

Legislative Oversight Commission on Education Accountability

December 7, 2025

- **West Virginia Higher Education Policy Commission, Title 133, Series 43, Legislative Rule, Purchasing Efficiencies – Repeal of Rule** 1
Joseph Jenkins, General Counsel
- **West Virginia Council for Community and Technical College Education, Title 135, Series 43, Legislative Rule, Purchasing Efficiencies – Repeal of Rule** 7
Joseph Jenkins, General Counsel
- **West Virginia Higher Education Policy Commission, Title 133, Series 64, Legislative Rule, Administrative Exemption** 15
Joseph Jenkins, General Counsel



WEST VIRGINIA

Higher Education Policy Commission

Report to the Legislative Oversight Commission on Education Accountability

**West Virginia Higher Education Policy Commission, Title 133, Series
43, Legislative Rule, Purchasing Efficiencies
Repeal of Rule**

TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION
SERIES 43
PURCHASING EFFICIENCIES

§133-43-1. General.

— 1.1. Scope — This rule establishes the guidelines for the Commission and the institutions, individually or cooperatively, to maximize their use of bulk purchasing, reverse bidding, electronic market places and electronic remitting in the acquisition or procurement of materials, supplies, equipment and services.

— 1.2. Authority — W. Va. Code §§18B-5-9, 18B-17-6(b).

— 1.3. Filing Date: — April 6, 2004.

— 1.4. Effective Date: — April 6, 2004.

— 1.5. Repeal of Former Rules: — None.

§133-43-2. Definitions.

— 2.1. As used in this rule, all terms have the same meaning as provided in W. Va. Code §18B-1-2, and as follows:

— 2.1.1. “Bid” means an offer to perform a contract for service, work and labor, or the supplying of goods, materials, equipment or printing at a specified price in accordance with the specifications in a request for bids.

— 2.1.2. “Bidder” means one who makes a bid.

— 2.1.3. “Bulk purchasing” means the acquisition or procurement of materials, supplies, equipment, services and printing in quantity in order to benefit from the most favorable terms, prices and economies of scale.

— 2.1.4. “Buyer” means an individual designated by a chief procurement officer to perform designated purchasing and acquisition functions as authorized by the chief procurement officer.

— 2.1.5. “Chancellor” means the chief executive officer of the Commission employed pursuant to W. Va. Code §18B-1B-5.

— 2.1.6. “Chief procurement officer” means the individual designated by a president of a state institution of higher education to manage, oversee and direct the purchasing, acquisition and inventory management of materials, supplies, equipment, services, and printing, and disposal of obsolete and surplus materials, supplies, and equipment for that institution. For the Commission’s Office and West Virginia Network for Educational Telecomputing, the chief procurement officer is the person designated by the Chancellor.

— 2.1.7. “Commission Office” means the office that houses the Chancellor, Vice Chancellor for Administration and other Commission staff.

— 2.1.8. “Commodity” means an article which is useful or serviceable, particularly an article of merchandise movable in trade; a good, or service of any kind, including construction; an article of trade or commerce; things that are bought and sold.

— 2.1.9. “Competitive bidding” means bids that are submitted in response to an invitation, public notice or advertisement of an intended sale or purchase.

— 2.1.10. “Electronic marketplaces” means an environment in which participating buyers and sellers exchange information about prices and product offerings and the procurement and payment process is conducted primarily via the Internet and websites of both the buyers and sellers.

— 2.1.11. “Electronic remitting” means to send or transmit documents, information or money (as in the transfer of funds or for payment of goods and services) by means of

~~computer, telephone or electronic instrument from the originator to the recipient.~~

~~2.1.12. "Essential service" means something basic; a commodity that is necessary, indispensable, or unavoidable and is purchased in a routine, repetitive, and noncompetitive manner.~~

~~2.1.13. "F.O.B. destination" and "free on board destination" mean the seller or vendor must transport or pay for the transportation of the materials, supplies, equipment, services and printing, to the point of destination specified in the contract.~~

~~2.1.14. "Governing Boards" or "Boards" means the institutional boards of governors created pursuant to W. Va. Code §18B-2A-1(b).~~

~~2.1.15. "Institution(s)" means any public West Virginia university, college, community and technical college, individually or collectively, created pursuant to W. Va. Code §18B-1-2. For the purposes of this rule, the Commission's Office and West Virginia Network for Educational Telecomputing shall also be considered institutions.~~

~~2.1.16. "President" means the executive officer of an institution.~~

~~2.1.17. "Sole source" means only one vendor can supply the desired product or service.~~

~~2.1.18. "Single source" means that the desired product or service is available from only one supplier because of the uniqueness and characteristics of the product or service offered.~~

~~2.1.19. "Responsible bidder" and "responsible vendor" mean a person and/or vendor who have the capability in all respects to perform contract requirements, and the integrity and reliability that will assure good faith performance.~~

~~2.1.20. "Responsive bidder" and "responsive vendor" mean a person and/or vendor who have submitted a bid that conforms in all material respects to the invitation to bid.~~

~~2.1.21. "Reverse Bidding" means (1) an offer by an intended purchaser to a seller to pay a designated price for the specified material, supplies, equipment, services and printing; (2) the buyer uses the electronic marketplace to set a date and time for interested vendors to bid on certain commodities, an opening bid is made, and other vendors follow by bidding downward until no one chooses to sell to the buyer at a lower price.~~

~~2.1.22. "Sealed bid" means bid submitted under seal, and which is not to be opened until a specified time at which all bids are to be opened and compared.~~

~~2.1.23. "Vendor" means a seller of goods and services.~~

~~2.1.24. "West Virginia Higher Education Policy Commission" or "Commission" means the commission created pursuant to W. Va. Code §18B-1B-1.~~

~~2.1.25. "Vice Chancellor for Administration" means that person employed by the Chancellor in accordance with W. Va. Code §18B-4-2. The Vice Chancellor for Administration shall assume all powers and duties that were assigned to the Senior Administrator.~~

133-43-3. Applicability.

~~3.1. This rule applies to all institutions as defined in Section 2.~~

133-43-4. Purchase or Acquisition of Materials, Supplies, Equipment, Services, Construction and Printing.

~~4.1. As provided by this rule, the Commission and institutions may institute the following purchasing practices either individually or cooperatively for purchase or acquisition of materials, supplies, equipment, services and printing.~~

~~4.2. Bulk Purchasing:~~

~~4.2.1. The Commission shall establish a working committee consisting of Commission staff and institutional representatives to identify the materials, supplies, equipment, services and~~

printing that may reasonably be purchased in bulk to take advantage of economies of scale. In compiling this list and in assessing the economic advantage of purchasing a commodity or service in bulk, the committee shall consider the acquisition cost of the commodity or service, included but not limited to, delivery costs, handling and storage costs, timing of purchases and customer satisfaction. This committee shall also monitor and report to the Chancellor from time to time on any cost savings and efficiencies realized from bulk purchasing.

4.2.2. Bulk purchase contracts may be bid and entered into by either the Commission or an institution on behalf of all institutions. Once issued, the Commission and all institutions participating in the contract shall use it as the primary source of procurement of the commodities or services provided in the contract. The Chief Procurement Officer may authorize purchases off the contract if it is deemed to be in the best interests of the Commission or institution to do so. If an institution decides not to participate in a bulk purchase contract, the institution's Chief Procurement Officer shall state in writing the reason(s) for not participating and the cost savings resulting therefrom.

4.3. Reverse Bidding:

4.3.1. The Commission shall establish a working committee consisting of representatives from the Commission staff and institutions to implement reverse bidding for all public higher education institutions within the State. The working group shall review currently accepted reverse bidding practices within both corporate America and higher education to determine what is most appropriate to West Virginia higher education. Software and other enabling media shall also be investigated. Recommendations shall be made in a timely manner by the group which addresses commodities to be purchased through reverse bidding, software and enabling media, implementation procedures, and time lines to effect reverse bidding within higher education in the State.

4.4. Electronic Marketplaces:

4.4.1. Electronic marketplaces, also known as e-procurement, will allow the

Commission and the institutions to buy or sell goods and services in a digital environment. This procurement method takes advantage of combined purchasing power, improved processes and will allow better utilization of automated systems. It will also integrate higher education buyers directly into the market place, aide in sharing best business practices and assist buyers in gaining control and thus strengthen vendor relationships, gaining access to tracking mechanics which will provide the ability to tract and report hard dollar savings.

4.4.2. This method of purchasing is relatively new and it will require research and planned implementation before the Commission and the institutions can take full advantage of it as a common purchasing method. As a result, a committee of Commission and institution staff will be formed to develop this method as a viable alternative to other procurement methods, plan its implementation and identify the goods and services that may be most effectively acquired using this method. Once these tasks are accomplished, this method may be employed in the acquisition of goods and services.

4.5. Electronic Remitting:

4.5.1. The Commission and the institutions may utilize electronic remitting in the course of transacting business with vendors, other private entities, state agencies and governmental units. This includes but is not limited to:

a. Remitting payment for goods and services electronically to vendors.

b. Electronically performing the processes and providing documents to the Attorney General, State Auditor, the Department of Administration and other governmental agencies which are required by W. Va. Code and normal business practices.

4.5.2. A committee composed of Commission staff and institutional representatives shall work with the State Auditor to implement, by December 31, 2003, an easy to use, cost effective and efficient program to electronically remit payment for goods, services, utilities, etc. to vendors and providers.

~~4.5.3. In order to gain efficiencies and economy of operation the following processes required by W. Va. Code may be performed electronically using existing technology, software and procedures:~~

~~a. Encumbrance: Purchases exceeding the dollar amount identified in W. Va. Code §18B-5-4(a)(5), for purchases by sealed bids and competitive bidding, may be directly and electronically entered into the state's centralized accounting system by the staff of the Commission or the governing boards to satisfy the requirements of article two, chapter five a, and more specifically, sections twenty-six, twenty-seven and twenty-eight to determine whether the amount of the purchase is within the Commission's or governing board's quarterly allotment, is in accordance with the approved expenditure schedule, and otherwise conforms to the provisions of article two, chapter five a. The electronic entry shall be in lieu of any hard copy or paper submission. Purchases not exceeding the dollar amount in W. Va. Code §18B-5-4(a)(5) do not require encumbrance and shall be accounted for and liquidated in the state's centralized accounting system through the payment process.~~

~~b. Filing contracts with the State Auditor: The Commission and the institutions may file contracts with the State Auditor as required by W. Va. Code §18B-5-4(i) electronically or may make these contracts available to the State Auditor by any other acceptable means.~~



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

**West Virginia Council for Community and Technical College
Education, Title 135, Legislative Rule, Series 43,
Purchasing Efficiencies
Repeal of Rule**

**TITLE 135
LEGISLATIVE RULE
WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE
EDUCATION**

**SERIES 43
PURCHASING EFFICIENCIES**

SECTION 1 — GENERAL

- ~~1.1 Scope — This rule establishes the guidelines for the Commission and the institutions, individually or cooperatively, to maximize their use of bulk purchasing, reverse bidding, electronic market places and electronic remitting in the acquisition or procurement of materials, supplies, equipment and services.~~
- ~~1.2 Authority — West Virginia Code §18B-5-9, §18B-17-6(b).~~
- ~~1.3 Filing Date: — September 14, 2011 —~~
- ~~1.4 Effective Date: — September 14, 2011 —~~

SECTION 2 — DEFINITIONS

- ~~2.1 As used in this rule, all terms have the same meaning as provided in West Virginia Code §18B-1-2, and as follows:~~
- ~~2.1.1. "Bid" means an offer to perform a contract for service, work and labor, or the supplying of goods, materials, equipment or printing at a specified price in accordance with the specifications in a request for bids.~~
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- ~~2.1.11. "Electronic remitting" means to send or transmit documents, information or money (as in the transfer of funds or for payment of goods and services) by means of computer, telephone or electronic instrument from the originator to the recipient.~~
- ~~2.1.12. "Essential service" means something basic; a commodity that is necessary, indispensable, or unavoidable and is purchased in a routine, repetitive, and noncompetitive manner.~~
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~~2.1.25. "Vice Chancellor for Administration" means that person employed by the Chancellor in accordance with West Virginia Code §18B-4-2. The Vice Chancellor for Administration shall assume all powers and duties that were assigned to the Senior Administrator.~~

SECTION 3 ————— APPLICABILITY

~~3.1 This rule applies to all institutions as defined in Section 2.~~

SECTION 4 ————— PURCHASE OR ACQUISITION OF MATERIALS, SUPPLIES, EQUIPMENT, SERVICES, CONSTRUCTION AND PRINTING

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WEST VIRGINIA

Higher Education Policy Commission

Report to the Legislative Oversight Commission on Education Accountability

**West Virginia Higher Education Policy Commission, Title 133, Series
64, Legislative Rule, Administrative Exemption**

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

ADMINISTRATIVE EXEMPTION

SERIES 64

§133-64-1. General.

1.1. ~~Scope and Purpose.~~ – This legislative rule establishes the process by which the West Virginia Higher Education Policy Commission (Commission) will grant administrative exemption status to and remove administrative exemption status from the State’s baccalaureate institutions of higher education.

1.2. Authority. – West Virginia Code §18B-1-1f(c).

1.3. Filing Date. – ~~July 15, 2021.~~

1.4. Effective Date. – ~~August 15, 2021.~~

1.5. This rule shall terminate and have no further force or effect ~~upon the expiration of five years from its effective date on August 1, 2030.~~

§133-64-2. Definitions.

2.1. “Administratively exempted schools” means state colleges and universities;

2.1.a. ~~That~~ achieve and maintain three of the five ~~of the~~ following criteria:

2.1.a.1. Graduation rate: A three-year average graduation rate of not less than 45 percent;

2.1.~~b.~~a.2. Retention rate: A three-year average retention rate of not less than 60 percent;

2.1.~~e.~~a.3. Credit head count enrollment: A three-year credit head count enrollment increase, or a decrease of not more than five percent over the same period;

2.1.~~d.~~a.4. Days of cash reserved: A three-year average of not less than 50 days cash reserved;

2.1.~~e.~~a.5. Composite Financial Index: A Composite Financial Index of not less than one as reported in the college and university’s audited financial statements; or

2.1.~~f.~~b. Whose governing board requests a review by the ~~e~~Chancellor of any special circumstances and the Commission grants administratively exempted status based on those special circumstances as verified by the ~~e~~Chancellor after his or her review.

2.2. “Composite Financial Index” means the benchmarking tool used by the Higher Learning Commission as a financial indicator and developed specifically for the higher education industry and is a combination of several different ratios, each of which is comprised of data that, when analyzed further, can provide insight into an institution’s financial health and inform decision-making processes;

2.3. “Credit headcount enrollment” means the total number of unique students, but not counting dual-enrolled high school students, who enrolled in credit-bearing classes during the fall, spring, and summer terms in a given academic year at a specific institution.

2.4. “Days of cash reserved” means the audited end of fiscal year cash balance, multiplied by 365, and then divided by the audited total expenses less depreciation, and less other post-employment benefit and pension liability expenses.

2.5. “Graduation rates” means the proportion of first time in college students who obtain a bachelor’s degree within six years, as further defined by and reported to the Commission.

2.6. “Retention rates” means the proportion of first-time, fall term, full-time freshmen students who are in continuing enrollment in the fall term of the next succeeding year.

2.7. “State college and university” shall have the same meaning as provided in West Virginia Code §18B-1-2.

§133-64-3. Procedure for Requesting Status as an Administratively Exempt School.

3.1. Requesting Administratively Exempt Status. – Any State college or university may apply to the Commission for designation as an administratively exempt school by its governing board submitting a letter to the Chancellor requesting such status and setting forth which of the criteria established in West Virginia Code §18B-1-1f(b) and reiterated in subsection 2.1 above the college or university meets. Applications must be submitted to the Commission between January 1 and January 31 for the following academic year.

3.2. Reviewing Administratively Exempt School Status. – Upon receipt of a request for administrative exemption, the Commission shall verify that the requesting institution meets the statutory criteria using data submitted by the college or university to, and validated by, the Commission.

3.3. Institutions shall provide promptly upon request from the Commission or Chancellor any information to support the Commission’s review of the institution’s performance as an administratively exempt college or university.

§133-64-4. Procedure for Granting or Denying Status as an Administratively Exempt School.

4.1. Approval of Administratively Exempt School Status. – Upon verification that an institution meets three of the five requirements to be designated as an administratively exempt school, the Commission shall vote on the matter at its next regularly scheduled meeting ~~whether to grant or deny such request.~~

§133-64-5. Procedure for Reviewing Administratively Exempt Status Once Granted.

5.1. Review of Administrative Exempt School Status Institutions. – Commission staff will review annually all criteria, either statutory or special circumstances, for administratively exempt school status for the administratively exempt institutions.

5.2. If, during its annual review, Commission staff determines that an administratively exempt school has failed to meet one or more of the criteria by which it initially qualified for administrative exemption status, but that it also now meets one or more of the other criteria that would allow it to maintain its administrative exemption, Commission staff will notify the institution that it is being allowed to maintain its administrative exemption status under the newly met criteria.

5.3. Each year, as part of the statutorily mandated annual reauthorization process established in 133 C.S.R. 52, *Annual Reauthorization of Degree Granting Institutions*, the reauthorization review committee shall determine whether administratively exempted institutions are meeting at least three of the exemption criteria specified in Section 2 of this rule.

5.3.a. Those administratively exempted institutions meeting three or more of the criteria in the review process shall be reported in the annual reauthorization resolution to the Commission as qualified to maintain administratively exempt status.

5.3.b. Those administratively exempt institutions that fail to meet at least three of the exemption criteria shall be reported in the annual reauthorization resolution to the Commission as failing to meet the requirements to maintain the administratively exempt status. The institution shall be formally notified of this finding by the process set forth in Section 6 below.

§133-64-6. Revoking Administratively Exempt School Status Procedure.

6.1. ~~Revoking Administratively Exempt School Status.~~ – Upon the annual review, institutions that do not meet three of the five requirements for administratively exempt school status, ~~or whose special circumstances have changed,~~ the Chancellor will notify the President of the institution that they no longer meet the requirements for the designation and that the institution has one year to meet the requirements again.

~~6.1.a.2.~~ Upon the second consecutive annual review where institutions ~~that~~ do not meet three of the five requirements for exempt status, the Chancellor will notify the President that the institution no longer is eligible and that the ~~Commission will vote to revoke administratively exempt status in no less than 30 days~~ institution will have its administratively exempt status revoked after thirty (30) days from the date of the notice.

~~6.1.b.~~ ~~After 30 days have passed following the notification that an institution no longer meets three of the five requirements for exempt status, the Commission may vote to revoke the institution's administratively exempt status.~~

6.3. Upon the annual review, if it is determined that the special circumstances that the administratively exempted status is based on no longer exist, the Chancellor will notify the President that the institution no longer is eligible and that the institution will have its administratively exempt status revoked after thirty (30) days from the date of the notice.