

LEGISLATIVE OVERSIGHT COMMISSION ON EDUCATION ACCOUNTABILITY

Senate Finance Committee Room
January 10, 2017

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West Virginia
Higher Education
Policy Commission



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Higher Education
Policy Commission

**Report to the Legislative Oversight Commission
on Education Accountability**

January 10, 2017

Approval of Legislative Rules

Series 7, West Virginia Providing Real Opportunities for Maximizing In-State
Excellence (PROMISE) Scholarship Program

Series 42, West Virginia Higher Education Grant Program

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**TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 7
WEST VIRGINIA PROVIDING REAL OPPORTUNITIES FOR MAXIMIZING IN-STATE
STUDENT EXCELLENCE (PROMISE) SCHOLARSHIP PROGRAM**

§133-7-1. General.

1.1. Scope. -- This rule establishes guidelines and procedures for establishing eligibility for the West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence Scholarship Program, hereinafter referred to as PROMISE.

1.2. Authority. -- West Virginia Code §18B-1-6 and §18C-7-6.

1.3. Filing Date. -- ~~March 22, 2010.~~

1.4. Effective Date. -- ~~April 21, 2010.~~

1.5. ~~Repeals and replaces Title 133, Series 7, dated March 23, 2008.~~ Sunset Date. – This rule will sunset five years from the effective date.

§133-7-2. Eligibility of High School Graduates for Initial Award.

2.1. To be eligible for an initial PROMISE Scholarship, a high school applicant must be eligible for the award at the time of application and at the time the award is received by meeting all academic criteria in place at the time of application and award; and

2.1.1.a. Must complete high school graduation requirements at a West Virginia public or private high school unless he or she qualified as a military dependent under Section 6 of this rule, or has commuted to an out-of-state school pursuant to Section 7 of this rule; and

2.1.2.b. Must complete at least one half of the credits required for high school graduation through attendance at a public or private high school in this state, unless he or she qualified as a military dependent under Section 6 of this rule, or has commuted to an out-of-state school pursuant to Section 7 of this rule; and

2.1.3.c. Must apply for the scholarship within two years of graduation from high school unless the applicant entered the United States armed services pursuant to Section 5 of this rule; and

2.1.4.e. Must, while enrolled in high school, have attained a cumulative grade point average of at least 3.0 on a 4.0 scale, based on county board grading policies, in both core courses and overall coursework required for graduation by the State Board of Education; and

2.1.5.e. Must meet standardized test score criteria on an ACT or SAT national test as established by the West Virginia Higher Education Policy Commission (~~Policy~~ Commission); and

2.1.6.f. Must have resided in West Virginia continuously for a minimum of twelve consecutive months immediately preceding the final date of application for a PROMISE Scholarship, unless a member of the Armed Services pursuant to Section 5 of this rule or a military dependent pursuant to Section 6 of this rule, and be a United States citizen ~~or legal immigrant to the United States~~; a U.S. permanent resident,

or an eligible non-citizen who meets the residency requirements for Federal Student Aid; and

2.1.7g. Must submit both the Free Application for Federal Student Aid and any application form required by the ~~Policy~~ Commission by the deadline established by the ~~Policy~~ Commission; however:

2.1.7.g.1. Any student who misses the deadline for application may apply by a later date established by the ~~Policy~~ Commission for a spring semester award. This option is contingent upon the availability of funding for late awards.

2.2. The grade point average required in Section 2.1.4d. will be determined by the appropriate school official at the end of the ~~seventh~~ sixth high school semester. However, the final calculation of the grade point average and eligibility for the award may be determined as late as after the eighth semester.

2.3. Weighted grades may be used in the computation of a student's core and overall grade point average based on county board grading policies.

2.4. A student who applied for and was deemed eligible for a PROMISE award must enroll for the first regularly scheduled enrollment period after being selected unless granted a deferment under the leave of absence provisions of Section 10.7 or 10.8.

2.5. A student who was deemed eligible for a PROMISE award but elects not to enroll at an eligible institution set forth in Section 8 of this rule may regain eligibility providing the student discontinues enrollment at the ineligible institution no later than one academic year after high school graduation and re-enrolls at an eligible institution. Any such student must meet the eligibility standards for a PROMISE award renewal set out in Section 10 of this rule.

§133-7-3. Eligibility for the Home-Schooled.

3.1. A person who has been home-schooled pursuant to the exemption allowed by W.Va. Code § 18-8-1 for both the 11th and 12th grades as documented by registration with the county school board system is eligible for a PROMISE award, but only if he or she has passed ~~the General Educational Development (GED)~~ a state approved high school equivalency examination with a minimum score of ~~2500 or a score~~ as determined by the ~~Policy~~ Commission.

3.2. A home-schooled student must apply for a PROMISE award within two years of the earlier of ~~attaining~~ passing a GED state approved high school equivalent examination or the date the student's high school class would normally have graduated and meet all other criteria established by the ~~Policy~~ Commission, including required scores on national standardized tests.

3.3. The parents or legal guardian and the applicant must meet the residency requirements set out in Section 2.1.6f. of this rule.

§133-7-4. Eligibility for Graduates of Alternative Educational Programs.

4.1. A person who successfully completed an alternative educational program, such as the Mountaineer Challenge Academy, approved by the Director of State Financial Aid Programs, is eligible for a PROMISE award, but only if he or she has passed ~~the GED~~ a state approved high school equivalency examination with a minimum score determined by the ~~Policy~~ Commission.

4.2. A graduate of such programs must apply for a PROMISE award within two years of the earlier of ~~attaining~~ passing a GED state approved high school equivalent examination or the date the student's high school class would normally have graduated and meet all other criteria at the time of application

established by the ~~Policy~~ Commission, including required scores on national standardized tests.

4.3. The parents or legal guardian and the applicant must meet the residency requirements set out in Section 2.1.6f. of this rule.

4.4. A student ~~with~~ passing a ~~GED~~ state approved high school equivalent examination under other exceptional circumstances may appeal for scholarship consideration under the provisions of Section 14 of this rule.

§133-7-5. Eligibility of Members of Armed Services.

5.1. A person who entered full-time, active duty with the United States armed services within two years of his or her high school graduation and is discharged with a status other than dishonorable is eligible to apply or claim a PROMISE award within seven years of the time he or she has initially entered military service. However, this eligibility ends one year after discharge from such military service.

5.2. The applicant must meet all other criteria established by the ~~Policy~~ Commission for eligible high school graduates at the time of the application, including high school grade point average and required scores on national standardized tests.

5.3. The applicant must meet the residency requirements set out in Section 2.1.6f. of this rule, or have entered military service from this state, and not have established domicile in another state, at any time during that military service.

5.4. A student attending a United States military academy is only eligible for a PROMISE award if he or she leaves the military academy and meets the requirements of Section 2.5 of this rule.

§133-7-6. Eligibility of Military Dependents.

6.1. The credit hour requirements in Section 2.1.2b. and the residency requirements of Section 2.1.6f. of this rule shall be waived if:

6.1.4a. The applicant both resided in a state other than West Virginia and attended high school in another state or in a United States territory, United States possession or foreign country; and

6.1.2b. Resided with his or her parent or legal guardian; and

6.1.3c. The applicant's parent or legal guardian served in the United States armed forces while the student attended high school in such state, territory, possession or country; and

6.1.4d. The parent or legal guardian was stationed for military purposes in such state, territory, possession or country; and

6.1.5e. The parent or legal guardian maintained legal residence in West Virginia while stationed in such state, territory, possession or country.

§133-7-7. Eligibility of Commuting Students.

7.1. The credit hour requirements in Section 2.1.2b. of this rule shall be waived if:

7.1.4a. The applicant resided in West Virginia while attending high school in another state; and

7.1.2**b**. Resided with his or her parent or legal guardian; and

7.1.3**c**. The parent or legal guardian and the applicant must have met the residency requirements set out in Section 2.1.6f. of this rule; and

7.1.4**d**. The student commuted from this state on a daily basis; and

7.1.5**e**. The student was a dependent of the parent or legal guardian with whom the student resided; and

7.1.5**e**.1. A dependent student is one who is required to provide parental information on the Free Application for Federal Student Aid because the student does not meet the criteria to be classified an independent student contained in the Higher Education Act of 1965 as amended and implementing regulations.

7.1.6**f**. The student has not established domicile in another state; and

7.1.7**g**. The school to which the student commuted was fully accredited to a degree acceptable to West Virginia's State Superintendent of Schools; and

7.1.8**h**. The school's curriculum requirements for graduation are equivalent, or sufficiently similar to, those required for high school graduation in this state.

§133-7-8. Eligible Institutions.

8.1. Only those institutions specified in W. Va. Code §18C-7-3, or any other regionally accredited, not-for-profit institution in this state approved by the Policy Commission, are eligible to participate in the PROMISE Scholarship Program.

§133-7-9. Awards.

~~9.1. The PROMISE award for a student enrolled in a state institution of higher education, and who was awarded and used a PROMISE Scholarship prior to January 1, 2010, shall be equal to the actual tuition and mandatory fee charges for resident students at the institution.~~

~~9.2. "Tuition and mandatory fees" means the quarter, semester or term charges imposed by a state institution of higher education upon all students as a required condition of enrollment.~~

9.2.1**a**. For purposes of this rule, West Virginia University's undergraduate health sciences students shall be treated as paying the same amount of tuition and mandatory fees as all other West Virginia University undergraduate students.

9.2.2**b**. West Virginia University, Potomac State College of West Virginia University and West Virginia University Institute of Technology are considered separate institutions for purposes of determining tuition rates.

~~9.3. Students enrolled in other eligible institutions, and who were awarded and used a PROMISE Scholarship prior to January 1, 2010, shall receive an award based upon the average resident undergraduate tuition and mandatory fees at comparable state institutions of higher education for the previous year as determined by the Policy Commission.~~

9.4**2**. Students awarded ~~and using~~ a PROMISE Scholarship ~~after January 1, 2010~~, shall receive an

award equal to the lesser of \$4,750 or the actual tuition and mandatory fee charges for resident students at the institution.

9.53. Awards may be made for summer school. To be eligible for a summer award, a student must be academically eligible for scholarship continuation at the end of the spring semester preceding the summer that assistance is requested. Any summer award under this provision is dependent upon the availability of funds as determined by the Policy Commission.

9.53.1a. Priority for summer awards will be based on class rank with the highest priority given to students closest to graduation.

9.53.2b. Students, other than those graduating at the end of the summer term of enrollment, must be enrolled for at least 12 credit hours. Students graduating at the end of the summer term of enrollment are only required to enroll for a minimum of 6 credit hours.

9.53.3c. A summer award counts as a semester of utilization toward the maximum number of available semesters.

9.64. Only full-time, first-year students may receive initial awards. Students already enrolled at a higher education institution are not eligible to apply for a PROMISE award except as outlined in Section 2.1.7g.1.

9.75. If the Policy Commission determines that adequate funds are available it may make PROMISE awards greater than \$4,750, but not in excess of actual resident tuition and mandatory fees.

§133-7-10. Eligibility for Renewal of Awards.

10.1. For a student to retain or have the PROMISE award renewed each year the student must be continuously enrolled as a full-time undergraduate student; except during the last two semesters of scholarship eligibility the student may be less than full-time; and

10.2. Maintain at least a 2.75 grade point average on a 4.0 scale the first year and a 3.0 cumulative grade point average in subsequent years; and

10.3. Complete and earn a minimum of 30 credit hours in each 12 month period for a student who receives a two-semester award in an academic year. If a student receives a single-semester award, the student must complete and earn a minimum of 15 credit hours in the academic year.

10.3.1a. College-Level Examination Program (CLEP) credits may be used to meet the minimum credit hours requirement.

10.3.2b. Credit for a course taken again during the same award year, including the summer, to improve a grade, or for any other purpose, may only be counted once in meeting the credit hour requirement.

10.3.c. The 12 month period for calculating renewal begins with the fall semester and ends with the summer semester.

10.4. A student seeking an associate degree is eligible to receive a PROMISE award for no more than a total of four semesters of a two-year degree program.

10.4.1a. The student must ~~maintain the 3.0 cumulative grade point average~~ meet the renewal

requirements to receive a PROMISE award for a baccalaureate program.

10.5. A student seeking a baccalaureate degree is eligible to receive a PROMISE award for no more than eight semesters of a four-year degree program.

10.6. If a student enrolls in summer school to attain the minimum ~~30~~ credit hours required by Section 10.3 or achieve the grade point average required by Section 10.2, he or she shall not receive a PROMISE award for that summer school enrollment. The summer school enrollment must be completed before the commencement of the regular semester of the PROMISE eligible institution the student is attending. Summer school credits may be obtained from an out-of-state institution with approval of the home institution.

10.6.1a. All college credit hours and corresponding grades ~~beginning with the first semester of regular (fall or spring) semester enrollment after high school graduation~~ must be counted in determining PROMISE Scholarship eligibility regardless of whether or not the college accepts these credits. Any college credit hours earned prior to the first semester of fall or spring enrollment ~~after high school graduation~~ may not be counted toward the credit hour requirement in determining eligibility for award renewal.

10.7. PROMISE Scholarship students are expected to maintain continuous enrollment in addition to the other renewal requirements set forth in this section. However, this requirement may be waived by an institution of higher education for a medical or family bereavement absence consistent with program policies. The institution may also grant a leave of absence for students entering or being called to military active duty, or enrolling in a study abroad program, internship, or co-op program.

10.8. Other requests for leaves of absence must be submitted in writing by the student to the Director of State Financial Aid Programs. Student leave of absence requests submitted to the director may include, but are not limited to, programs directly related to the student's educational program, study abroad, extreme financial hardships of the student or the student's immediate family, service or volunteerism or other extraordinary circumstances beyond the student's control when continued attendance would create a substantial hardship for the student.

10.9. A student granted a leave of absence under the provisions of Section 10.7 or 10.8 who resumes his or her education at an eligible institution, assuming he or she meets all other eligibility requirements at the time the leave of absence was granted, shall retain eligibility for a PROMISE Scholarship until the first of the following events:

10.9.1a. The student received four semesters of PROMISE Scholarship assistance while enrolled in an associate degree program or graduated from the associate degree program; or

10.9.2b. The student received eight semesters of PROMISE Scholarship assistance while enrolled in an associate and/or baccalaureate program or graduated from the baccalaureate degree program; or

10.9.3c. The sum of the number of academic years from the date of the student's selection as a PROMISE Scholarship recipient equals six years except for the military service provisions of Section 5.

§133-7-11. Duty of PROMISE Recipient Graduates.

11.1. By accepting a PROMISE award, the recipient agrees to provide the information the Policy Commission may request regarding the recipient's address after graduation, employment after graduation, whether and where the recipient is enrolled in post-graduate programs, and such other relevant

information as the Policy Commission may deem necessary to assess the effectiveness of the PROMISE Scholarship Program.

§133-7-12. Community Service for Applicants.

12.1. Applicants for PROMISE awards are strongly urged to perform at least 20 hours of unpaid community service while in high school and college. The community service may include, but is not limited to, participation with non-profit, governmental, institutional or community-based organizations designed to improve the quality of life for community residents, meet the needs of community residents, or foster civic responsibility.

§133-7-13. Coordination with Other Financial Aid.

13.1. PROMISE Scholarship awards shall be coordinated with other financial aid/grant programs in the following manner:

13.1.1~~a~~. PROMISE awards must be utilized in a manner that maximizes federal scholarship/grant funding (e.g. Pell Grant) and should not be administered in a manner that would result in the loss of federal grant/scholarship funds to a student or to the State of West Virginia.

13.1.2~~b~~. PROMISE Scholarship awards must be used for tuition and fees.

13.1.3~~c~~. Institutions are strongly encouraged to allow maximum flexibility in the use of institution based financial aid awards so that they can be used in conjunction with the PROMISE award.

13.2. The amount of a PROMISE award in combination with aid from all other sources shall not exceed the cost of the attendance at the institution the recipient is attending. This restriction does not apply to members of the West Virginia National Guard, ~~recipients of an Underwood Smith Teacher Scholarship, and recipients of a West Virginia Engineering, Science and Technology Scholarship.~~

13.3. For those students eligible for federal grant assistance, such as Federal Pell Grants, the federal assistance should be considered the first source of all scholarship/grant funding to the extent permissible under federal law. For students awarded both a PROMISE Scholarship and a need-based grant through the West Virginia Higher Education Grant Program, the PROMISE Scholarship awards shall be considered the first source for these two scholarship/grant programs. West Virginia Higher Education Grants may be combined with PROMISE awards as provided for annually by program policies.

13.4. Should the PROMISE Scholarship award plus the amount of other financial awards exceed the cost of attendance, the institution's financial aid administrator, in consultation with the recipient, will determine what aid is to be reduced. This adjustment should be to the best advantage of the recipient.

13.5. If a PROMISE recipient terminates enrollment for any reason during the academic year, the unused portion of the scholarship shall be returned to the Commission by the institution in accordance with the Commission's rule for issuing refunds pursuant to the provisions of West Virginia Code §18C-5-1 et seq. If the recipient also received federal financial aid, the institution must abide by the refund policy associated with Title IV funds. The institution is responsible for returning the unused portion of the scholarship even if the student does not request a refund from the institution.

§133-7-14. Appeals.

14.1. An applicant for an initial PROMISE Scholarship award may appeal the denial of eligibility for the award with the Director of State Financial Aid Programs.

14.2. Any appeal must be filed within fifteen (15) days of the applicant receiving notice that he or she is not eligible for an initial award. The appeal must detail in writing, and with specificity, including the grounds supporting the appeal and a finding of eligibility. The director may require additional evidence or materials from the applicant or other parties.

14.3. If the appeal is denied by the director, the reasons for the denial shall be communicated in writing to the applicant with an explanation of the reason for the denial.

14.4. An applicant may appeal the director's decision to a review committee appointed by the ~~Policy~~ Commission.

14.5. Any appeal to the review committee must be filed within fifteen (15) days of notification to the applicant that his or her initial appeal was denied. The appeal must be in writing and detail, with specificity, the grounds supporting the appeal. The review committee may require additional evidence or materials be submitted. If the review committee denies the appeal, the reasons for the denial shall be communicated in writing to the applicant with an explanation of the reason for the denial. The decision of the review committee is final.

14.6. A student granted an initial PROMISE Scholarship may appeal a non-renewal of the award with the person designated at the institution of higher education where the student is enrolled. The appeal process at the institution shall be governed by an established procedure designated by the institution.

14.7. If the appeal of the non-renewal is denied by the institution, the student may appeal that decision to the Director of State Financial Aid Programs. The appeal must be filed within fifteen (15) days of notification to the student of denial of the institutional appeal and shall be heard in the same manner as appeals of denials of initial awards.

14.8. If a student with a PROMISE Scholarship is not eligible for renewal of the award because of failure to maintain academic progress, he or she may not utilize the procedure set out herein to challenge any grade assigned them. Challenges to grades must be brought under established institutional procedures for grade appeals. The process set out above may only be utilized to challenge the application of the eligibility requirements to the grade or grades assigned. If a student is successful on a grade or other appeal and the changing of the grade makes him or her eligible once again for renewal, he or she may petition the ~~Policy~~ Commission for a renewal of the award retroactively.

§133-7-15. Reports.

15.1. The ~~Policy~~ Commission shall report findings about recipients of the scholarships each year to the Legislative Oversight Commission on Education Accountability. Such reports will include the following:

15.1.~~a~~. Information on the recipients' demographics including race, income and other variables gathered by the ~~Policy~~ Commission.

15.1.~~b~~. Information on students who graduate from college in West Virginia having utilized the PROMISE Scholarship as indicated in Section 11.1 of this rule.

§133-7-16. Accounting, Reporting, and Auditing Requirements.

16.1. Before the end of each fiscal year, each institution's financial aid office must reconcile its PROMISE Scholarship records with:

16.1.a. The Commission's records of PROMISE Scholarship awards and disbursements; and

16.1.b. The institution's business office records of PROMISE Scholarship disbursements.

16.2. All participating institutions may be subject to financial aid audits.

TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 42
WEST VIRGINIA HIGHER EDUCATION GRANT PROGRAM

§133-42-1. General.

1.1. Scope: This rule establishes guidelines and procedures that will direct the operation of the West Virginia higher education grant program, hereinafter referred to as the higher education grant program or grant program.

1.2. Authority: West Virginia Code §18B-1-6, §18C-5-1.

1.3. Filing Date: ~~April 14, 2009~~

1.4. Effective Date: ~~May 14, 2009~~

1.5. ~~Repeals and replaces previous Series 42 dated April 2, 2007.~~ Sunset Date. – This rule will sunset five years from the effective date.

§133-42-2. Purpose and Effect.

2.1. The intent of the legislation creating the higher education grant program is to establish a broad-scale state grant program designed to guarantee that the most able and needy students from all sectors of the state are given the opportunity to continue their programs of self-improvement in approved institutions of higher education.

2.2. The provisions of this rule that are inconsistent with or different from current administrative procedures and practices will take effect for higher education grant awards ~~for the 2009-2010 academic year~~ upon the effective date of this rule.

§133-42-3. Definitions.

3.1. Academic Year. A period of time in which a full-time student is expected to complete the equivalent of at least two semesters or other approved academic term.

3.2. Commission. West Virginia Higher Education Policy Commission.

3.3. Cost of Attendance. The estimated total amount it will cost a student to attend college during an academic year, including tuition and fees; housing and food for the period of enrollment; books and supplies for education; travel costs directly related to attendance; child care expenses; costs related to a disability; and other costs determined by the educational institution to be educationally related.

3.4. Council. West Virginia Council for Community and Technical College Education.

3.5. Dependent Student. A student who is required to provide parental information on the free application for federal student aid because the student does not meet the criteria to be classified an

independent student contained in the Higher Education Act of 1965 as amended and implementing regulations.

3.6. Expected Family Contribution (EFC). The amount that a family is expected to contribute toward a student's education costs under the federal need analysis. For an independent student, EFC is the same as student contribution. For a dependent student, EFC is the same as the total of student and parent contributions.

3.7. Financial Aid Package. The total amount of financial aid a student receives during an academic year.

3.8. Financial Need. The demonstrated need of an applicant for financial assistance to meet the actual costs of attending the eligible institution of choice. It is the calculated difference between a student's cost of attendance and his or her EFC.

3.9. Fiscal Year. A state fiscal year begins on July 1 and ends on June 30.

3.10. Free Application for Federal Student Aid (FAFSA). An application that students must complete in order to apply for most forms of financial aid, including the West Virginia higher education grant. The filing of a FAFSA by an individual who indicates West Virginia as his or her state of legal residence will be treated as an application for the West Virginia higher education grant.

3.11. Full-time Student. A student enrolled in a minimum of twelve undergraduate credit hours per semester or other comparable period at an institution with a non-traditional calendar.

3.12. Grant. Financial aid awarded to students that does not have to be paid back. For purposes of this rule, scholarships are included within the definition.

3.13. Higher Education Grant Program/Grant Program. Financial aid program described in ~~W. Va.~~ West Virginia Code § 18C-5-1 et al. that provides grants to needy West Virginia residents.

3.14. Independent Student. A student who is not required to provide parental information on the free application for federal student aid because the student meets the criteria to be classified an independent student contained in the Higher Education Act of 1965 as amended and implementing regulations.

3.15. Participating Institution. An institution that is eligible to participate in the West Virginia higher education grant program and for which a participation agreement is in place.

3.16. Participation Agreement. A document signed by the appropriate institution and Commission officials that specifies the rights and responsibilities of the institution and the Commission as they relate to participation in specific financial aid programs covered by that agreement.

3.17. Title IV. The section of the Higher Education Act of 1965, as amended, that pertains to federal student financial aid programs.

3.18. Undergraduate Student. A student who has not yet received a bachelor's degree and who is deemed an undergraduate student by the institution.

3.18.1.a. A student who is enrolled in a program that results in the awarding of a bachelor's and master's degree simultaneously and continues to meet the eligibility guidelines for the federal Pell grant

program shall be considered an undergraduate student if he or she is in his or her first four years of full-time post-secondary education and has not previously received a bachelor's degree.

3.18.2.b. A student who is enrolled in a doctor of pharmacy program shall be considered an undergraduate student if he or she has not previously received a bachelor's degree and is deemed an undergraduate student by the institution.

3.19. Unmet Financial Need. When the combination of a student's financial aid package and expected family contribution do not cover the cost of attendance.

3.20. Vice Chancellor for Administration. Commission employee statutorily charged with overseeing the West Virginia higher education grant program or his or her designee. Formerly known as the Senior Administrator.

§133-42-4. Administration.

4.1. The Vice Chancellor for Administration shall administer the higher education grant program under the general direction of the Chancellor for Higher Education and the Commission and in consultation with the Chancellor for Community and Technical College Education and the Council.

4.2. The Higher Education Student Financial Aid Advisory Board shall provide financial aid expertise and policy guidance to the Vice Chancellor for Administration.

4.3. The Vice Chancellor for Administration may use no more than three (3) percent of the amount appropriated each year for the higher education grant program for financial aid administration, award processing, and information dissemination.

§133-42-5. Institution Eligibility.

5.1. Students who attend the following types of institutions are eligible to receive a higher education grant:

5.1.4.a. Any public higher education institution identified in West Virginia Code §18B-1-2 and §18C-5-2; and

5.1.2.b. The following not-for-profit private higher education institutions in West Virginia: Alderson-Broadus College ~~University~~, Appalachian Bible College, Bethany College, ~~Mountain State University~~, Davis & Elkins College, Ohio Valley University, the University of Charleston, West Virginia Wesleyan College and Wheeling Jesuit University; and

5.1.3.c. Any other regionally or nationally accredited degree-granting institution of higher education in West Virginia, public or private, approved by the Vice Chancellor for Administration that has been licensed by the Commission or Council for a minimum of fifteen (15) years; under the provisions of West Virginia Code §§18B-2B-6 and 18B-2B-9; and

5.1.3.c.1. Salem International University shall be considered as an accredited institution that has been licensed by the Commission or Council for a minimum of fifteen (15) years.

5.1.4.d. Any non-West Virginia institution of higher education that is included within a reciprocal agreement with another state's grant program agency.

5.2. An institution otherwise eligible to participate in the higher education grant program under sSection 5.1 of this rule shall be excluded from participating by the Vice Chancellor for Administration if:

5.2.1.a. The institution does not have a signed participation agreement in place; or

5.2.2.b. The institution has been deemed ineligible to participate in federal student financial aid programs by the United States Department of Education; or

5.2.3.c. The Commission determines, based upon audits and/or administrative site visits by Commission staff, that the institution has seriously mismanaged higher education grant or other state financial aid funds or lacks adequate institutional controls to manage such funds properly.

5.2.3.c.1. Any institution deemed ineligible to participate in the higher education grant program may appeal the decision in writing within fifteen (15) days of receiving notification to the Vice Chancellor for Administration. The Vice Chancellor for Administration, whose decision is final, shall issue a written decision upholding or reversing the initial decision within twenty (20) days of receipt of the appeal.

§133-42-6. Student Eligibility.

6.1. To be eligible for a higher education grant award, an applicant must:

6.1.1.a. Be a citizen of the United States; and

6.1.2.b. Have been a resident of West Virginia for one year immediately preceding the date of application for a grant or renewal of a grant; and

6.1.b.1. For dependent students, the legal residence of the parent(s) on the FAFSA shall be prima facie evidence of the student's legal residence.

6.1.b.2. Students may provide documentation that is approved by the Higher Education Student Financial Aid Advisory Board to determine a student's eligibility as a resident of West Virginia.

6.1.3.c. Have earned a high school diploma or ~~general educational development (GED) diploma~~ passed a state approved high school equivalency exam; and

6.1.4.d. Plan to enroll at a participating Title IV-eligible institution as a full-time undergraduate student in a degree or certificate-producing program; and

6.1.5.e. Demonstrate academic promise (for new awards) or achievement (for renewal awards); and

6.1.6.f. Demonstrate financial need.

~~6.2. Until June 30, 2010, an applicant who attended a public or private high school outside the state is eligible for a grant, even if he or she does not meet the requirement contained in section 6.1.2, if the applicant meets all other eligibility requirements for the grant and:~~

~~6.2.1. Resided in West Virginia while attending high school in another state; and~~

~~6.2.2. Resided with his or her parent or legal guardian who was a resident of West Virginia for at least two years immediately preceding the student's attendance at the school; and~~

~~6.2.3. Commuted during the school term on a daily basis from this state to the school; and~~

~~6.2.4. Is a dependent of the parent or legal guardian upon which eligibility is based and has not established domicile outside the state; and~~

~~6.2.5. The school is fully accredited in that state to the degree acceptable to the State Superintendent of Schools and the school's curriculum requirements for graduation are equivalent to the curriculum requirements for graduation in this state, or sufficiently similar to those requirements, as determined by the State Superintendent of Schools.~~

~~6.3. Until June 30, 2010, an applicant who resided and attended high school in another state or a United States territory, United States possession or foreign country is eligible for a grant, even if he or she does not meet the requirement contained in section 6.1.2, if the applicant meets all other eligibility requirements for the grant and:~~

~~6.3.1. The applicant resided with his or her parent or legal guardian who served in the United States armed forces while the applicant attended high school in such state, territory, possession or country; and~~

~~6.3.2. The parent or legal guardian was stationed for military purposes in such state, territory, possession or country; and~~

~~6.3.3. The parent or legal guardian maintained legal residence in West Virginia while the applicant attended high school in such state, territory, possession or country.~~

6.4.2. A new higher education grant applicant may satisfy the academic promise requirement in one of the following ways:

6.3.4. ~~6.2.a.~~ An applicant who has earned college credit after high school graduation or since passing the ~~general educational development (GED) test~~ high school equivalency exam demonstrates academic promise if he or she has earned a cumulative college grade point average (GPA) of 2.0 or higher on a 4.0 scale as determined by the participating institution. The applicant must meet the institution's satisfactory academic progress standards.

6.3.5. ~~6.2.b.~~ An applicant who graduated from high school or ~~received a GED diploma~~ passed the high school equivalency exam more than five years before enrollment or who has completed active military service and has not earned college credits after high school graduation or ~~receipt of the GED diploma~~ the high school equivalent before the date of enrollment demonstrates academic promise if he or she meets the admission requirements of the participating institution.

6.3.6. ~~6.2.c.~~ An applicant who has earned a ~~GED diploma~~ the high school equivalent within the last five years prior to enrollment and has not earned college credits after ~~receipt of the GED diploma~~ passing the high school equivalent exam demonstrates academic promise if his or her score ~~on the GED test was at least 2250~~ meets the minimum score approved by the Higher Education Student Financial Aid Advisory Board.

6.3.7. ~~6.2.d.~~ An applicant who does not fall within the categories described in ~~sSections 6.4.1, 6.4.2, or 6.4.3~~ 6.2.a., 6.2.b., or 6.2.c., demonstrates academic promise if he or she meets the admission requirements for a degree or certificate program of the participating institution and has a cumulative high school GPA of 2.0 or higher.

~~6.5.~~ 6.3. A renewal higher education grant applicant satisfies the academic achievement requirement if the student has maintained a minimum overall grade point average of 2.0, is meeting institution's academic progress requirement, and

~~6.5.1.~~ 6.3.a. If the student received a two-semester award, the student must have earned ~~twenty-four or more hours of academic credit in advance of a future award (excluding summer school for immediate prior year recipients)~~ at least the minimum number of credit hours within the academic year as defined by the Higher Education Student Financial Aid Advisory Board for renewal; or

~~6.5.2.~~ 6.3.b. If the student received a single-semester award, the student must have earned ~~twelve or more hours of academic credit in advance of a future award (excluding summer school for immediate prior year recipients)~~ at least the minimum number of credit hours within the academic year as defined by the Higher Education Student Financial Aid Advisory Board.

Institutions shall be responsible for determining whether renewal students have satisfied academic achievement requirements.

~~6.6.~~ 6.4. An applicant demonstrates financial need if:

~~6.6.1.~~ 6.4.a. He or she has a completed FAFSA on file with the United States Department of Education by a date to be determined by the Vice Chancellor for Administration in consultation with the Commission and Council; and

~~6.6.2.~~ 6.4.b. His or her cost of attendance is greater than the total of his or her EFC, as calculated from the FAFSA, and other financial aid; and

~~6.6.3.~~ 6.4.c. His or her expected family contribution does not exceed an amount set by the Commission and Council; and

6.4.d. He or she has completed verification if selected by the Central Processing System (CPS) or the institution.

~~6.7.~~ 6.5. A student is not eligible to receive a higher education grant award if he or she:

~~6.7.1.~~ 6.5.a. Previously has earned a bachelor's degree; or

~~6.7.2.~~ 6.5.b. Previously has received eight semesters of higher education grant awards; or

~~6.7.3.~~ 6.5.c. Is not deemed to be an undergraduate student by the institution; or

~~6.7.4.~~ 6.5.d. Owes the institution or the Commission for a higher education grant or other state financial aid overpayment unless the student has a written reimbursement plan in place.

~~6.8.~~ 6.6. Higher education grant awards shall be made without regard to the applicant's race, color, gender, religion, national origin, veteran's status, age or disability.

§133-42-7. Awards.

7.1. Maximum Award.

~~7.1.1.~~ 7.1.a. No higher education grant award may exceed the amount of tuition and required fees at the institution.

~~7.1.1.1.~~ 7.1.a.1. For purposes of this rule, West Virginia University's undergraduate health sciences students shall be treated as paying the same amount of tuition and required fees as all other West Virginia University undergraduate students.

~~7.1.2.~~ 7.1.b. For a student attending an institution identified in ~~§~~Section 5.1.4d. of this rule, no higher education grant award may exceed the maximum grant award provided for in the reciprocity agreement.

7.2. Award Cycles.

~~7.2.1.~~ 7.2.a. The initial award cycle will occur preferably in April preceding the beginning of each academic year.

~~7.2.2.~~ 7.2.b. Additional award cycles may be made throughout the year as funds become available.

~~7.2.3.~~ 7.3.c. Any award cycle made after November 1 will be for second semester awards only.

7.3. Award Selection.

~~7.3.1.~~ 7.3.a. The Commission and the Council shall establish criteria to be used in award selection each year based on the amount of funding expected to be available to use for awards. In determining to whom to award and the size of awards, the Commission, Council and Vice Chancellor for Administration may consider applicants' relative levels of financial need, application filing dates, relative differences in tuition rates across institutions, and/or state policy priorities.

7.4. Award Use.

~~7.4.1.~~ 7.4.a. A student may use a higher education grant award to cover any part of his or her cost of attendance at an eligible higher education institution.

§133-42-8. Coordination of Higher Education Grant Program and Other Aid Programs.

8.1. All students seeking assistance through the higher education grant program must apply for assistance through the federal Pell grant program.

8.2. In no instance may a combination of the higher education grant and any other grants, including tuition and fee waivers, exceed demonstrated financial need as determined by the institution.

8.3. Funding Priorities.

~~8.3.1.~~ 8.3.a. To the extent permissible under federal law, grant resources available through federal student financial aid programs shall be utilized before a higher education grant award.

~~8.3.2.~~ 8.3.b. Grant resources available through other state student financial aid programs shall be utilized before a higher education grant award.

8.4. Students may not receive funding from both the higher education grant program and any component of the higher education adult part-time student (HEAPS) grant program during the same payment period.

§133-42-9. Post-Award Changes.

9.1. If a higher education grant recipient transfers from one participating institution to another participating institution, the grant is transferable with the approval of the Vice Chancellor for Administration or his or her designee.

9.2. If a higher education grant recipient's EFC increases after an award has been made, the award shall be withdrawn if the new EFC exceeds the maximum EFC set by the Commission and Council in any given year.

9.3. If a higher education grant recipient terminates enrollment during the fall semester, the scheduled spring award will be reserved for the student by the grant program staff unless notified otherwise by the institution.

9.4. If a higher education grant recipient terminates enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the Commission by the institution in accordance with the Commission's rule for issuing refunds pursuant to the provisions of W.Va. Code § 18C-5-1 et seq. If the recipient also received federal financial aid, the institution must abide by the refund policy associated with Title IV funds. The institution is responsible for returning the unused portion of the grant even if the student does not request a refund from the institution.

§133-42-10. Payments.

10.1. Payment of higher education grant awards shall be made directly to the institution.

10.2. An institution may not receive a payment unless the institution has completed the previous year's reconciliation process and returned any prior-year balance payable to the Commission.

§133-42-11. Waivers.

11.1. A recipient may request a waiver of academic progression if the recipient withdrew from all courses during the semester as a result of:

~~11.1.1.~~ 11.1.a. Serious illness or major injury involving the student or an immediate family member; or

~~11.1.2.~~ 11.1.b. Death of an immediate family member; or

~~11.1.3.~~ 11.1.c. Other comparable extenuating circumstance.

11.2. All waiver requests must be submitted to the Director of State Financial Aid Programs for approval.

§133-42-12. Appeals.

12.1. An applicant or institution may appeal in writing the decline of an initial award or renewal award or any other decision within fifteen (15) days of receiving notification to the Director of State Financial Aid Programs. The Director may consult with the appeals committee comprised of financial aid staff, and the Director shall issue a written decision upholding or reversing the initial decision within fifteen (15) days of receipt of the appeal.

12.2. The applicant may appeal the director's decision to a review committee appointed by the Commission.

~~12.3. An applicant or institution may further appeal in writing the decision of the Director of State Financial Aid Programs within fifteen (15) days of receipt of notification of the decision to the Vice Chancellor for Administration. Any appeal to the review committee must be filed within fifteen (15) days of notification to the applicant that his or her initial appeal was denied. The review committee may require additional evidence or materials be submitted. The Vice Chancellor for Administration review committee shall issue a written decision upholding or reversing the Director's decision within twenty (20) days of receipt of the appeal. The decision of the review committee is final.~~

12.4. Any applicant appeal of a decision concerning satisfactory academic progress that relates to credit hour completion shall be referred to the institution for resolution consistent with institution procedures established for this purpose.

12.5. Any appeal made should set forth in detail the grounds for the appeal. The decision rendered at each level shall address in writing each ground raised.

§133-42-13. Accounting, Reporting, and Auditing Requirements.

13.1. Before the end of each fiscal year, each institution's financial aid office must reconcile its higher education grant records with:

~~13.1.1.~~ 13.1.a. The Commission's records of higher education grant awards and disbursements; and

~~13.1.2.~~ 13.1.b. The institution's business office records of state grant disbursements.

13.2. All participating institutions may be required to provide reports, which may include student level data, to the Commission from time to time, including the United States Department of Education's Fiscal Operations Report and Application to Participate (FISAP) and the West Virginia Higher Education Policy Commission's Annual Student Financial Aid Survey Report.

13.3. Participating institutions under ~~s~~Sections 5.1.2b, 5.1.3c, and 5.1.4d of this rule shall provide the Vice Chancellor for Administration with an audited financial statement annually. These statements shall be treated as confidential trade secrets and shall not be subject to Freedom of Information Act requests.

13.4. All participating institutions may be subject to financial aid audits.

§133-42-14. Authority of Vice Chancellor for Administration to Enter into Reciprocal Agreements with Other States Concerning Grants.

14.1. The Vice Chancellor for Administration may enter into reciprocal agreements with state grant and grant program agencies in other states that provide financial assistance to their residents attending institutions of higher education located in West Virginia.

14.2. The Vice Chancellor for Administration may permit West Virginia residents to use the higher education grant under ~~s~~Section 14.1 of this rule to attend institutions of higher education in such other states.

14.3. Residents of West Virginia requesting financial assistance to attend institutions of higher education located in any such states must meet all of the eligibility standards set forth in ~~s~~Section 6 of this rule.

TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 48
RESEARCH TRUST FUND PROGRAM

§133-48-1. General.

1.1. Scope. This rule establishes guidelines, procedures and documentation standards for the distribution of funds, as legislatively provided, in the West Virginia Research Trust Fund.

1.2. Authority. West Virginia Code §18B-18A-1 *et seq.*

1.3. Filing Date. ~~April 16, 2009~~

1.4. Effective Date. ~~May 18, 2009~~

1.5. ~~Purpose—The purpose of the rule is to establish policies and procedures for the operation of the West Virginia Research Trust Fund.~~ Sunset Date. This rule will sunset five years from the effective date.

§133-48-2. Definitions.

2.1. Commission. West Virginia Higher Education Policy Commission.

2.2. Chancellor. Individual employed as Chancellor for Higher Education pursuant to W.Va. Code § 18B-1B-5.

2.3. Competitive Award. Any grant or fund transfer provided through a process that is initiated by an open request for proposals, includes a merit review, and results in a selected number of grants being provided to support proposed activities.

2.4. Designation. A specification made by either the donor or the institution that sets forth the exact use or specific endowment placement for a gift.

2.5. Directed Research Endowment or Research Endowment. An account established at or administered by a participating institution or its affiliated research corporation or foundation for purposes of funding qualified activities under this program.

2.6. Directed Research Endowment Plan or Research Plan. The strategies and procedures formally approved and adopted by a governing board of a participating institution outlining how the institution proposes to use directed research endowment proceeds to meet research goals and objectives.

2.7. Directed Research Endowment Proceeds or Endowment Proceeds. Investment earnings accruing to a participating institution's directed research endowment and available for expenditure by the participating institution or its affiliated research corporation.

2.8. Foundation. A corporation created, organized and located in West Virginia that meets the following conditions:

2.8.1a. Is organized and operated for educational purposes in support of one or more state institutions of higher education and other affiliated organizations;

2.8.2b. Is designated by the governing board of one or more state institutions of higher education to receive charitable contributions for educational purposes on behalf of the institution or institutions;

2.8.3c. Does not have any part of its earnings inuring to the benefit of any private shareholder or individual;

2.8.4d. Is not disqualified from tax exemption under 26 U.S.C. § 501(c)(3) for any reason; and,

2.8.5e. Does not participate or intervene in, on behalf of or in opposition to any political campaigns for public office.

2.9. Fiscal Year. The state fiscal budget year which begins on July 1 and ends on June 30.

2.10. Participating Institution. Marshall University, ~~or~~ West Virginia University, or West Virginia State University.

2.11. Qualified Private Donation or Qualified Donation. Any private donation, gift, or external bequest provided to a directed research endowment on or after March 8, 2008.

2.12. Qualified Private Donation Pledge or Qualified Pledge. Any pledge, commitment, or other agreement to give a private donation to a directed research endowment that is made pursuant to a written agreement between the donor and the appropriate institution or its affiliated research corporation or foundation on or after March 8, 2008.

2.13. Research Corporation. An organization created pursuant to the provisions of W.Va. Code § 18B-12-1 *et seq.*

2.14. State College. The West Virginia School of Osteopathic Medicine, Bluefield State College, Concord University, Fairmont State University, Glenville State College, Shepherd University, or West Liberty State College University for the purposes of this rule.

2.15. State Match or Match Funds. Any and all funds awarded from the trust fund in response to a private qualified donation.

2.16. STEM Fields. All science, technology, engineering and mathematics disciplines as defined by the Commission master plan.

2.17. Trust Fund. The special account designated as the West Virginia Research Trust Fund and administered by the Commission.

2.18. Vice Chancellor for Science and Research or Vice Chancellor. The Commission's chief scientific employee charged with overseeing the trust fund, compliance with these rules, record keeping, and authorization of disbursement of funds under the general direction of the Chancellor.

§133-48-3. Administration.

3.1. The Vice Chancellor administers the program under the general direction of the Chancellor and the Commission and in consultation with the Advisory Council.

§133-48-4. Eligibility Criteria.

4.1. During the first five years of the trust fund's existence (or five years after more funds are deposited) and in compliance with this rule, the Commission shall disburse up to ~~seventy~~ sixty-five (65) percent of moneys in this account to match qualified donations and pledges received by West Virginia University, ~~and~~ thirty (30) percent of moneys to match qualified donations and pledges received by Marshall University and five (5) percent of moneys to match qualified donations and pledges received by West Virginia State University.

4.2. State colleges are eligible to receive awards through a competitive process established by the Commission. Only those funds derived from investment earnings accruing in the Research Trust Fund or those that remain unmatched by the participating institutions by ~~March 8, 2013~~ July 1, 2015 are available to state colleges pursuant to section 12 of this rule.

4.3. Scientific disciplines. Only those scientific disciplines or combinations of interdisciplinary research activities in the list below are eligible for trust fund matches.

4.3.1a. Energy and environmental sciences;

4.3.2b. Nanotechnology and materials sciences;

4.3.3c. Biological, biotechnical and biomedical sciences;

4.3.4d. Transportation technology and logistics;

4.3.5e. Biometrics, security, sensing, and related identification technologies; and

4.3.6f. Gerontology.

4.4. Any external gift meeting the standards established by this rule and included in the institution's approved research plan is eligible for equal matching amounts from the trust fund.

§133-48-5. Institutional Research Plans.

5.1. Prior to disbursement of any trust fund moneys to a participating institution, the governing board of that participating institution shall submit to the Commission a directed research endowment plan. The plan shall provide the Commission with an explanation of the institution's comprehensive research objectives and plans to build competitive research infrastructure in the specified scientific disciplines as well as comprehensive measures for achieving this goal.

5.2. The Commission encourages the participating institutions to consider the value of clustering research programs around academic disciplines and encourages the creation of a critical mass of scholarly researchers who can address state and national needs.

5.3. The Commission encourages collaboration and cooperation among universities, centers, corporations and federal laboratories that increase opportunities for partnerships in discovery, learning and knowledge creation.

5.4. The Commission encourages institutions to plan for endowments that recognize interdisciplinary problem solving and teams of scientists across departmental, college and institutional lines.

5.5. The research plan will include, but is not limited to, the following:

5.5.4a. An assessment of the participating institution's current research initiatives in STEM fields, including any initiatives falling within disciplines or areas of research specified by this rule;

5.5.2b. An assessment of the potential outcomes of specific research lines proposed for enhancement by the institution;

5.5.3c. A narrative describing the current or proposed collaborations, particularly with other institutional partners, that play or will play a significant collaborative role in achieving institutional objectives;

5.5.4d. A narrative describing the centers, institutes or other academic units proposed, currently under development, or currently operating, that play or will play a significant role in achieving institutional research objectives;

5.5.5e. An analysis of possible strategies to enhance current research initiatives;

5.5.6f. An outline of the participating institution's proposed uses of endowment proceeds, including the anticipated costs associated with each proposed use and identification of any specific disciplinary hires;

5.5.7g. A narrative describing major research equipment acquisitions currently under consideration that will contribute substantially to the plan;

5.5.8h. A cost analysis for achieving research goals with a comparison to the expected endowment proceeds available to the institution;

5.5.9i. An evaluation of how the research plan furthers the purposes of:

5.5.9.i.1. The trust fund's goals;

5.5.9.i.2. The state's strategic plan for science and technology; and

5.5.9.i.3. The research needs of the institution.

5.5.40j. Identification of the proposed uses for which alternative funding sources may be sought to enhance the comprehensive research initiatives contemplated by the participating institution. Alternative funding sources exclude qualified donations, matching moneys from the trust fund, and the endowment proceeds generated from the trust fund; and

5.5.44k. How the amount allocated for distribution to the participating institution will be directed within institutional goals.

5.6. The governing board of each participating institution shall submit its approved research plan to the Vice Chancellor prior to submitting its first request for a distribution of matching moneys from the trust fund.

5.7. The Vice Chancellor shall conduct a thorough review of the plan for compliance with the provisions of §18B-18A-1 *et seq.* and this rule.

5.8. The approved plan serves as the overarching document for guiding future endowment activities, research investments and reports.

§133-48-6. Expenditure Compliance Procedures.

6.1. Uses of Program Funds. When trust funds are transferred to institutions for deposit into specific endowments in approved scientific disciplines, the participating institutions may use up to one hundred (100) percent of the annual investment earnings from the endowments to pay the base salaries of newly endowed department chairs, new professorship positions, new research scientists and staff positions, including research technicians and support personnel, and to fund graduate or undergraduate student research fellowships, research infrastructure, and mission support as described below.

6.1.4a. Chairs. New faculty positions, salary supplements to existing faculty positions, and associated expenses for those positions, including start-up costs, salaries, benefits, travel, and other professional expenses as permitted by university policy.

6.1.2b. Professorships. New faculty positions, salary supplements to existing faculty positions, and associated expenses for those positions, including start-up costs, salaries, benefits, travel, and other professional expenses as permitted by university policy.

6.1.3c. Research Scholars. Salaries, benefits, and other personnel-related expenses associated with non-tenured or recently tenured faculty who exhibit the potential to assume chair or professorship positions after tenure has been awarded and/or superior scholarly work has been achieved. Research scholars shall have clearly defined research agendas that relate specifically to the fields of study envisioned for the ultimate occupants of the chairs or professorships.

6.1.4d. Research Scientists. Salaries, benefits and other personnel related expenses associated with non-tenured scientists who exhibit high scientific achievement in the sanctioned areas of research.

6.1.5e. Research Staff. Salaries, benefits, and other personnel-related expenses associated with full-time or part-time staff assistants who are directly linked to the research activities of an endowed chair, professor, scholar or scientist as defined above.

6.1.6f. Graduate Fellowships. Stipends for outstanding graduate students, which may include travel and other expenses as permitted by university policy.

6.1.7g. Undergraduate Fellowships. Funds may be used to support scholarships for outstanding undergraduate students who are directly linked to activities of an endowed chair or professor. These may include travel and other expenses as permitted by university policy.

6.1.8h. Research Infrastructure. Start-up and operating expenses that are directly linked to the research activities of an endowed chair, professor, research scholar or research scientist, including equipment, materials and supplies, and other research-related expenses as permitted by university policy.

6.1.9i. Mission Support. Program funds may be used to support research and graduate missions at participating institutions. Consideration shall be given to expenditures for mission support activities such as: (1) expenditures that enhance the research capability of university libraries (i.e., scientific books, journals, research materials, media, and equipment); (2) start-up costs, equipment, and supplies that support faculty, graduate student, or undergraduate student research activities; (3) funding for visiting scholars, lecture series, and faculty exchanges; and (4) expenditures for the dissemination of research

findings (i.e., nationally prominent publications and presentations at conferences, symposia, seminars, or workshops). However, priority shall be given to mission support expenditures that encourage the research-related activities of faculty and students. Expenditures for general personnel expenses that are not directly linked to an endowed chair, professor, research scholar, or research scientist do not qualify as mission support activities.

6.2. Any combination of these activities may be proposed for inclusion in the institutional research plan required under section 5 and are eligible for designated endowments as funds are secured.

§133-48-7. Criteria for Qualified Donations and Pledges.

7.1. Matching Requirements. The trust fund is conceived as a way to bring new money from external sources into the State's system of postsecondary education. In order to receive state funds, participating institutions shall provide dollar-for-dollar matching funds that satisfy the following requirements:

7.1.4a. Donations and pledges shall be newly generated to be eligible for state match. Newly-generated contributions are those pledged and received by the participating institution on or after March 8, 2008.

7.1.2b. Donations and pledges shall be from external sources to be eligible for state match. External source contributions are those that originate outside the participating institution and its affiliated foundation or research corporation. Eligible sources of external funding include, but are not limited to, businesses, non-governmental foundations, corporations and alumni or other individuals. Funds received from federal, state and local government sources are not eligible for state match.

7.1.3c. State appropriations and allocations (e.g., West Virginia Research Challenge Fund) and student-derived revenues (e.g., tuition and fees revenue) are not eligible for state match.

7.1.4d. An undirected qualified donation may be directed by the institution toward an endowment under this rule; however, current institutional foundation funds are not eligible for state match.

7.1.5e. The minimum institutional request is \$50,000. A participating institution may combine smaller donations to meet the \$50,000 minimum.

7.1.6f. All funds, both state and private, shall be permanently endowed. "Endowed" means that only the investment earnings, and not the principal, are eligible for expenditure.

7.1.7g. Requests for state matching funds shall identify the donor funds received in cash and those that are pledges.

7.1.8h. Pledges, or promises of future payment, are eligible for state match provided they are based on a written contract or agreement and include a payment schedule that does not exceed the reallocation date of ~~March 8, 2013~~ July 1, 2015. Pledge payment schedules showing receipts to date and scheduled future payments shall be included in the audited financial statements of the institution, research corporation and/or the foundation and included in the annual report specified in section 14 of this rule.

7.1.9i. Participating institutions shall notify the Vice Chancellor in writing immediately when a gift has been revoked, when a pledge payment is more than 12 months past due, or if there are unpaid pledges remaining six months before the reallocation date of ~~March 8, 2013~~ July 1, 2015.

7.1.40j. If pledged funds are not received by the due date, the participating institution shall replace the portion of private funds not received with another eligible cash gift. If pledged funds are not received by the reallocation date, the unmatched portion of the state funds, plus an allowance for accrued interest, shall revert to the trust fund for reallocation. In such cases, the time frame for the replacement or return of state funds shall be determined by the Vice Chancellor in negotiation with institutional representatives, but may not be longer than six months.

§133-48-8. Distribution from the Trust Fund; Documentation Required.

8.1. A participating institution seeking a distribution of state matching funds from the trust fund first shall obtain qualified donations and/or qualified pledges meeting the conditions in section 7 in an amount equal to the amount of matching moneys requested for distribution and shall submit a request to the Commission setting forth the following:

8.1.4a. The amount of qualified donations and/or qualified pledges used to request matching moneys from the trust fund and the total amount of any previous distributions of matching moneys from the trust fund;

8.1.2b. The amount requested for distribution to the participating institution;

8.1.3c. A designation of the applicable research endowment(s) into which the requested matching moneys are to be deposited, e.g., “The Joe and Sally Smith Endowed Chair in Chemistry;” and

8.1.4d. An explanation of how the proposed use of the endowment proceeds furthers the purposes of the trust fund and addresses the research needs of the participating institution as identified in the research plan, including any additional strategic objectives or outcomes that have been established for the specific endowed research activity.

8.2. In conjunction with the written request, the institution shall submit documentation for the external qualified gifts and/or pledges including:

8.2.4a. A cover letter that transmits the documentation, any particulars, and information required by this Section;

8.2.2b. A pledge letter specifying the designation, amount and payment schedule signed by the donor for qualified pledges;

8.2.3c. A deposit ticket or gift receipt and any designation identified by the donor for qualified donations;

8.2.4d. A designation made in writing by the institution and submitted with the request if a qualified gift is undesignated by the donor;

8.2.5e. An invoice for the amount requested from the trust fund, specifying the endowment into which the state match is to be deposited;

8.2.6f. Designation of a technical manager or responsible institutional contact such as a dean, academic officer, or research director, who shall oversee the implementation or supervision of the activity, program or individual sponsored by the endowed funds. Complete contact information shall be provided; and

8.2.7g. Designation of a financial manager or compliance officer who shall be responsible for all associated financial statements or reports relating to the endowed funds or expenditures of proceeds. Complete contact information shall be provided.

8.3. The participating institution shall cause the state matching funds to be transferred to its affiliated foundation.

8.3.4a. State matching funds are to be invested in the same manner as institutional endowment funds relative to availability under section 11.1 of this rule.

§133-48-9. Commission Review.

9.1. The Vice Chancellor shall conduct a review of each request for distribution of matching money from the trust fund for compliance with the provisions of both §18B-18A-1 *et seq.* and this rule and may request additional information if necessary.

9.2. The Vice Chancellor shall use the institution's approved research plan to determine if requests for distributions from the trust fund are valid and shall consider any additional information or details that expand upon the specific area of research, including research plans, strategies, objectives and projected outcomes as provided under sections ~~8.1.4~~ 8.1.d. or 9.1. of this rule.

9.3. If all criteria are met, the Vice Chancellor shall approve the match.

9.4. If all the criteria are not met, the Vice Chancellor shall issue a letter to the institution detailing the reason(s) the match could not be approved.

9.5. When the match is approved, the Vice Chancellor shall submit the invoice to the State Auditor for payment.

§133-48-10. Appeals.

10.1. A participating institution may appeal a decision related to administration of trust funds under the terms of this rule to the Vice Chancellor in writing within ten (10) days of receiving notification. The Vice Chancellor shall issue a written decision upholding or reversing the initial decision within twenty (20) days of receipt of the appeal. Decisions that may be appealed include, but are not limited to, disapproval of a request for distribution of matching money from the trust fund.

10.2. A participating institution may further appeal to the Chancellor in writing the decision of the Vice Chancellor within ten (10) days of receipt of notification of the decision. The Chancellor shall issue a written decision upholding or reversing the decision of the Vice Chancellor within twenty (20) days of receipt of the appeal.

10.3. Any appeal made shall set forth in detail the grounds for the appeal. The decision rendered at each level shall address in writing each of the grounds raised.

§133-48-11. Availability Limits and Reallocation of Trust Funds.

11.1. Availability. Participating institutions shall provide documentation for and request transfers of state matching funds up to the limits provided in these rules on or before ~~March 8, 2013~~ July 1, 2015. All trust fund dollars provided by the West Virginia Legislature in the original corpus which are being matched by outstanding pledges shall remain available for withdrawal until that date.

11.2. Reallocation. If one of the participating institutions fails to have deposited into its research endowments the requisite amount of qualified donations and/or fails to have made subsequent requests for matching trust fund distributions by the end of this five-year period, then any funds allocated to the participating institution that have not been distributed shall be reallocated for distribution to the other participating institutions.

11.2.1a. To be eligible to receive a distribution of reallocated moneys, the other participating institutions shall have excess qualified donations deposited in its research endowment(s) in an amount equal to or greater than the amount requested for distribution from available reallocated moneys.

11.2.2b. If the other participating institutions does not have excess qualified donations on deposit, the available moneys in the trust fund shall be reallocated for distribution by the Commission to state colleges in accordance with the provisions for those institutions established in section 12 of this rule.

11.3. Within 90 days after the reallocation date, the Vice Chancellor shall complete a final assessment of the status of the trust fund and determine if there are funds available for reallocation to the other participating institution and/or the state colleges.

§133-48-12. Procedures for State Colleges.

12.1. Until such time as the trust fund is fully distributed, interest earnings shall be deposited as accrued. The Commission shall use a portion of those moneys derived from investment earnings accruing to the trust fund, as well as moneys that are not matched and distributed to participating institutions prior to ~~March 8, 2013~~ July 1, 2015, for distribution to state colleges.

12.2. As funds are realized, the Vice Chancellor shall issue competitive notices or requests for proposals to the state colleges. A merit-review of the scientific potential of the proposed research activity shall be conducted by peer scientists under the general direction of the Vice Chancellor.

12.3. Solicitations for science, technology, engineering and/or mathematics (STEM) projects at state colleges shall:

12.3.1a. Establish a level of funds currently available for distribution;

12.3.2b. Identify the number of anticipated awards based on the availability of funds, establishing equal amounts available for each institution;

12.3.3c. Identify specific research targets or thematic areas for proposals;

12.3.4d. Provide specific application procedures and deadlines for application;

12.3.5e. Specify matching requirements, including documentation of gift deposits;

12.3.6f. Specify a reasonable deadline for obtaining qualified donations; and

12.3.7g. Provide latitude for lesser amounts of support if only smaller qualified donations are obtained by the institution.

12.4. To qualify for a distribution of state matching moneys, a state college shall meet the following conditions:

12.4.1a. Obtain qualified donations of private gifts in an amount equal to or greater than the amount of state match funds requested from the proceeds identified as available for distribution from the trust fund.

12.4.2b. Deposit the qualified donations and any state match distributed from the trust fund when an award is provided into the accounts of the institution or its affiliated research corporation or foundation.

12.4.3c. If an institution collects only a portion of the matching funds needed, then the unmatched portion of the award shall revert to the trust fund for reallocation during the next competition.

12.4.4d. Qualified donations and state matching moneys may be expended only for a proposed research-oriented initiative developed in response to requests for proposals and approved by the Commission.

12.5. Eligible research areas include all scientific disciplines or interdisciplinary STEM fields available at state colleges or in collaboration with the participating institutions.

12.6. All proposals shall be institutional infrastructure-building in nature, not individual researcher projects. Each institution shall seek to create “areas of distinction” or “centers of excellence” or strengthen one or two areas of talent and expertise for capacity building in STEM fields that are unique strengths. However, partnerships, consortia and research alliances with other institutions with common or complementary interests are encouraged.

12.7. State colleges may elect, at their discretion, to place all or some portion of the qualified donation and/or state match into a designated endowment. Otherwise, all funds are available for immediate expenditure for STEM projects proposed as a result of the requests for proposals.

12.8. The Commission may provide periodic award cycles throughout the life of the trust fund at such times as sufficient interest or other funds are accrued and available for distribution.

§133-48-13. Coordination with Other Research Programs.

13.1. The Commission shall coordinate awards from the trust fund with other sponsored research programs managed by its Division of Science and Research. The comprehensive resources and awards made under the West Virginia Research Challenge Fund and Eminent Scholars Recruitment and Enhancement programs shall be monitored for continuity in achieving the objectives of the state’s strategic plan for science and technology.

13.2. The Commission shall not award state funds to any endowment or state college program that materially duplicates support provided under a complementary state program.

13.3. The Commission encourages leveraging state funds to obtain qualified private donations and other broader external sources of funding to support the state college’s approved research plan.

§133-48-14. Reporting Requirements.

14.1. By August 15, 2009, and annually thereafter, each participating institution shall provide an annual report to the Commission that includes a full accounting of the trust funds, endowment proceeds, and adherence to the objectives established by the research plan.

14.2. Each participating institution shall detail in its annual report to the Commission the total amount of qualified donations received, the investment earnings realized and any anticipated expenditures of the research endowment proceeds in its annual operating budget.

14.3. By October 1, 2013, after the five-year implementation of the trust fund program is complete, the participating institutions shall provide a comprehensive report to the Commission on the impact of the trust fund on research competitiveness, institutional growth and infrastructure development. Strategic goals realized and those yet to be realized shall be articulated clearly in the report. A full accounting of all trust funds, proceeds, outcomes, and designated endowments shall be included in the comprehensive report.

14.4 Each participating institution's research corporation and/or foundation shall provide the Commission with an audited financial statement annually. These statements shall be treated as confidential.

14.5. Awards to state colleges shall contain a reporting requirement on the specific outcomes of the award and establish a timeframe for submission.

14.6. Institutions expending any proceeds from the trust fund, donations and gifts, or the research endowments contrary to the provisions of this rule, or Commission approval or direction shall be responsible for reimbursing the appropriate institutional or Commission account the amount of funds improperly expended, plus statutory interest.

**TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

**SERIES 52
ANNUAL REAUTHORIZATION OF DEGREE-GRANTING INSTITUTIONS**

§133-52-1. General.

1.1. Scope. --This rule establishes the policy regarding annual reauthorization of degree-granting institutions which offer degrees above the associate level.

1.2. Authority. --West Virginia Code §18B-4-7.

1.3. Filing Date. -- ~~May 2, 2013.~~

1.4. Effective Date. -- ~~May 2, 2013.~~

1.5 Sunset Date. --This rule will sunset five years from the effective date.

§133-52-2. Purpose.

2.1. The West Virginia Higher Education Policy Commission (Commission), through a process of granting authorization and annual reauthorization of baccalaureate and graduate level higher education institutions operating in West Virginia, has the responsibility of protecting consumers and ensuring students are offered quality education by postsecondary providers to West Virginia residents. An institution authorized by the Commission shall be required to operate in accordance with fair consumer practices to ensure that students can make appropriate decisions concerning their investment of time and money.

2.2. Fair consumer practices means honesty, fairness, and disclosure to students in the areas of recruitment, admission, contractual agreements, student financial assistance, obligations to repay student loans, placement assistance and job placement rates, advertising, refund policies, the meaning and recognition of different types of accreditation, the transferability of the institution's credits to other postsecondary institutions, the offering of quality instructional programs, and other appropriate performance measures.

2.3. The Commission is responsible for the authorization of any institution, association or organization external to or within the state which desires to offer programs or credit-bearing academic courses of higher learning in West Virginia. Authorization is required for all postsecondary providers including: non-profit private institutions, proprietary institutions, out-of-state public institutions, degree-granting entities that offer degrees at the baccalaureate level or above, and entities that use the term "academy," "college," "institution," "university" or similar title, hereafter referred to as "institution."

2.4. The Commission is responsible for the annual reauthorization of any private, proprietary, or out-of-state postsecondary institution that has physical presence in West Virginia and offers degree programs above the associate level except for those institutions exempted by the Commission under Section 4 of this rule. The process of conferring reauthorization by the Commission includes the monitoring of standards for degrees awarded, the collection and dissemination of pertinent institutional data, the conduct of certain reviews and audits, and the imposition of certain sanctions including revocation of degree-granting authority.

2.5. Existing institutions of higher education authorized to operate in West Virginia prior to the

effective date of this rule are subject to the reauthorization provisions of this rule and shall report annually to the Commission on all items related to reauthorization prescribed in this rule.

2.6. While the provisions of this rule apply directly to the annual reauthorization of any private institution in West Virginia which offers degrees above the associate level, the criteria for annual reauthorization also apply to public higher education institutions that offer degrees above the associate level in the state, and are under the purview of the Commission with the exception of Marshall University and West Virginia University.

2.7. While exempt from annual reauthorization, Marshall University and West Virginia University shall provide information delineated in Section 5.4 to the Commission by November 1 of each year.

2.8. The Commission shall make available information on institutional performance of all public institutions located in West Virginia, including Marshall University and West Virginia University, on the Commission's website and through other appropriate venues.

~~2.9. Institutions that are exempt from the provisions of Series 20, *Initial Authorization of Degree-Granting Institutions*, for initial state authorization shall be exempt from the provisions of this rule.~~

§133-52-3. Definitions.

3.1. "Accreditation" means a status attained by the institution through voluntarily meeting standards set by a nongovernmental entity recognized by the U.S. Secretary of Education.

3.2. "Authorization" means the status attained by the institution that allows the institution to offer programs and courses within the State of West Virginia. This status is granted by the Higher Education Policy Commission when the institution demonstrates compliance with the requirements for such status.

3.3. "Commission" means the West Virginia Higher Education Policy Commission.

3.4. "Council" means the West Virginia Council for Community and Technical College Education.

3.5. "Degree" means any earned award conferred by a higher education institution which represents satisfactory completion of the requirements of a program, or course of study, or any instruction beyond or apart from the secondary level of greater duration than eleven months of full-time study.

3.6. "Distance education" means the delivery of any course or degree programs by synchronous or asynchronous technology. Asynchronous or synchronous technology via distance delivery includes all forms of internet, electronic, digital, online, video, and any other technology driven delivery system.

3.7. "Institution" means any person, firm, corporation, association, agency, institute, trust or other entity of any nature whatsoever offering education beyond the secondary level which:

3.7.a. offers courses or programs of study or instruction which lead to or which may reasonably be understood to be applicable toward a baccalaureate, masters, doctorate, or other specialized certification/degree designation above the baccalaureate level; or

3.7.b. operates a facility as a college or university or other entity in the State of West Virginia which offers degrees or other indicia of a level of educational attainment beyond the secondary school level; or

3.7.c. uses the term "college" or "university," or words of like meaning, in its name or in any manner in connection with its academic affairs or business.

3.8. “Physical presence” means an actual presence in the state, online or on-site, for the purpose of conducting activity related to: a postsecondary educational institution; educational services; dissemination of educational credentials; enrollment, solicitation or advertising. Physical presence as further outlined for purposes of authorization shall include but not be limited to:

3.8.a. An instructional site within the state.

3.8.b. Dissemination of an educational credential from a location within the state.

3.8.c. An agent, whether compensated or not, who is utilized for the purpose of administering, coordinating, teaching, training, tutoring, counseling, advising, recruiting, or any other activity on behalf of the sponsoring institution.

3.8.d. Advertising, promotional material or public solicitation in any form that targets West Virginia residents through distribution or advertising in the state.

3.8.e. Instructional delivery that receives assistance from any other organization within the state in that delivery.

3.8.f. Clinical experiences, internships, or other similar curricular requirements.

Activities exempt from this definition include: online instructors residing in West Virginia but having no direct, in-person contact with students and individuals participating in college fairs coordinated by the Commission and local school districts.

3.9. “Reauthorization” is the process by which an institution annually renews its status as an institution authorized to offer programs and courses for West Virginia residents. This status is granted by the Commission when the institution demonstrates compliance with the requirements for such status.

3.10. “Religious, theological, or faith-based institution” means a postsecondary institution that offers no degree programs other than those specifically related to the institution’s doctrine. Institutions that offer general degree programs cannot be exempted by this rule as religious, theological, or faith-based.

3.11. “Unearned tuition” means the anticipated amount of tuition revenue minus refunds that will be generated within a one-year time frame of the institution’s authorized operation in West Virginia. “Unearned tuition” for the application of annual reauthorization is the amount of tuition revenue minus refunds that was received during the previous year.

§133-52-4. Exemptions.

~~4.1. Institutions that clearly qualify as exemptions under the provisions of Series 20, *Initial Authorization of Degree-Granting Institutions*, and after Commission staff review, shall be considered exempt from reauthorization. Institutional exemption is subject to annual review and/or revocation any time the activity deviates from the original determination factors for exemption. An institution which claims to be exempt under the provisions of this section must submit such information as may be required by the Commission to determine whether the institution is exempt from reauthorization.~~

4.21. Any institution fully authorized by the Commission to operate in West Virginia prior to the effective date of this rule is subject to the provisions of this rule pertaining to reauthorization except as provided in 4.2.

4.32. The following institutions shall be exempt from the provisions of this rule:

4.3.2.a. Correspondence, business, occupational and trade schools which

~~4.3.a.1. offer nothing higher than a specialized associate degree; and~~

4.3.2.a.2. are regulated under West Virginia Code provisions §18B-2B-9, and West Virginia Council for Community and Technical College Education, Title 135, Legislative Rule, Series 35 on correspondence, business, occupational and trade schools.

4.3.2.b. Out-of-state institutions:

4.3.2.b.1. offering courses through brokering or other collaborative arrangements with a West Virginia public institution of higher education and which support programmatic offerings of the state institution;

4.3.2.b.2. offering a short course or seminar in which the instruction for the segment takes no more than twenty classroom hours, and is not for college credit;

4.3.2.b.3. offering courses or programs on a military installation solely for military personnel or civilians employed on such installation;

4.3.2.b.4. offering courses or programs at a location in West Virginia by the authority of the Commission for a designated period of time; or

4.3.2.b.5. offering online courses or programs with Commission approval for a specified period of time.

4.3.2.c. Non-Degree granting institutions whose programs are designed primarily for job entry or upgrading of skills and are described in clock (contact) hours. These programs typically prepare individuals for employment and do not require courses beyond those specific to the job or its field with program length sufficient to effect outcomes.

4.3.2.d. A religious, theological, or faith-based institution which meets the criteria for exemption outlined in Series 20, *Initial Authorization of Degree-Granting Institutions*, and offers no degree programs other than those specifically related to the institution's doctrine.

4.2.e. Those institutions subject to annual reauthorization by the West Virginia Council for Community and Technical College Education, under its Title 135, Series 52.

§133-52-5. Annual Reauthorization.

5.1. All authorized institutions, except those previously exempted in section 4.3.2 of this rule, must annually submit a reauthorization application report in a format prescribed by Commission staff. The annual reauthorization year will be from July 1 through June 30, with the 2012-2013 year being the initial reporting year. The annual application is due each November 1 and must be accompanied by an annual fee as provided in section 9 of this rule.

5.2. Reauthorization applications postmarked after November 1 or other due date will be assessed a late renewal fee as prescribed in section 9 of this rule.

5.3. Upon request by the Commission, authorized institutions must provide documentation necessary to assess the performance of the institution.

5.4. The reauthorization application must include the following:

5.4.a. Name and address of the institution of higher education.

5.4.b. Chief executive officer's name, title, address, phone number, fax number, and email address.

5.4.c. Institutional liaison's name, title, address, phone number, fax number, and email address.

5.4.d. Verification of current accreditation status and copy of latest annual HLC/NCA Institutional Update Report.

5.4.e. Full and part-time student enrollments of resident and non-resident students for each term during the most recent reporting year.

5.4.f. A current schedule of fees and charges for tuition.

5.4.g. First to second year retention rates for first-time, full-time certificate and degree-seeking students for the most recent year.

5.4.h. Graduation rates for undergraduate degree-seeking first-time, full-time freshmen for the most recent graduating six-year cohort year.

5.4.i. Data on student transfers into and out of the institution for the most recent year.

5.4.j. Licensure pass rates for completion of all professional programs, e.g., education, nursing, and engineering, for the most recent year.

5.4.k. Student loan cohort default rates for the most recent year available.

5.4.l. Campus crime statistics for the most recent reporting year available.

5.4.m. Number of student, staff, and faculty grievances filed during the most recent reporting year.

5.4.n. Any additional information or data as deemed necessary.

5.5. The Commission shall provide definitions of requested data elements. When appropriate, prior data submissions may be utilized to fulfill specific data requirements. Guidance will be provided by Commission staff.

5.6. Upon receipt of the annual reauthorization application, Commission staff shall convene a compliance review committee to review the submitted documentation. The compliance review committee shall be composed of:

5.6.a. Persons who are qualified by academic training or professional experience to verify the institution's compliance with Commission standards for authorization.

5.6.b. Persons who are representative of both public and private institutions.

5.6.c. Members of the Commission staff. The Vice Chancellor for Academic Affairs or designee shall serve as chair of the committee.

5.7. Upon review of documentation and recommendation of the compliance review committee, institutions that are found to be in compliance with generally accepted parameters of operation are

recommended to the Commission for reauthorization.

5.8. If the compliance review committee finds, after review of required documentation, that the institution is not in compliance with generally accepted parameters of operation, the committee may request additional documentation for review.

5.9. Each institution shall provide, at the request of the compliance review committee, all information the committee considers necessary to assess the performance of the institution and determine whether the institution continues to meet the minimum standards for conferring degrees. Information may include but is not limited to the following:

5.9.a. Institutional information.

5.9.a.1. Copies of articles of incorporation, charter, constitution, and by-laws for the initial reporting year, and changes only for reporting in subsequent years.

5.9.a.2. Copy of any articulation agreement the institution has with a West Virginia higher education institution entered into or changed within the last year.

5.9.a.3. Copy of the institution's current mission and goals statement for the initial reporting year, and changes only for reporting in subsequent years.

5.9.a.4. Copy of the current institutional catalog.

5.9.a.5. Copies of current promotional and recruitment materials and advertisements provided or distributed to West Virginia residents.

5.9.b. Accreditation information.

5.9.b.1. If the institution is accredited by a regional accrediting agency, verification of the accreditation status, including any correspondence within the last year.

5.9.b.2. If the institution is accredited by a national accrediting agency or any of its academic programs is are accredited by a program accrediting agency, verification of the accreditation status.

5.9.c. Program information.

5.9.c.1. A list of current degree programs offered in West Virginia by the institution.

5.9.c.2. Results of any external degree program evaluation during the last year, if any.

5.9.c.3. A list of any degree programs that have ceased to be offered during the previous year.

5.9.c.4. Identification of methods used to assess student achievement.

5.9.c.5. Results of the most recent assessment of student achievement.

5.9.d. Faculty information.

5.9.d.1. A list of current full-time and part-time faculty with highest degree held, degree field(s), and institution conferring highest degree.

5.9.e. Financial information.

5.9.e.1. The latest financial statement for the most recent fiscal year compiled or audited by an independent certified public accountant, including any management letters provided by the independent auditor.

5.9.f. Facilities information, if applicable.

5.9.f.1. Verification of compliance with all applicable local, state, and federal safety and fire codes.

5.9.g. Student information.

5.9.g.1. The institution's policies about student admissions, evaluation, suspension, and dismissal for the initial reporting year, and changes only for reporting in subsequent years.

5.9.g.2. A current schedule of fees, charges for tuition, required supplies, student activities, and all other student charges.

5.9.g.3. The institution's policy about tuition and fee refunds and adjustments for the initial reporting year, and changes only for reporting in subsequent years.

5.9.g.4. The institution's policy about granting credit for experiential learning, including prior education, training, and experience for the initial reporting year, and changes only for reporting in subsequent years.

5.9.g.5. The institution's policy on post-graduation placement, if any, and data on placements for the most recent year.

5.9.g.6. A list of all student grievances for the most recent year as well as the nature and disposition of each.

5.9.h. Other information.

5.9.h.1. Information related to compliance with federal or state laws and regulations that require reporting to the public, students, employees or federal or state agencies.

5.9.h.2. Information on how the institution ensures accuracy in its usual publications such as the catalog and institutional brochures and fair representation by recruiters and agents.

5.9.i. The Commission shall provide definitions of requested data elements. When appropriate, prior data submissions may be utilized to fulfill specific data requirements. Guidance will be provided by Commission staff.

5.10. On-site review.

5.10.a. The compliance review committee, at its discretion, may conduct on-site reviews to assess institutional compliance with the minimum standards for conferring degrees as outlined in Series 20, *Initial Authorization for Degree-Granting Institutions*. The committee may evaluate maintenance of adequate academic and performance standards, conduct financial audits, or require the institution to perform such audits and provide detailed data to the committee. The visit will be scheduled at a time which is mutually convenient to the institution and the committee. The institution shall pay the reasonable expenses associated with the compliance review visit.

5.10.b. Following review of submitted documentation and/or site visit, the compliance review committee will prepare an analysis of the findings.

5.10.c. A draft of a staff report prepared in accordance with this section will be provided to the institution for correction of factual errors and comment. The institution may provide the Commission a response to the report within ten (10) working days of receipt of the report. The institutional comments will be included with the compliance review committee report presented to the Commission.

5.10.d. The compliance review committee will develop a recommendation for the Commission regarding the institutional reauthorization application. Only those institutions which meet generally accepted higher education state standards of quality will be recommended for reauthorization.

5.10.e. An institution which is not found to meet the generally accepted higher education state standards of quality will be recommended to the Commission for denial of reauthorization. Once reauthorization is denied, the institution is subject to the authorization requirements, process and review in Series 20, *Initial Authorization of Degree-Granting Institutions*, in order to seek authorization to operate within West Virginia.

5.10.f. An institution submitting an annual reauthorization report adjudged by the Commission as meeting the standards for reauthorization shall retain its authorized status for the current year.

§133-52-6. Public Institutions and Annual Reauthorization.

6.1. All public institutions, except Marshall University and West Virginia University, under the purview of the Commission shall apply for annual reauthorization and shall meet the conditions for reauthorization as provided in section 5 of this rule.

6.2. The Commission shall make available to the public information on matters of institutional performance for all public institutions under its purview, including Marshall University and West Virginia University, as provided in section 2 of this rule.

§133-52-7. Dissemination of Institutional Information.

7.1. The Commission shall make available to the public, information on matters of institutional performance that are not confidential and not restricted by federal or state laws or regulations. Such information may be posted on the Commission's website or disseminated through other appropriate venues.

7.2. The Commission office shall maintain a list of institutions authorized to grant degrees and shall make such list available to the public.

§133-52-8. Change of Ownership and Control.

8.1. Authorization of an institution terminates at the time when a change in ownership resulting in a change of control of the institution changes from that indicated on the institution's most recent reauthorization application unless the institution files an application within ten (10) business days after the change of ownership that resulted in a change of control. Such institution shall submit an application reflecting the change in ownership and control and a fee of \$500.

8.1.a. If an institution files an application requesting approval of a change of ownership and control more than ten (10) business days after the change of ownership resulting in a change of control takes effect, the authorization terminates and such an application will be considered as an application for authorization and the institution shall pay the fees specified in Series 20, *Initial Authorization for Degree-Granting Institutions*.

8.1.b. An authorized institution shall notify the Commission of any anticipated change in ownership that results in a change of control at least thirty (30) days prior to the change in ownership and control.

§133-52-9. Reauthorization Fees.

9.1. A non-refundable fee of \$500 shall accompany the submission of the annual application report for reauthorization.

9.2. Failure to file the annual report or to pay the report fee shall be sufficient grounds for denial of reauthorization, suspension, or revocation of degree granting authority. An institution filing a report that is postmarked after the November 1 due date will be assessed a late fee of \$300.

9.3. The annual fee and annual report requirements shall be applicable for all years of authorization through the Commission. The Commission may adjust all fee charges as deemed necessary.

9.4. Public institutions located in West Virginia are exempt from the requirement of payment of reauthorization fees as provided in this section.

§133-52-10. Sanctions and Termination of State Authorization.

10.1. Intermediate sanctions.

10.1.a. If an institution fails to comply with the provisions for reauthorization in this rule, the Commission may progressively impose one or more of the following sanctions.

10.1.a.1. Require the submission and implementation of an improvement plan to address or correct problems identified by the Commission.

10.1.a.2. Suspend the ability of an institution to enroll students for one or more of the approved programs offered by the institution.

10.2. Termination of state authorization.

10.2.a. An institution shall provide the Commission with a copy of any notice of warning, suspension, revocation or other adverse action received from any national or regional accrediting agency within five (5) business days of receipt of such notice.

10.2.b. The Commission may for good cause, suspend, withdraw or revoke the authorization of an institution to generate or solicit students within the state, place an institution on probation, order refunds to students, forfeit the institution's surety bonds, revoke an institution's degree granting authority, or take any other appropriate action per Series 20, *Initial Authorization of Degree-Granting Institutions*.

10.2.c. The Commission may terminate state authorization if the institution fails to submit an acceptable annual reauthorization application or submits an incomplete or unsatisfactory reauthorization application, as determined by Commission staff and referenced in Section 5 of this rule.

10.2.d. The Commission shall revoke the authority of an institution to confer degrees at any time when the institution's governing body, chief executive officer, or both have done any one or more of the following:

10.2.d.1. Failed to maintain the minimum standards for conferring degrees.

10.2.d.2. Refused or willingly failed to provide information to the Commission in a manner and within a reasonable timeframe as established by the Commission.

10.2.d.3. Willfully provided false, misleading or incomplete information to the Commission.

10.2.e. An institution authorized as a religious, theological or faith-based college that fails to continue to meet the criteria for a religious institution shall have its authorization terminated. The institution shall be so notified in writing. A phase-out period of not more than one additional academic term shall be permitted. An appeal to the Commission may be filed within ten (10) business days. In the absence of a timely appeal, the termination shall be final.

10.3. Notification to cease offering degrees or degree credits.

10.3.a. Institutions that are not authorized but offer degrees and/or degree credits in West Virginia shall be notified by certified mail that they shall cease immediately to offer degrees and/or degree credits. The Commission shall initiate appropriate legal action if institutions fail to comply.

§133-52-11. Notification and Deposit of Records Upon Discontinuance of Operations.

11.1. If an authorized institution, branch campus, or extension program of an authorized institution discontinues operation in this state, its chief executive officer shall notify the Commission of the date of discontinuance and the name and address of the agency where records will be maintained.

11.2. Records shall be permanently maintained and copies may be obtained by authorized parties. Such records shall include but not be limited to information pertaining to the admission of each student and former student and the educational record of each student and former student. Financial aid records of each student and former student shall be retained consistent with state and federal regulations.

11.3. When an institution decides to cease postsecondary education operations, it must assist students to find alternative means to complete their studies with a minimum of disruption, and inform the Commission of the following:

11.3.a. the planned date of termination of postsecondary education operations;

11.3.b. the planned date for the transfer of student records;

11.3.c. confirmation of the name and address of the organization to receive and hold the student records; and

11.3.d. the official at the organization receiving the student records who is designated to provide official copies of records or transcripts upon request.

§133-52-12. Notification: Appeals.

12.1. Once the Commission has received and verified the accuracy of information constituting any of the grounds identified in section 10 of this rule, the Commission shall notify the institution and its owner in writing of its intent to recommend denial or suspension of reauthorization or other adverse action and the grounds for such recommendation.

12.1.a. The owner of the institution may, within ten (10) business days of receipt of such notice, request a hearing upon the recommended action. Such hearing, if requested, shall be commenced within twenty (20) business days of such request at the Chancellor's office or at such other location convenient to

the parties and witnesses as may be designated by the Chancellor.

12.1.b. The hearing shall be conducted by the Chancellor or his/her designee, pursuant to the procedures set forth in Chapter 29A, Article 5 of the Code of West Virginia.

12.1.c. The Chancellor or his/her designee may continue the hearing at the request of the institution for good cause shown. Continuance shall not be granted as a matter of right.

12.1.d. If the owner or a representative of the institution does not request a hearing within the requisite time period, the recommendation of the Chancellor or his/her designee shall be deemed unchallenged by the institution and reported to the Commission for final action.

12.2. During the hearing, the grounds for denial, suspension, withdrawal, or revocation of authorization to operate the institution or other adverse action must be established by clear and convincing evidence.

12.3. Irrelevant, immaterial, or unduly repetitious evidence may be excluded from the hearing. Formal rules of evidence as applied in civil cases in the circuit courts of this state shall not be applied. When necessary to ascertain facts not reasonably susceptible of proof under those formal rules evidence not admissible there under may be admitted, except where precluded by statute, if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

12.4. The rules of privilege recognized by the law of this state shall be followed.

12.5. Objections to evidentiary offers shall be noted in the record. Any party to the hearing may vouch the record as to any excluded testimony or other evidence.

12.6. Any party to a hearing may appear with witnesses to testify on his or her behalf; may be heard in person, by counsel or both; may present such other evidence in support of his or her position as deemed appropriate by the Chancellor or his/her designee; and, may cross-examine witnesses called by the Commission in support of the charges.

12.7. The hearing shall be open to the general public.

12.8. A record of the hearing, including the complaint(s), if applicable, the notice of hearing, all pleadings, motions, rulings, stipulations, exhibits, documentary evidence, evidentiary depositions and the stenographic report of the hearing, shall be made and a transcript thereof maintained in the Commission's files. All recorded materials shall be transcribed. The Commission shall have the responsibility to make arrangements for the transcription and provision of the reported testimony and evidence to the parties. Upon request, a copy of the transcript shall be furnished to any party at his or her expense.

12.9. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

12.10. The Commission may call witnesses to testify in support of charges and may present such other evidence to support its position; and, may cross-examine witnesses called by the charged party in support of its position.

12.11. All parties shall have the right to offer opening and closing arguments.

12.12. Hearings may be continued or adjourned to a later date or different place by the Chancellor or his/her designee by appropriate notice to all parties.

12.13. All motions related to a case set for hearing, except motions for continuance and those made

during the hearing, shall be in writing and shall be received in the office of the Chancellor at least ten (10) business days before the hearing. Pre-hearing motions shall be heard at a pre-hearing conference or at the hearing prior to the commencement of testimony.

12.14. Any party may submit proposed findings of fact and conclusions of law at a time and manner designated by the Chancellor or his/her designee.

12.15. At any time prior to the hearing or thereafter, the Chancellor or his/her designee may hold conferences for the following purposes:

12.15.a. To dispose of procedural requests, pre-hearing motions or similar matters;

12.15.b. To simplify or settle issues by consent of the parties; or,

12.15.c. To provide for the informal disposition of cases by stipulation or agreement.

12.16. The Chancellor or his/her designee may cause such conferences to be held on its own motion or by the request of a party.

12.17. Evidentiary depositions may be taken and read or otherwise included into evidence as in civil actions in the circuit courts of this state.

12.18. Subpoenas to compel the attendance of witnesses and subpoenas duces tecum to compel the production of documents may be issued by the Chancellor pursuant to West Virginia Code §29A-5-1(b).

12.19. Written requests by a party for the issuance of subpoenas duces tecum as provided in section 12.18 of this rule must be received by the Commission no later than ten (10) business days before a scheduled hearing. Any party requesting the issuance of subpoenas duces tecum shall see that they are properly served in accordance with West Virginia Code §29A-5-1(b).

12.20. Any final order entered by the Commission following a hearing conducted pursuant to these rules shall be made pursuant to the provisions of West Virginia Code §29A-5-3. Such orders shall be entered within sixty (60) days following the submission of all documents and materials necessary for the proper disposition of the case, including transcripts, and shall contain findings of fact and conclusions of law unless good cause exists to extend such time or by agreement of the parties.

12.21. Findings of fact and conclusions of law shall be recommended to the Commission by the Chancellor or his/her designee and must be approved by a majority of the Commission by vote at a regular meeting, before a final order is entered. A copy of the final order approved by a majority of the Commission shall be served upon the institution and/or his or her attorney of record, if any, within ten (10) business days after entry by the Commission by personal service or by registered or certified mail.

12.22. The final order may suspend, withdraw or revoke the authorization of the institution; place an institution on probation; order refunds to students; order forfeiture of the institution's surety bond and disbursement of the funds forfeited disbursed to students injured by the institution's violation of this rule or its enabling statute; or order any other action deemed appropriate by the Commission, up to and including payment of loans, interest and other charges in connection with institution loans caused a student by the institution's violation of this rule.

12.23. All proceedings pursuant to this rule shall be conducted pursuant to and comply with applicable statute, including, but not limited to, West Virginia Code §29A-5-1, et seq.

12.24. Any relief a student believes he or she was not rightfully awarded by the Commission pursuant

to this rule may be pursued in any other appropriate forum.



West Virginia
Higher Education
Policy Commission



**Report to the Legislative Oversight Commission
on Education Accountability**

January 10, 2017

**West Virginia Higher Education Report Card
(§18B-1D-8)**

REPORT ATTACHED AS SEPARATE DOCUMENT



West Virginia Higher Education Policy Commission
West Virginia Community and Technical College System



Bruce L. Berry, M.D.
Chair

Paul L. Hill, Ph.D.
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Clarence "Butch" Pennington
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Sarah Armstrong Tucker, Ph.D.
Chancellor

MEMORANDUM

TO: Legislative Oversight Commission on Education Accountability
FROM: Paul L. Hill
Sarah Armstrong Tucker
DATE: January 6, 2017
RE: Highlights of 2016 Higher Education Report Card

West Virginia Code §18B-1D-8 statutorily mandates the West Virginia Higher Education Report Card. This annual accountability report provides year-end higher education statistics for both of the state’s higher education systems, the West Virginia Higher Education Policy Commission (Commission) and West Virginia Council for Community and Technical College Education (Council). Many of the enrollment, retention, graduation, and financial aid statistics found throughout this publication are reflective of the individual master plans approved by the Commission (*Leading the Way: Access. Success. Impact. 2013-2018*) and Council (*Fulfilling the Vision 2015-2020*).

The systems’ master plans establish aspirational institutional and statewide goals for the state’s public higher education systems at a time when public postsecondary education is a critical component to the economic and civil success of the state. The Council’s section of the 2016 Higher Education Report Card was redesigned this year to focus on key measures that align more closely with the Council’s new *Fulfilling the Vision* master plan, a document which renews the Council’s commitment to providing high-quality, accessible, and responsive education and training to the citizenry of West Virginia.

The West Virginia Higher Education Report Card includes over 50 measures that serve to answer many of the most frequently asked questions about postsecondary statistics in West Virginia. Listed below are selected measures from the report that highlight both progress and challenges for public higher education in West Virginia. Narrative updates on specific Commission and Council initiatives can be found throughout the document.

Record Degrees in 2015

- Public institutions awarded a record number of degrees in 2015. The total number of degrees and credentials awarded at West Virginia public institutions during the 2015 academic year was 18,521, which is 0.6 percent greater than 18,410 awarded in 2014. The total number of degrees and credentials awarded has increased by 25.7 percent from the 2006 level of 14,733.

Higher Education Policy Commission Highlights

- The number of undergraduate students enrolled in for-credit classes decreased 0.8 percent, from 53,323 in 2014 to 52,889 in 2015. The number of first-time freshmen enrolled in for-credit classes increased 0.2 percent, from 10,836 in 2014 to 10,862 in 2015. First-time freshmen enrollment has decreased 7.0 percent since 2011-12, representing a decline in actual students of 820.
- Average undergraduate tuition for in-state students increased 5.7 percent, from \$6,211 in 2014 to \$6,568 in 2015. The five-year trend in tuition and fees shows an increase of 27.6 percent for in-state students and 20.1 percent for out-of-state students.
- The 10-year tuition trend is an increase of 65.6 percent for in-state students and 51.6 percent for out-of-state students, though the increase in dollars was larger for out-of-state students. In-state tuition has increased by \$2,603 since 2006 and out-of-state tuition has increased by \$5,154.
- Average loan debt for bachelor's degree students decreased 3.8 percent, from \$37,764 in 2014 to \$32,757 in 2015. The five-year trend in loan debt shows a decrease of 13.3 percent from the \$34,065 figure in 2011.
- The retention rate for first-time, full-time freshmen increased 1.0 percentage point from 74.7 percent in 2013 to 75.7 percent in 2014.
- Four-year graduation rates have increased 1.3 percentage points from 26.1 percent for the 2011 cohort to 27.4 percent for the 2012 cohort. This represents a 5.4 percentage point increase from the 22.0 percent reported for the 2008 cohort.
- The total number of degrees and credentials awarded at West Virginia colleges and universities in academic year 2015-16 was 13,763, which was 1.1 percent higher than the 2014-15 figure of 13,613. Over the five-year time period, the number of degrees and credentials has increased by 5.8 percent from the 2011-12 level of 13,008.
- The total number of STEM degrees has increased 4.8 percent from 3,315 in 2014 to 3,475 in 2015. The largest one-year increase was for doctor's – research/scholarship degrees which increased 17.5 percent. Over the five-year period, STEM degrees have increased 10.7 percent from the 2011 figure of 3,138.

Community and Technical College System Highlights

- The change in tuition and fees from 2014 to 2015 ranged from a low of 0.5 percent at Pierpont Community and Technical College (\$20), to a high of 9.8 percent at West Virginia Northern Community College (\$300) and WVU at Parkersburg (\$288). Adjusting for inflation with the Consumer Price Index, these changes represent a 0.3 percent increase at Pierpont Community and Technical College, and a 9.7 percent increase at West Virginia Northern Community College, and a 9.7 percent increase at WVU at Parkersburg.
- In 2015, over 50 percent of students at four of the nine institutions received some form of grant aid. The percentage of students receiving grant aid was the highest at WVU at Parkersburg at 67.2 percent.
- Over the five-year period since 2011, the number of certificates and degrees conferred increased by 35.8 percent. Seven institutions increased their certificate and degree production over the five-year period.
- The number of students entering bachelor's degree programs the following fall after enrollment in a community college decreased from 1,572 for those entering in Fall 2013 to 1,426 in Fall 2014, a decrease of 9.3 percent.
- Between the 2012 and 2013 cohorts, employment placement rates increased at seven institutions. Eastern West Virginia Community and Technical College saw the largest one-year gain at 5.8 percent, increasing from 69.9 percent in 2012 to 75.7 percent in 2013.
- The percentage of students enrolled in developmental education courses decreased 8.4 percentage points from 58.7 percent in 2014 to 50.3 percent in 2015. Over the five-year period, the percentage of students enrolled in developmental education courses decreased 15.1 percentage points.
- The number of students completing career-technical certificate programs increased by 2.9 percent from 1,323 in 2014 to 1,361 in 2015. The number of certificate completers increased at five of the eight institutions with available data from 2014 to 2015.
- The proportion of first-time freshmen retained to any institution increased from 67.2 percent for the fall 2013 cohort to 68.2 percent for the fall 2014 cohort. Between the years of 2014 and 2015, the one-year retention rate increased at five institutions.
- State appropriations for the state's two-year institutions reached a five-year low in Fiscal Year 2016. The State appropriated \$55.8 million in Fiscal Year 2015, down from \$58.6 million the previous year. This represents a one-year decline of 4.8 percent or \$2.8 million. Over the four-year period between Fiscal Years 2013 and 2016, state funding for two-year institutions declined 13.4 percent, or \$8.7 million.



West Virginia
Higher Education
Policy Commission

**Report to the Legislative Oversight Commission
on Education Accountability**

January 10, 2017

**West Virginia Health Sciences and Rural Health Report Card
(§18B-16-9)**

REPORT ATTACHED AS SEPARATE DOCUMENT