Average net price: CO resident undergraduates

        iii. Student debt load

        iv. Private scholarship dollars awarded

    b. Other considerations to demonstrate effectiveness:

        i. Overall enrollment change, including all educational programs (undergrad, grad, CE, online learning)

        ii. Innovative programming that meets local, regional or statewide workforce needs

Exhibit I

Mission Statement:

Western Colorado University promotes intellectual maturity and personal growth in its students and prepares them to assume constructive roles in local, national, and global communities. Western's distinctive character emerges from its unity among academic and professional disciplines, high standards of scholarship, and a unique environment in the mountains of western Colorado.

Vision Statement:

With the Rocky Mountains serving as our laboratory, Western Colorado University is a unique, public institution. As a premier provider of rigorous, immersive education, Western champions intellectual exploration, critical thinking, and integrity, while inspiring innovation. Western offers an inclusive and personalized academic experience that enhances the lives of our students and their communities now and in the future.

Values:

Courage

Mountaineers are adventurous and entrepreneurial spirits who embrace change to better ourselves and the people we serve. We boldly act on our convictions.

Growth

Mountaineers believe that rigorous academic inquiry and civil dialogue are necessary for free and open critical thinking that defines our role as a public institution in a democratic society. We foster new ideas by developing both emotional maturity and intellectual curiosity.

Inclusivity

Mountaineers nurture a welcoming community for all faculty, students, staff, and other stakeholders. We are committed to an inclusive, diverse, and equitable campus environment.

Integrity

Mountaineers are committed to acting with the highest ethics, respect for the dignity of others, and personal authenticity. We communicate with openness, honesty, and civility, and we are accountable for our actions.

Stewardship

Mountaineers are environmental, intellectual, social, and fiscal stewards of our campus and our global community as places of engagement and personal responsibility.