

## 133 C. S. R. 5. EMPLOYING AND EVALUATING PRESIDENTS

### RESPONSE TO COMMENTS

On June 21, 2023, the Higher Education Policy Commission (Commission) commenced a 30-day public comment period to accept written comments on proposed amendments to legislative rule 133 C.S.R. 5. One commenter submitted written comments regarding the Commission's proposed amendments to the rule. The Commission addresses these comments below.

#### 1. **COMMENTS: Advisory Council of Classified Employees Representative from West Virginia University**

##### **COMMENT A.** *Timelines for Responding to Constituent Group Comments*

*The commenter states that, "133-5-2.2.2.4 is being amended to state 'The constituent groups shall submit their comments to the governing board, and the governing board shall consider those comments in its evaluation of the finalists.' My concern is that there is no timeline provided that the constituents can submit comment and no timeline provided as to how long the governing board has to respond. I feel this should be included with this updated verbiage to foster clear timelines of doing business."*

**RESPONSE A:** By statute, the process and procedure institutions must follow in employing and evaluating presidents is left to the discretion of the institutional boards of governors. Impinging on that discretion in this rule by setting arbitrary timelines could unduly interfere with the boards' discretion and make the search process more complex than it would otherwise be. The current rule does not establish deadlines on constituent comments, thus the proposed amendments do not alter that practice. The Commission has the right to comment on the boards' proposed procedures and will do so if it determines that a proposed procedure does not allow sufficient time for the constituent groups to participate meaningfully in the process.

##### **COMMENT B.** *Word choice in describing presidents' employment status*

*The commenter states that, "133-5-3.3.2 please reread this. I believe you are meaning for this to state 'A president is an at will and pleasure employee. . .' but it currently reads 'A president is a will and pleasure employee. . .'"*

**RESPONSE B:** The commenter is conflating two different, yet synonymous, terms. An employee who can be terminated for no reason is known as either an "at will" employee or a "will and pleasure" employee, but not as an "at will and pleasure employee." The proposed amendment is properly drafted.