

LEGISLATIVE OVERSIGHT COMMISSION ON EDUCATION ACCOUNTABILITY

Senate Finance Committee Room
September 17, 2018

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West Virginia Higher Education Policy Commission

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

September 17, 2018

Request to Repeal Legislative Rules

Michael J. Farrell, Esq.
Chair



Carolyn Long
Interim Chancellor

West Virginia Higher Education Policy Commission

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MEMORANDUM

TO: Legislative Oversight Commission on Education Accountability

FROM: Carolyn Long

DATE: September 17, 2018

RE: Repeal of Legislative Rules

At the request of the Governor's Office and in an effort to reduce the regulatory requirements of the institutions, an extensive review of all existing Legislative and Procedural Rules of the West Virginia Higher Education Policy Commission has been conducted by Commission staff. Staff recommended that the Legislative Rules attached and listed below be repealed as they are no longer applicable to the Commission or the four-year public institutions. On June 22, 2018, the West Virginia Higher Education Policy Commission approved the repeal of the Legislative Rules.

It is requested that these Legislative Rules be officially removed from the West Virginia Code of State Rules:

Title 133, Series 15, Legislative Rule, Acceptance of Advanced Placement Credit

Effective June 22, 2002

This rule establishes policy and guidelines for institutional policies regarding acceptance of advanced placement credit. The rule is being combined into a revised version of Title 133, Series 59, Procedural Rule, Awarding of Undergraduate College Credit for Prior Learning.

Title 133, Series 53, Legislative Rule, Human Resources Administration

Effective May 2, 2013

This rule establishes policy regarding human resources administration for employees of the West Virginia Higher Education Policy Commission and public higher education institutions. This rule was replaced by Title 133, Series 55,

Legislative Rule, Human Resources Administration, approved during the 2018 Legislative Session.

Additionally, the Commission approved the repeal of the following Procedural Rules:

Title 133, Series 8, Procedural Rule, Personnel Administration
Effective November 22, 2001
This rule establishes policy regarding personnel administration.

Title 133, Series 16, Procedural Rule, College-Level Examination Program
Effective June 22, 2002
This rule provides guidance regarding the College-Level Examination Program (CLEP) for the public colleges and universities.

Title 133, Series 27, Procedural Rule, Financial Assistance to Athletes
Effective August 1, 2002
This rule establishes policy regarding the awarding and retention of financial assistance to athletes.

Title 133, Series 39, Procedural Rule, Classified Employees
Effective September 5, 1996
This rule establishes procedures related to higher education classified employees.

Series 8, Series 39 and Series 53 were replaced by Title 133, Series 55, Legislative Rule, Human Resources Administration, approved during the 2018 Legislative Session.

Series 15 and Series 16 are being combined into a revised version of Title 133, Series 59, Procedural Rule, Awarding of Undergraduate College Credit for Prior Learning.



TO: Legislative Oversight Commission on Education Accountability

FROM: Sarah Tucker 
Chancellor

DATE: September 7, 2018

RE: Repeal of Legislative Rules

On behalf of the West Virginia Council for Community and Technical College Education, I am submitting for your consideration, the following revised, legislative rule approved by the Council and filed with the Secretary of State's Office on July 2, 2018:

Title 135, Series 32: *Tuition and Fees*

This rule governs approval of tuition and fee increases by the West Virginia Council for Community and Technical College Education (Council) for West Virginia public community and technical colleges as required by West Virginia code.

Further, I also submit for your consideration, the following legislative rule to be repealed. House Bill 2542 passed during the 2017 Legislative Session mandated changes in higher education human resources. As a result, a new legislative rule, Title 135, Series 55, *Human Resources Administration*, was approved during the 2018 Legislative Session, final filed with the Secretary of State's Office and became effective on July 9, 2018. This new rule encompasses portions of the rule below, which is now no longer relevant.

Title 135, Series 53: *Human Resources*

This rule establishes policy in a number of areas regarding human resources administration for the employees of the West Virginia Council for Community and Technical College Education (Council) and the public higher education institutions in West Virginia. It also provides guidelines for governing boards relative to decisions pertaining to public higher education employees.

Thank you for your consideration, and please let me know if you have questions or require further clarification.

TITLE 133

LEGISLATIVE RULE

WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 15

ACCEPTANCE OF ADVANCED PLACEMENT CREDIT

SECTION 1. GENERAL

- 1.1 Scope - This rule establishes Higher Education Policy Commission policy and guidelines for institutional policies in matters of acceptance of advanced placement credit.
- 1.2 Authority - West Virginia Code 18B-2a-4
- 1.3 Filing Date - May 22, 2002
- 1.4 Effective Date – June 22, 2002
- 1.5 Repeals and replaces Title 128, Series 4, and Title 131, Series 4.

SECTION 2. STATEMENT OF PRINCIPLE

- 2.1 The Higher Education Policy Commission believes that it is important to encourage students at all educational levels to aspire to higher intellectual achievements and that the Advanced Placement Program of the College Board is an instrument that allows high school students to master college subject matter and to document their intellectual achievements through successful completion of advanced placement examinations.
- 2.2 The commission encourages high school students to participate in this program in which successful completion of examinations will result in the acceptance of credit by all West Virginia state colleges and universities.

SECTION 3. GUIDELINES FOR ACCEPTANCE OF ADVANCED PLACEMENT CREDIT

- 3.1 West Virginia state colleges and universities shall accept advanced placement credits according to the following guidelines:
 - 3.1.1 High school students completing advanced placement examinations of the College Board with a minimum score of 3 will receive credit at any state college or university, as indicated in the list of advanced placement exams offered by the College Board. The Central Office of the Higher Education Policy Commission maintains a list of all College Board advanced placement exams and the minimum number of credits that each institution shall grant. Credit is to be awarded solely on the basis of

satisfactory performance of a score of 3 or higher on the advanced placement examinations.

- 3.1.2 When the examination is in the area of the student's major, the institution will award credit toward the major or the core curriculum.
- 3.1.3 An academic department within the institution may, upon approval of the institutional faculty, require a higher score than 3 on an advanced placement test if the credit is to be used toward meeting a course requirement for a major in the department.
- 3.1.4 Credits awarded by regionally accredited institutions of higher education for successful completion of advanced placement exams are transferable to West Virginia state colleges and universities in accordance with the advanced placement policy of the receiving institution.

SECTION 4. INSTITUTIONAL GUIDELINES

- 4.1 Each institution shall develop guidelines for acceptance of advanced placement credits that are consistent with the provisions of this rule and publish the guidelines in the college or university bulletin and/or other appropriate institutional publications.

SECTION 5. INSTITUTIONAL POLICY

- 5.1 Each institution shall file its policy on award of advanced placement credit with the Chancellor's office.

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

**SERIES 53
HUMAN RESOURCES ADMINISTRATION**

§133-53-1. General.

- 1.1. Scope. This rule establishes policy in a number of areas regarding human resources administration for the employees of the West Virginia Higher Education Policy Commission (Commission) and the public higher education institutions in West Virginia. It also provides guidelines for governing boards relative to decisions pertaining to public higher education employees.

The primary responsibility for implementation rests with the Commission, in consultation with the West Virginia Council for Community and Technical College Education (Council), who shall provide leadership and assistance to the human resources professionals within each organization to bring about the changes successfully.

- 1.2. Authority. West Virginia Code §18B-1B-5, §18B-4-2a, §18B-7, §18B-8, §18B-9 and §18B-9A.
- 1.3. Filing Date. May 2, 2013.
- 1.4. Effective Date. May 2, 2013.
- 1.5. Repeals and replaces Title 133 Series 8, Sections 3, 10, 11, 18, and 19.

§133-53-2. Purpose.

- 2.1. The intent of this rule is to establish a statewide, integrated human resources structure capable of, but not limited to, meeting the following objectives.
 - 2.1.a. Providing benefits to the citizens of the State of West Virginia by supporting the public policy agenda as articulated by state policymakers;
 - 2.1.b. Addressing fiscal responsibility by making the best use of scarce resources and promoting fairness, accountability, credibility, transparency and a systematic (FACTS) approach to progress in personnel decision-making;

- 2.1.c. Building upon human resources best practices to prevent, reduce, or, wherever possible, eliminate arbitrary and capricious decisions affecting employees of higher education organizations;
- 2.1.d. Creating a stable, self-regulating human resources system capable of evolving to meet changing needs;
- 2.1.e. Providing for institutional flexibility with meaningful accountability;
- 2.1.f. Adhering to federal and state laws, promulgated and adopted rules;
- 2.1.g. Implementing, as appropriate, human resources best practices throughout the state higher education system;
- 2.1.h. Developing and implementing a classification and compensation system that is fair, transparent, understandable, easy to administer, self regulating, and adaptable to meet future goals and priorities;
- 2.1.i. Providing for careful consideration of the recommendations and supporting documentation contained in the Final Report of the Select Committee on Higher Education Personnel;
- 2.1.j. Encouraging organizations to pursue a human resources strategy which provides monetary and non-monetary returns to employees in exchange for their time, talents, and efforts to meet articulated goals, objectives and priorities of the State, the Commission and the organization;
- 2.1.k. Maximizing the recruitment, motivation and retention of highly qualified employees, ensuring satisfaction and engagement of employees with their jobs, ensuring job performance and achieving desired results; and
- 2.1.l. Providing for recommendations from the Compensation Planning and Review Committee and the Job Classification Committee to be considered by the Commission and to be included in the legislative reporting process.

§133-53-3. Definitions.

- 3.1. Base Salary. The amount or a rate of compensation for a specified position of employment or activity excluding annual experience increment and any other payments or allowances for work or activity unrelated to that specified position of employment.

- 3.2. Benchmark Job. A job that is commonly found and defined and is used to make pay comparisons, either within the organization or to comparable jobs outside the organization.
- 3.3. Benefits. Programs that an employer uses to supplement the cash compensation of employees, including but not limited to, health and welfare plans, retirement plans, pay for time not worked, and other employee perquisites.
- 3.4. Career Ladder. A structured sequence of related, upwardly progressing positions.
- 3.5. Chancellor. Chancellor refers to the chief executive officer of the West Virginia Higher Education Policy Commission or the West Virginia Council for Community and Technical College Education, as appropriate.
- 3.6. Classification System. An organized structure in which classified jobs, job descriptions, job titles, and job analyses are utilized to determine a hierarchy of jobs, career ladders and pay grade assignments.
- 3.7. Classified Employee. Any regular employee of an organization who holds a full-time or part-time position and is assigned a particular job and job title within the classification system established by this rule or by other duly promulgated and adopted rules of the Commission.
- 3.8. Compensation. Earnings provided by an employer to an employee for services rendered.
- 3.9. Compensation Philosophy. The guiding principles that ensure that a compensation program supports an organization's culture.
- 3.10. Compensation Strategy. The principles that guide the design, implementation and administration of a compensation program at an organization for the purpose of supporting the organization's mission, vision, goals and objectives.
- 3.11. Employee Classification or Employee Class. There are three employee classes: classified, nonclassified and faculty.
- 3.12. External Market Compensation: The external market, for purposes of evaluating relative market equity, for a classified, nonclassified or faculty position, shall be deemed to be the median compensation of substantially comparable positions in the relevant recruitment market as provided for in the approved institutional salary rule.

- 3.13. Factor. A key position trait used to evaluate a classified position according to a point factor system. The items are Knowledge; Experience; Complexity and Problem Solving; Freedom of Action; Breadth of Responsibility; Scope and Effect; Intrasystems Contacts; External Contacts; Direct Supervision Exercised; Indirect Supervision Exercised; Physical Coordination; and Working Conditions and Physical Demands.
- 3.14. Full Funding. When an organization provides, in total, one hundred percent of the funds needed to meet the salary funding target reflected in the Temporary Higher Education Classified Employee Annual Salary Schedule, as calculated in October, 2010.
- 3.15. Generic Job Description. A summary of the essential functions of a job, including the general nature of the work performed, a characteristic listing of duties and responsibilities, and the specifications necessary to perform the work.
- 3.16. Hot Jobs. Jobs which are subject to market volatility and in high demand, usually for a temporary length of time, for which there is a low supply of available workers with the required education, skills and abilities.
- 3.17. Institutions. The following entities individually or collectively—Bluefield State College; Concord University; Fairmont State University; Glenville State College; Marshall University; Shepherd University; West Liberty University; West Virginia School of Osteopathic Medicine; West Virginia State University; and West Virginia University, including Potomac State College and West Virginia University Institute of Technology.
- 3.18. Job. The total collection of tasks, duties, and responsibilities assigned to one or more individuals whose work is of the same nature and level.
- 3.19. Job Evaluation. A formal process used to evaluate classified jobs, establish proper pay grades, and slot jobs in pay grades.
- 3.20. Job Family. A series of job titles in an occupational area or group.
- 3.21. Job Title. The label that uniquely identifies and generally describes a job. The same descriptive job title shall be given to a group of jobs, regardless of location in the organization, which are substantially the same in duties and responsibilities, and which require substantially the same knowledge, skills and abilities performed under similar working conditions.
- 3.22. Major Deficiency. When an organization has failed to comply with federal or state law or with personnel rules of the Commission as identified by the human resources review.

- 3.23. Meaningful Accountability. Measures that ensure adherence to rules and policies and provides for consequences for non-compliance.
- 3.24. Merit Increases. A discretionary salary increase given to an employee to reward demonstrated achievements in the performance of the duties and responsibilities of a position, as evaluated by criteria established by the organization.
- 3.25. Nonclassified Employee. An employee of an organization who holds a position that is not assigned a particular job and job title within the classification system established by this rule, or, by other duly promulgated and adopted rules of the Commission and who meets one or more of the following criteria:
 - 3.25.a. Employee holds a direct policy-making position at the department or organization level; or
 - 3.25.b. Employee reports directly to the president or chief executive officer of the organization.
- 3.26. Nonclassified Job Description. A summary of the most important features of a job, including the general nature and level of the work performed.
- 3.27. Organizations. The following entities individually or collectively—Bluefield State College; Concord University; Fairmont State University; Glenville State College; Marshall University; Shepherd University; West Liberty University; West Virginia School of Osteopathic Medicine; West Virginia State University; West Virginia University, including Potomac State College and West Virginia University Institute of Technology; Blue Ridge Community and Technical College; Bridgemont Community and Technical College; Eastern West Virginia Community and Technical College; Kanawha Valley Community and Technical College; Mountwest Community and Technical College; New River Community and Technical College; Pierpont Community and Technical College; Southern West Virginia Community and Technical College; West Virginia Northern Community College; West Virginia University at Parkersburg; the Office of the Higher Education Policy Commission; the Office of the Council for Community and Technical College Education; and the West Virginia Network for Educational Telecomputing.
- 3.28. Pay Grade. The level to which a job is assigned within a classification structure.
- 3.29. Peer Group. The job occupation group as recommended by the external vendor conducting the employee market salary study used to compare where each employee category falls in relation to its relevant recruitment

market.

- 3.30. Point Factor Methodology. A method used to evaluate job factors in order to determine the pay grade to which a classified position is assigned.
- 3.31. Position. A set of duties and responsibilities requiring employment of a single employee at a particular organization.
- 3.32. Position Information Questionnaire (PIQ). A tool used in the creation and evaluation of a classified position including the factors of Knowledge; Experience; Complexity and Problem Solving; Freedom of Action; Scope and Effect; Breadth of Responsibility; Intrasystems Contacts; External Contacts; Direct Supervision Exercised; Indirect Supervision Exercised; Physical Coordination; and Working Conditions and Physical Demands.
- 3.33. President. A chief executive officer of an institution of higher education in West Virginia who reports to the institution's governing board.
- 3.34. Promotion. Movement from a classified position requiring a certain level of skill, effort, and authority into a vacant or newly created classified position assigned to a different job title and a higher pay grade that requires a greater degree of skill, effort, and authority.
- 3.35. Relative Market Equity. The relative market status of each employee classification at an organization falls within five (5) percent of all other employee classifications within the organization for the preceding three-year period. A comparison of the relative market status of the three distinct employee classes wherein the range from the class furthest from its market is within five (5) percent of the class closest to its market.
- 3.36. Relative Market Status. The calculated relationship between the average salary of each employee classification and its peer group.
- 3.37. Return Rights. The right of a nonclassified employee to return to either classified status or faculty status when provided for in the employee's contract or when an employee is involuntarily transferred to a nonclassified position; provided, however, that the return right either shall be provided for in West Virginia Code, or be in writing, a copy of which is to be provided to the employee and placed in the personnel file. For return to classified status, this writing must set forth the classified job title and pay grade. For return to faculty status, this writing must set forth the appropriate faculty track, and rank.
- 3.38. Salary Benchmarking. The process of market pricing a benchmark job.

- 3.39. Salary Schedule. A schedule consisting of a series of pay grades enacted by the Legislature or the Commission.
- 3.40. Step. A standard progression in pay rate established within a pay grade.

§133-53-4. Classification and Compensation System Goals and Objectives.

- 4.1. The Commission, in consultation with the Council, shall implement, control, supervise, and manage a complete, uniform system of personnel classification and compensation for classified employee positions. The chief purposes of the system are to accomplish the following goals and objectives:
 - 4.1.a. Attract well qualified and diverse applicants.
 - 4.1.b. Retain and motivate employees to accomplish objectives, goals, and priorities in state law, rules of the Commission, state-wide master plans for higher education, and institutional compacts.
 - 4.1.c. Retain and reward classified employees who make valuable contributions to state and organization goals, objectives and priorities.
 - 4.1.d. Compensate employees within an organization fairly in relation to one another.
 - 4.1.e. Compensate employees across the higher education system who are performing similar work at similar wage rates.
 - 4.1.f. Compensate employees at levels that are competitive with appropriate external markets and are fiscally responsible.
 - 4.1.g. Ensure that regular market salary analyses are performed to determine how organization compensation for all classes of employees compares to compensation in relevant external markets.
 - 4.1.h. Maintain a uniform system for classifying jobs and positions of an organization's classified employees.
 - 4.1.i. Move classified employees through the compensation system based on performance and other objective, measureable factors including education, years of experience in higher education and experience above position requirements.
 - 4.1.j. Assign each current employee to an initial step for his or her pay grade that is closest to and exceeds his or her current salary regardless of previous education, experience or performance. The

salary of a current employee may not be reduced by a job reclassification, a modification of the market salary schedule, or other conditions that the Commission and the Council consider appropriate and reasonable.

- 4.2. The Commission, in consultation with the Job Classification Committee (JCC), shall have in place a generic job description for every classified job title.
- 4.3. The Commission, in consultation with the JCC, shall develop a Position Information Questionnaire (PIQ) to be used by all organizations to gather data necessary for classification of positions.
 - 4.3.a. Each organization must ensure that a PIQ shall exist for every classified position. A PIQ shall be updated at least every three years for accuracy by the employee and supervisor and submitted to human resources. Submission of an updated PIQ does not constitute a request for a classification review. A formal request must be made pursuant to section six of this rule.
 - 4.3.b. Neither the employee nor the supervisor shall place duties in the employee's PIQ that the employee is not performing, but may be expected to perform in the future.
- 4.4. Salary adjustments shall be made in accordance with the procedures for upgrades and downgrades specified in Commission rule or rules. During the course of its reviews, should the JCC discover the systematic misapplication of the program by an organization, it shall notify the Chancellors, who will take the appropriate action warranted.
- 4.5. Whenever the Chancellors, in consultation with the Vice Chancellor for Human Resources and the JCC determine that employees have been misclassified at the organizational level, they shall order that these classifications and salaries be immediately adjusted to the proper level.
- 4.6. Absent fraud on the behalf of the employee, any overpayment to the employee because of an erroneous classification decision by an organization shall not be collected from the employee. However, any erroneous overpayment to such an employee, once corrected, shall not be deemed as evidence in claims by other employees that the classification and compensation program is not equitable or uniform.
- 4.7. Provide that recommendations from the Compensation Planning and Review Committee (CPRC) and the JCC be considered by the Commission and the Council and be included in the legislative reporting process.

- 4.8. The Commission may allow the CPRC to collapse the three lowest pay grades into a single pay grade and provide for employees to be paid at rates appropriate to the highest of the three lowest pay grades.
- 4.9. Pursuant to State law, the Commission may not delegate to the JCC or the CPRC the following:
 - 4.9.a. Approval of a classification and compensation rule;
 - 4.9.b. Approval of the job evaluation plan;
 - 4.9.c. Approval of the annual market salary schedule; and
 - 4.9.d. Approval of the annual minimum salary schedule.

§133-53-5. Job Classification Committee.

- 5.1. The Commission hereby establishes a Job Classification Committee (JCC). This committee shall replace the Job Evaluation Committee (JEC) upon the effective date of this rule. The Vice Chancellor for Human Resources shall serve as the Chair of the Job Classification Committee.
- 5.2. The JCC shall be comprised of four classified employees and six Human Resources specialists, ensuring representation from the Council institutions and the Commission institutions.
- 5.3. The Chancellor shall solicit nominations for JCC members from the Advisory Council of Classified Employees (ACCE) and the Chief Human Resources Officers (CHROs).
- 5.4. JCC members shall be appointed by the Chancellor of the West Virginia Higher Education Policy Commission, with concurrence of the Chancellor of the West Virginia Council for Community and Technical College Education, subject to approval by the Commission and Council.
- 5.5. An organization may have no more than two members serving on the Committee at any time and the combined membership representing various groups or divisions within or affiliated with an organization in total may not constitute a majority of the membership.
- 5.6. Committee members shall serve staggered terms. One third of the initial appointments shall be for two years, one third for three years and one third for four years. Thereafter, the term is four years. A member may not serve more than four years consecutively.

- 5.7. The Commission shall use a point factor methodology to classify jobs. The Commission, in consultation with the Council, may adjust the job evaluation plan, including the factors used to classify jobs and their relative values, if necessary.
- 5.8. Powers and duties of the Job Classification Committee include, but are not limited to, the following:
 - 5.8.a. Providing a system of audit for all job descriptions to make sure that the responsibilities of positions are accurately reflected;
 - 5.8.b. Modifying and deleting jobs and assigning job titles;
 - 5.8.c. Reviewing and revising job titles to make them consistent among organizations, including adopting consistent title abbreviations;
 - 5.8.d. Establishing job worth hierarchies and data lines for each job title;
 - 5.8.e. Classifying jobs, establishing proper pay grades, and placing jobs in pay grades consistent with the job evaluation plan;
 - 5.8.f. Determining when new job titles are needed and creating new job titles within the system;
 - 5.8.g. Recommending base pay enhancements for jobs for which the application of point factor methodology produces significantly lower salaries than external market pricing. The JCC may exercise this authority only if it reevaluates each job annually to make a determination whether the enhancement should be continued;
 - 5.8.h. Recommending a procedure for performing job family reviews for the joint approval of the Commission and Council;
 - 5.8.i. Determining appropriate career ladders within the classification system and establishing criteria for career progression;
 - 5.8.j. Hearing job classification appeals prior to commencement of the formal grievance process pursuant to Commission rule or rules; and
 - 5.8.k. Developing operational procedures which shall include, but not be limited to, the keeping of minutes which shall be recorded, posted and maintained at the direction of the Vice Chancellor for Human Resources.
- 5.9. The JCC shall meet monthly if there is business to conduct and also may meet more frequently at the call of the chair, given adequate lead time. A

majority of the voting members serving on the Committee at a given time constitutes a quorum for the purpose of conducting business providing that both classified staff and human resources representatives are present.

- 5.10. When evaluating jobs, the JCC shall use the following procedure:
 - 5.10.a. Each JCC member shall classify each job individually, independently of other members;
 - 5.10.b. The chair shall compile and share the individual evaluations with the whole JCC; and
 - 5.10.c. After discussing the issues and resolving differences, the JCC shall make a determination of the appropriate classification for each job. The Vice Chancellor for Human Resources shall communicate, in writing, the JCC's decision to the CHROs and members of the JCC within ten working days.

§133-53-6. Classification Review Request of Existing Position.

- 6.1. An incumbent classified employee or the employee's supervisor may request a PIQ review when significant changes occur in the principal duties and responsibilities of a classified position. To initiate the review, the employee and supervisor must revise the PIQ and submit it to Human Resources along with a formal request for a review. The request must include the date and the reason for such request.
 - 6.1.a. The responsibility for assigning tasks and duties to a position belongs to the supervisor.
 - 6.1.b. Requests for position reviews also may be initiated by an employee with Human Resources after discussion with the immediate supervisor.
 - 6.1.c. PIQ reviews also may be initiated by the institution's Chief Human Resources Officer or his/her designee after discussion with the immediate supervisor.
- 6.2. Within forty-five (45) working days from the date of the formal request for review of a PIQ, the institution's Chief Human Resources Officer or his/her designee shall report to the requestor in writing the result of the classification review.
- 6.3. An organization that fails to complete a review within the specified time shall provide the employee back pay from the date the request for review

was received if the review, when completed, produces a reclassification of the position into a job in a higher pay grade.

§133-53-7. Classification Appeals Process.

- 7.1. The objective of classifying a position is to determine job content and its relative worth. A job's title and description are based upon the duties and responsibilities of the position, not the characteristics of the individual holding the position.
- 7.2. In the event that a classified employee disagrees with a classification decision made at the organizational level, he/she may appeal that decision in writing to the Vice Chancellor for Human Resources for review by the JCC. Filing a classification appeal, however, shall not abridge the rights of a classified employee to file a formal grievance, using the statutory grievance process as set forth in West Virginia Code §6C-2-1 *et seq.*; provided, however, upon the simultaneous filing of a statutory grievance and a classification appeal to the Vice Chancellor for Human Resources by a classified employee, a request may be made, in writing, by the classified employee to hold the grievance in abeyance until the review by the JCC is completed and a classification decision is rendered by the JCC.
- 7.3. Time limits.
 - 7.3.a. The classified employee shall submit a completed "Classification Appeals Form" to the organization's Human Resources office within ten (10) working days from the date of receipt of the notice of the organization's classification decision.
 - 7.3.b. The organization's human resources staff shall render a decision on the appeal within five (5) working days whether the original decision shall be upheld.
 - 7.3.c. The classified employee shall have five (5) working days from the date of receipt of the notice upholding the original decision of the organization to appeal the action to the Vice Chancellor for Human Resources for submission to the JCC.
- 7.4. Upon receipt of the classified employee's appeal of the organization's decision, the Vice Chancellor for Human Resources shall forward the appeal to the JCC.
 - 7.4.a. The JCC shall review the Classification Appeals Form, the original PIQ, and all supporting documentation, submitted by a classified employee to the Human Resources Office.

- 7.4.b. The JCC may review comparable positions within the organizations, as defined in Section 3.27 of this rule.
- 7.4.c. The JCC shall notify the classified employee, and the organization's Human Resources Office, of its decision in writing, within twenty (20) working days from the date of receipt of the appeal to the Vice Chancellor for Human Resources. The notification shall specify the effective date should there be any change in status.
- 7.5. An appeal shall not be considered if based on any of the following reasons:
 - 7.5.a. Seniority. An appeal shall not be considered if it is based on the employee's length of service with the organization or with the state of West Virginia.
 - 7.5.b. Qualifications of the individual incumbent. An appeal shall not be considered if it is based upon the individual classified employee's qualifications. A classification determination is based upon the requirements in the PIQ necessary to perform the duties and responsibilities of the position.
 - 7.5.c. Anticipated future job responsibilities. An appeal shall not be considered if it is based upon responsibilities that may be included in the job assignment in the future.
 - 7.5.d. Job Performance. An appeal shall not be considered if it is based upon the performance of the incumbent or certain personality traits (e.g., loyalty, dedication, commitment to organization, hardworking, etc.). A classification determination is based upon the level and complexity of the duties and responsibilities outlined in the PIQ, not the characteristics of the individual holding the position.
 - 7.5.e. Salary within a salary range. An appeal shall not be considered if it is based upon the fact that an employee's salary is close to the maximum of a salary range or the relative position of the salary within the assigned salary range.
 - 7.5.f. Increase in the volume of work. An appeal shall not be considered if it is based on the volume of work rather than the level of responsibilities and complexity of the work.

§133-53-8. Compensation Planning and Review Committee.

- 8.1. The Commission shall hereby establish and maintain a Compensation Planning and Review Committee (CPRC). The Vice Chancellor for Human Resources shall serve as the Chair of the CPRC.
- 8.2. The composition of the CPRC shall consist of the Vice Chancellor for Human Resources, the Vice Chancellor for Finance, four members representing the statewide Advisory Council of Classified Employees, two from institutions under the jurisdiction of the Council and two from institutions under the jurisdiction of the Commission; two members representing the Advisory Council of Faculty; one from institutions under the jurisdiction of the Council and one from institutions under the jurisdiction of the Commission; and two human resources administrators from institutions under the jurisdiction of the Council, and two human resources administrators from institutions under the jurisdiction of the Commission; and a president from each of the two systems.
- 8.3. The method for nominating CPRC members shall be representative of all the higher education organizations and affected constituent groups, including specifically providing for membership selections to be made from nominations from the Advisory Council of Classified Employees, the Advisory Council of Faculty, the human resources representatives, and the Council of Presidents group. The Presidents shall nominate a president from their respective systems. The Chancellors, jointly, shall appoint members from nominations made by these affected constituent groups and require approval of the Commission and Council before beginning service.
- 8.4. An organization may have no more than two members serving on the CPRC at any time and the combined membership representing various groups or divisions within or affiliated with an organization in total may not constitute a majority of the membership.
- 8.5. The CPRC members shall develop operational procedures which shall include, but not be limited to, the keeping of minutes which shall be recorded, posted and maintained at the direction of the Vice Chancellor for Human Resources.
- 8.6. The CPRC shall manage all aspects of compensation planning and review that the Commission delegates to it, within the provisions of state law.
- 8.7. CPRC members shall serve staggered terms. One third of the initial appointments shall be for two years, one third for three years and one third for four years. Thereafter, the term is four years. A member may not serve more than four years consecutively.
- 8.8. The CPRC shall meet at least quarterly and at other times at the call of the Chair. A majority of the voting members serving on the CPRC at a given

time constitutes a quorum for the purpose of conducting business, provided that at least one member from each constituent group is present.

- 8.9. The CPRC has powers and duties which include, but are not limited to, the following:
 - 8.9.a. Making annual recommendations for revisions in the system compensation plan, based on existing economic, budgetary and fiscal conditions or on market study data;
 - 8.9.b. Overseeing the five-year external market salary study;
 - 8.9.c. Overseeing the annual internal market review;
 - 8.9.d. Meeting at least annually with the JCC to discuss benchmark jobs to be included in salary surveys, market “hot jobs” that may require a temporary salary adjustment, results of job family reviews, and assessment of current job titles within the classification system for market matches and other issues as the Vice Chancellor for Human Resources, in consultation with the Chancellors, determines to be appropriate;
 - 8.9.e. Recommending to the Chancellors a process for their approval to recommend and calculate temporary salary adjustments and any time limits or reviews of these adjustments; and
 - 8.9.f. Performing other duties as assigned by the Commission or as necessary or expedient to maintain an effective classification and compensation system.

§133-53-9. Compensation: Classified Market Salary Structure and Minimum Salary Schedule.

- 9.1. The Commission and Council shall develop and maintain a market salary structure and minimum salary schedule and ensure that all organizations under its jurisdiction adhere to state and federal laws and duly promulgated and adopted organization rules.
- 9.2. The Commission and Council shall jointly contract with a qualified external vendor to conduct a market salary study for each category of employees at least once within each five-year period. Based on the study results, the Commission and Council, in consultation with the CPRC, and taking into consideration the recommendations of the external vendor, may take any combination of the following actions in regard to the classified market salary structure:

- 9.2.a. Adjust the number of pay grades;
 - 9.2.b. Adjust the point values necessary for a job to be assigned to a particular pay grade;
 - 9.2.c. Adjust the midpoint differentials between pay grades to better reflect market conditions; or
 - 9.2.d. Adjust the range spread for any pay grade.
- 9.3. The Commission, in consultation with the Council, may perform an annual review of market salary data to determine how salaries have changed in the external market. Based on supporting data derived from that review, the Commission and Council, with input from the CPRC, shall adjust the market salary structure. In the absence of a market salary study conducted by a qualified external vendor, the Commission and Council may not adjust the midpoint differentials between pay grades unless required to do so by a change in minimum wage or other laws or regulations and may not adjust the range spread for any pay grade.
- 9.4. The market salary structure serves as the basis for the following activities:
- 9.4.a. Evaluating compensation of classified employees in relation to appropriate external markets. The external market compensation for a job shall be deemed to be the median compensation of substantially comparable positions in the relevant recruitment market; and
 - 9.4.b. Developing the minimum salary schedule to be adopted by the Commission and Council. No organization may compensate a classified employee at a salary rate of less than the minimum salary rate values provided for in the minimum salary schedule.
- 9.5. The market salary structure shall include the following criteria:
- 9.5.a. The number of pay grades and steps to be included in the structure;
 - 9.5.b. A midpoint value for each pay grade which represents the average salary of jobs in that pay grade. The Commission and Council may choose a midpoint step value at its discretion, based on its compensation philosophy, which need not be based exclusively on market salary data; and
 - 9.5.c. The minimum and maximum step values based on an established range spread, as well as values for other steps in the salary structure.

- 9.6. The Commission and Council may annually approve a minimum salary schedule that sets forth a compensation level for each step and pay grade below which no organization employee may be paid.
- 9.7. The minimum salary floor for each pay grade and step on the minimum salary schedule shall be at an appropriate percentage of the most recent annual market salary data, to be determined by the Commission and Council. The Commission and Council also shall consider the minimum wage and other laws that ensure that employees earn a living wage and shall maintain a salary structure which ensures that the average salary of each class of employees meets relative market equity among employee classes. The Commission and Council may take into consideration other factors they consider appropriate.
- 9.8. The external market, for purposes of evaluating relative market equity, for a classified, nonclassified or faculty position, shall be deemed to be the median compensation of substantially comparable positions in the relevant recruitment market, as provided for in the approved institutional salary rule.
- 9.9. The salary of a classified employee working fewer than thirty-seven and one-half hours per week shall be prorated. The organization's salary rule may provide for differential pay for certain classified employees who work different shifts, weekends or holidays.
- 9.10. Merit increases may be granted if they are in accordance with state code and with duly promulgated rules of the Commission.

§133-53-10. Salary Benchmarking.

- 10.1. The Commission will utilize an experienced compensation consultant to perform the functions related to salary benchmarking.
- 10.2. Job descriptions representative of all categories of employees will be reviewed to ensure that the duties and responsibilities are understood so that appropriate matches can be made to benchmark positions. The following guidelines will be used for benchmark selection:
 - 10.2.a. Representation of all job families and levels throughout the system.
 - 10.2.b. Highly populated jobs.
 - 10.2.c. Jobs found in most of the system institutions.
 - 10.2.d. Jobs with recruitment or retention problems.
 - 10.2.e. Geographic differentials as necessary will be used to ensure that the

data are reflective of the labor market and economic conditions.

§133-53-11. Full Funding: Temporary Higher Education Classified Employee Annual Salary Schedule.

- 11.1. Once the Commission has certified that an organization under its jurisdiction has achieved full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule, the organization's governing board has the authority to pay classified employees in excess of the salary on the Temporary Higher Education Classified Employee Annual Salary Schedule for their pay grade and years of experience, as long as the governing board has a salary rule in place ensuring that salary increases above the salary schedule are distributed equitably and in a manner consistent with the uniform classification and compensation system.
- 11.2. An organization has achieved full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule when it provides, in total, one hundred percent of the funds needed to meet the salary funding target as calculated in October 2010. When an organization is fully funded, the Chancellor shall provide official certification that the organization has attained full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule.
- 11.3. Until an organization is fully funded or making appropriate progress as defined in this rule, the following restrictions apply:
 - 11.3.a. Classified salary increases distributed within the organization shall be provided in accordance with the uniform classification and compensation system established by §18B-9A-1 et seq.
 - 11.3.b. An organization may not provide discretionary salary increases including performance or merit based increases to the president or chief executive or any group or class of employees, other than classified employees.
- 11.4. An organization is considered to be making appropriate progress when it has funded at least twenty-five percent of the amount needed to reach full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule by July 1, 2012; has funded at least fifty percent of the calculated amount by July 1, 2013; has funded at least seventy-five percent of the calculated amount by July 1, 2014 and has funded one hundred percent of the calculated amount by July 1, 2015.
- 11.5. Until such time that a new salary schedule is implemented, the current Temporary Higher Education Classified Employee Annual Salary Schedule, consisting of a minimum annual salary for each pay grade in

accordance with experience in West Virginia higher education or West Virginia state government, shall be in place. An employee is considered equitably compensated if his or her salary is at the minimum salary on the Temporary Higher Education Classified Employee Annual Salary Schedule that is required for his or her pay grade and years of experience on the July 1, 2001 salary schedule.

§133-53-12. Classification System Methodology Audit.

- 12.1. By July 1, 2014 and at least once within each five year period thereafter, the Commission and Council shall review the effectiveness of the system for classifying jobs and submit an in-depth report to the Legislative Oversight Commission on Education Accountability. The report shall include, but is not limited to, findings, recommendations and supporting documentation regarding the following job classification issues:
 - 12.1.a. The effectiveness of the point factor methodology and a determination of whether it should be maintained; and
 - 12.1.b. The status of the job evaluation plan, including the factors used to classify jobs or their relative values, and a determination of whether the plan should be adjusted.

§133-53-13. Nonclassified Employees.

- 13.1. By July 1, 2013, the percentage of personnel placed in the category of nonclassified may not exceed twenty-five percent of the total number of classified and nonclassified employees of that organization.
- 13.2. Except as otherwise provided for in this rule, by July 1, 2015, the percentage of personnel placed in the category of nonclassified may not exceed twenty percent of the total number of classified and nonclassified employees of that organization.
- 13.3. Organizations may request an extension to July 1, 2016, to comply with the requirement that the percentage of personnel placed in the category of nonclassified may not exceed twenty percent of the total number of classified and nonclassified employees of that organization. If an extension is granted, it may not exceed twenty-five percent and it must be approved in advance of implementing such extension, by both the institution's governing board and the Commission.
- 13.4. In establishing return rights of a nonclassified employee to classified status, the return rights must be evidenced in writing, provided to the employee and placed into the employee's personnel file, and must articulate the job title and pay grade. If the institution's compensation system establishes discretion as to placement on the salary schedule, then an indication of that

placement must be specified.

- 13.5. In establishing return rights of a nonclassified employee to faculty status, the return rights must be evidenced in writing, provided to the employee and placed into the employee's personnel file, and must articulate faculty track, tenure status if any, faculty rank if any, faculty job title, faculty compensation rate, and if non-tenured, whether the faculty status would be for a term, defined in the document, or for the remainder of the academic or fiscal year following separation from nonclassified status.
- 13.6. Classified employees who were involuntarily transferred to non-classified positions have the right to return to classified positions based on West Virginia Code provisions.
- 13.7. When an organization counts, as faculty or classified staff, those administrators who retain the right to return to faculty or classified positions, these designations apply only to the calculation of the organization's compliance with the statutory maximum ratio of nonclassified employees and are to be treated and counted as nonclassified employees for all other purposes. An organization shall report to the Commission all nonclassified employees who retain return rights to either a classified or faculty position in the category of "nonclassified" in all data submissions or analysis other than the determination of the ratio of nonclassified employees, including but not limited to the analysis of relative market equity.
- 13.8. The current annual salary of a nonclassified employee may not be reduced if his or her position is redefined as a classified position solely to meet the requirements of West Virginia Code §18B-7-11. If such a nonclassified employee is reclassified, his or her salary does not constitute evidence of inequitable compensation in comparison to other employees in the same pay grade.

§133-53-14. Employee Performance Evaluations.

- 14.1. After a classified employee's probationary period, during which 3-month and 6-month probationary performance evaluations are required, each employee shall receive a written evaluation of his or her job related performance on an annual basis. A copy of the evaluation document shall be placed into the employee's personnel file and must include confirmation, through a physical or an electronic signature of the employee, signifying that the employee has participated in the evaluation process.
- 14.2. Organizations shall conduct regular performance evaluations of non-classified employees and faculty as well as classified employees.

- 14.3. Each organization shall develop a consistent, objective performance evaluation system and evaluation instrument(s).
- 14.4. Organizations shall train supervisors in the best practices of conducting employee performance evaluations.
- 14.5. Supervisors who fail to conduct evaluations of those employees who report to them, according to their organization's policies, may be subject to disciplinary action.

§133-53-15. Training and Development.

- 15.1. The Vice Chancellor for Human Resources shall carry out the following duties related to training and development:
 - 15.1.a. Analyzing and determining training needs of organization employees and formulating and developing plans, procedures and programs to meet specific training needs and problems. Successful completion of these tasks requires the Vice Chancellor for Human Resources to work closely with and communicate regularly with the training and development coordinators employed by each organization.
 - 15.1.b. Developing, constructing, maintaining and revising training manuals and training aids or supervising development of these materials by outside suppliers.
 - 15.1.c. Planning, conducting, and coordinating management inventories, appraisals, placement, counseling and training.
 - 15.1.d. Coordinating participation by all employees in training programs developed internally or provided by outside contractors.
 - 15.1.e. Administering and analyzing an annual training and development needs survey. The survey may coincide with the completion of the annual performance review process.
 - 15.1.f. Developing model supervisor training programs in order to provide guidance in best practices related to supervision of subordinates and compliance with federal and state employment laws and rules of the Commission.
 - 15.1.g. Developing training and professional development programs for personnel who administer human resources functions at each organization in response to performance reviews of those personnel, which are conducted at least once every three years.

- 15.2. The Commission shall assist organization human resources professionals in applying Fair, Accountable, Credible, Transparent, and Systematic (FACTS) principles to all human resources functions and shall provide model training programs to organizations upon request for assistance.
- 15.3. Funds allocated or made available for employee continuing education and development may be used to compensate and pay expenses for faculty or staff pursuing additional academic study or training to better equip themselves for their duties.
- 15.4. Subject to legislative appropriation therefore, the Commission shall provide additional, regular training and professional development for human resources employees and any appointees to committees appointed by this rule. The training and development shall be:
 - 15.4.a. Mandatory with appropriate consideration given to limiting travel demands on employees; and
 - 15.4.b. In addition to and may not supplant the training and professional development regularly provided to any class of employees by each organization.
- 15.5. An account of the total amount, type of training or professional development provided, the number of employees who participated and the overall cost of the training and professional development provided to employees shall be provided to the Commission by the organizations as part of the annual personnel reports at a time designated by the Commission.

§133-53-16. Organizational Rules.

- 16.1. Each institution shall amend any of its policies/rules to comply with the Commission's rule or rules no later than six months after the effective date of any change in statute or Commission rule or rules, unless a different compliance date is specified within the statute or rule containing the requirements or mandate.
- 16.2. An institution may not adopt a rule, as mandated by this subsection, until it has consulted with the appropriate employee classes affected by the institution's rule or rule's provisions. At a minimum, consultations with the institutional Classified Employees Council (staff council) and/or the institutional Faculty Senate (faculty senate), as appropriate, shall take place.

- 17.3. The Commission shall provide organizations with reasonable notice prior to conducting a human resources review and shall identify the subjects to be examined in the review.
- 17.4. A major deficiency means an organization has failed to comply with federal or state law or with personnel rules of the Commission. The following guidelines exist for correcting deficiencies should any be found:
 - 17.4.a. When a major deficiency is identified, the Commission shall notify the governing board of the institution in writing within forty working days, giving particulars of the deficiency and outlining steps the governing board is required to take to correct the deficiency.
 - 17.4.b. The governing board shall correct the major deficiency within four months and shall notify the Commission when the deficiency has been corrected; however, extensions of this time frame may be requested and granted by the Commission.
- 17.5. If the governing board fails to correct the major deficiency or fails to notify the Commission that the deficiency has been corrected within a period of four months from the time the governing board receives notification, the Commission shall apply sanctions as specified:
 - 17.5.a. A formal reprimand shall be placed in the personnel file of each key administrator who shares responsibility and has operational authority in the area of the identified deficiency. The maximum period of time this reprimand shall remain in the personnel file shall be one year.
 - 17.5.b. Other sanctions may include, but are not limited to, suspending new hiring by the organization and prohibiting compensation increases for key administrators who have authority over the areas of major deficiency until the identified deficiencies are corrected.
- 17.6. To the extent that major deficiencies are identified relative to the Commission central office the sanctions described above shall be applicable.
- 17.7. The Vice Chancellor for Human Resources shall report annually to the Commission on each institution under its jurisdiction on its adherence to this rule, the institution's own rules and both state and federal law regarding personnel and accountability.

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

**SERIES 53
HUMAN RESOURCES ADMINISTRATION**

§135-53-1. General.

- 1.1. Scope. This rule establishes policy in a number of areas regarding human resources administration for the employees of the West Virginia Council for Community and Technical College Education (Council) and the public higher education institutions in West Virginia. It also provides guidelines for governing boards relative to decisions pertaining to public higher education employees.

The primary responsibility for implementation rests with the West Virginia Higher Education Policy Commission, in consultation with the Council, who shall provide leadership and assistance to the human resources professionals within each organization to bring about the changes successfully.

- 1.2. Authority. West Virginia Code §18B-1B-5, §18B-4-2a, §18B-7, §18B-8, §18B-9 and §18B-9A.
- 1.3. Filing Date. May 16, 2013
- 1.4. Effective Date. June 16, 2013
- 1.5. Repeals and replaces Title 135 Series 8, Sections 3, 10, 11, 18, and 19.

§135-53-2. Purpose.

- 2.1. The intent of this rule is to establish a statewide, integrated human resources structure capable of, but not limited to, meeting the following objectives.
 - 2.1.a. Providing benefits to the citizens of the State of West Virginia by supporting the public policy agenda as articulated by state policymakers;
 - 2.1.b. Addressing fiscal responsibility by making the best use of scarce resources and promoting fairness, accountability, credibility, transparency and a systematic (FACTS) approach to progress in personnel decision-making;

- 2.1.c. Building upon human resources best practices to prevent, reduce, or, wherever possible, eliminate arbitrary and capricious decisions affecting employees of higher education organizations;
- 2.1.d. Creating a stable, self-regulating human resources system capable of evolving to meet changing needs;
- 2.1.e. Providing for institutional flexibility with meaningful accountability;
- 2.1.f. Adhering to federal and state laws, promulgated and adopted rules;
- 2.1.g. Implementing, as appropriate, human resources best practices throughout the state higher education system;
- 2.1.h. Developing and implementing a classification and compensation system that is fair, transparent, understandable, easy to administer, self regulating, and adaptable to meet future goals and priorities;
- 2.1.i. Providing for careful consideration of the recommendations and supporting documentation contained in the Final Report of the Select Committee on Higher Education Personnel;
- 2.1.j. Encouraging organizations to pursue a human resources strategy which provides monetary and non-monetary returns to employees in exchange for their time, talents, and efforts to meet articulated goals, objectives and priorities of the State, the Council and the organization;
- 2.1.k. Maximizing the recruitment, motivation and retention of highly qualified employees, ensuring satisfaction and engagement of employees with their jobs, ensuring job performance and achieving desired results; and
- 2.1.l. Providing for recommendations from the Compensation Planning and Review Committee and the Job Classification Committee to be considered by the Council and to be included in the legislative reporting process.

§135-53-3. Definitions.

- 3.1. Base Salary. The amount or a rate of compensation for a specified position of employment or activity excluding annual experience increment and any other payments or allowances for work or activity unrelated to that specified position of employment.

- 3.2. **Benchmark Job.** A job that is commonly found and defined and is used to make pay comparisons, either within the organization or to comparable jobs outside the organization.
- 3.3. **Benefits.** Programs that an employer uses to supplement the cash compensation of employees, including but not limited to, health and welfare plans, retirement plans, pay for time not worked, and other employee perquisites.
- 3.4. **Career Ladder.** A structured sequence of related, upwardly progressing positions.
- 3.5. **Chancellor.** Chancellor refers to the chief executive officer of the West Virginia Council for Community and Technical College Education or the West Virginia Higher Education Policy Commission, as appropriate.
- 3.6. **Classification System.** An organized structure in which classified jobs, job descriptions, job titles, and job analyses are utilized to determine a hierarchy of jobs, career ladders and pay grade assignments.
- 3.7. **Classified Employee.** Any regular employee of an organization who holds a full-time or part-time position and is assigned a particular job and job title within the classification system established by this rule or by other duly promulgated and adopted rules of the Council.
- 3.8. **Compensation.** Earnings provided by an employer to an employee for services rendered.
- 3.9. **Compensation Philosophy.** The guiding principles that ensure that a compensation program supports an organization's culture.
- 3.10. **Compensation Strategy.** The principles that guide the design, implementation and administration of a compensation program at an organization for the purpose of supporting the organization's mission, vision, goals and objectives.
- 3.11. **Employee Classification or Employee Class.** There are three employee classes: classified, nonclassified and faculty.
- 3.12. **External Market Compensation:** The external market, for purposes of evaluating relative market equity, for a classified, nonclassified or faculty position, shall be deemed to be the median compensation of substantially comparable positions in the relevant recruitment market as provided for in the approved institutional salary rule.
- 3.13. **Factor.** A key position trait used to evaluate a classified position

according to a point factor system. The items are Knowledge; Experience; Complexity and Problem Solving; Freedom of Action; Breadth of Responsibility; Scope and Effect; Intrasystems Contacts; External Contacts; Direct Supervision Exercised; Indirect Supervision Exercised; Physical Coordination; and Working Conditions and Physical Demands.

- 3.14. Full Funding. When an organization provides, in total, one hundred percent of the funds needed to meet the salary funding target reflected in the Temporary Higher Education Classified Employee Annual Salary Schedule, as calculated in October, 2010.
- 3.15. Generic Job Description. A summary of the essential functions of a job, including the general nature of the work performed, a characteristic listing of duties and responsibilities, and the specifications necessary to perform the work.
- 3.16. Hot Jobs. Jobs which are subject to market volatility and in high demand, usually for a temporary length of time, for which there is a low supply of available workers with the required education, skills and abilities.
- 3.17. Institutions. The following entities individually or collectively—Blue Ridge Community and Technical College; Bridgemont Community and Technical College; Eastern West Virginia Community and Technical College; Kanawha Valley Community and Technical College; Mountwest Community and Technical College; New River Community and Technical College; Pierpont Community and Technical College; Southern West Virginia Community and Technical College; West Virginia Northern Community College and West Virginia University at Parkersburg.
- 3.18. Job. The total collection of tasks, duties, and responsibilities assigned to one or more individuals whose work is of the same nature and level.
- 3.19. Job Evaluation. A formal process used to evaluate classified jobs, establish proper pay grades, and slot jobs in pay grades.
- 3.20. Job Family. A series of job titles in an occupational area or group.
- 3.21. Job Title. The label that uniquely identifies and generally describes a job. The same descriptive job title shall be given to a group of jobs, regardless of location in the organization, which are substantially the same in duties and responsibilities, and which require substantially the same knowledge, skills and abilities performed under similar working conditions.
- 3.22. Major Deficiency. When an organization has failed to comply with federal or state law or with personnel rules of the Council as identified by the human resources review.

- 3.23. **Meaningful Accountability.** Measures that ensure adherence to rules and policies and provides for consequences for non-compliance.
- 3.24. **Merit Increases.** A discretionary salary increase given to an employee to reward demonstrated achievements in the performance of the duties and responsibilities of a position, as evaluated by criteria established by the organization.
- 3.25. **Nonclassified Employee.** An employee of an organization who holds a position that is not assigned a particular job and job title within the classification system established by this rule, or, by other duly promulgated and adopted rules of the Council and who meets one or more of the following criteria:
 - 3.2.5.a. Employee holds a direct policy-making position at the department or organization level; or
 - 3.2.5.b. Employee reports directly to the president or chief executive officer of the organization.
- 3.26. **Nonclassified Job Description.** A summary of the most important features of a job, including the general nature and level of the work performed.
- 3.27. **Organizations.** The following entities individually or collectively—Bluefield State College; Concord University; Fairmont State University; Glenville State College; Marshall University; Shepherd University; West Liberty University; West Virginia School of Osteopathic Medicine; West Virginia State University; West Virginia University, including Potomac State College and West Virginia University Institute of Technology; Blue Ridge Community and Technical College; Bridgemont Community and Technical College; Eastern West Virginia Community and Technical College; Kanawha Valley Community and Technical College; Mountwest Community and Technical College; New River Community and Technical College; Pierpont Community and Technical College; Southern West Virginia Community and Technical College; West Virginia Northern Community College; West Virginia University at Parkersburg; the Office of the Higher Education Policy Commission; the Office of the Council for Community and Technical College Education; and the West Virginia Network for Educational Telecomputing.
- 3.28. **Pay Grade.** The level to which a job is assigned within a classification structure.
- 3.29. **Peer Group.** The job occupation group as recommended by the external vendor conducting the employee market salary study used to compare

where each employee category falls in relation to its relevant recruitment market.

- 3.30. Point Factor Methodology. A method used to evaluate job factors in order to determine the pay grade to which a classified position is assigned.
- 3.31. Position. A set of duties and responsibilities requiring employment of a single employee at a particular organization.
- 3.32. Position Information Questionnaire (PIQ). A tool used in the creation and evaluation of a classified position including the factors of Knowledge; Experience; Complexity and Problem Solving; Freedom of Action; Scope and Effect; Breadth of Responsibility; Intrasystems Contacts; External Contacts; Direct Supervision Exercised; Indirect Supervision Exercised; Physical Coordination; and Working Conditions and Physical Demands.
- 3.33. President. A chief executive officer of an institution of higher education in West Virginia who reports to the institution's governing board.
- 3.34. Promotion. Movement from a classified position requiring a certain level of skill, effort, and authority into a vacant or newly created classified position assigned to a different job title and a higher pay grade that requires a greater degree of skill, effort, and authority.
- 3.35. Relative Market Equity. The relative market status of each employee classification at an organization falls within five (5) percent of all other employee classifications within the organization for the preceding three-year period. A comparison of the relative market status of the three distinct employee classes wherein the range from the class furthest from its market is within five (5) percent of the class closest to its market.
- 3.36. Relative Market Status. The calculated relationship between the average salary of each employee classification and its peer group.
- 3.37. Return Rights. The right of a nonclassified employee to return to either classified status or faculty status when provided for in the employee's contract or when an employee is involuntarily transferred to a nonclassified position; provided, however, that the return right either shall be provided for in West Virginia Code, or be in writing, a copy of which is to be provided to the employee and placed in the personnel file. For return to classified status, this writing must set forth the classified job title and pay grade. For return to faculty status, this writing must set forth the appropriate faculty track, and rank.
- 3.38. Salary Benchmarking. The process of market pricing a benchmark job.

- 3.39. Salary Schedule. A schedule consisting of a series of pay grades enacted by the Legislature or the Council.
- 3.40. Step. A standard progression in pay rate established within a pay grade.

§135-53-4. Classification and Compensation System Goals and Objectives.

- 4.1. The Council, in consultation with the Commission, shall implement, control, supervise, and manage a complete, uniform system of personnel classification and compensation for classified employee positions. The chief purposes of the system are to accomplish the following goals and objectives:
 - 4.1.a. Attract well qualified and diverse applicants.
 - 4.1.b. Retain and motivate employees to accomplish objectives, goals, and priorities in state law, rules of the Council, state-wide master plans for higher education, and institutional compacts.
 - 4.1.c. Retain and reward classified employees who make valuable contributions to state and organization goals, objectives and priorities.
 - 4.1.d. Compensate employees within an organization fairly in relation to one another.
 - 4.1.e. Compensate employees across the higher education system who are performing similar work at similar wage rates.
 - 4.1.f. Compensate employees at levels that are competitive with appropriate external markets and are fiscally responsible.
 - 4.1.g. Ensure that regular market salary analyses are performed to determine how organization compensation for all classes of employees compares to compensation in relevant external markets.
 - 4.1.h. Maintain a uniform system for classifying jobs and positions of an organization's classified employees.
 - 4.1.i. Move classified employees through the compensation system based on performance and other objective, measureable factors including education, years of experience in higher education and experience above position requirements.
 - 4.1.j. Assign each current employee to an initial step for his or her pay grade that is closest to and exceeds his or her current salary regardless of previous education, experience or performance. The

- salary of a current employee may not be reduced by a job reclassification, a modification of the market salary schedule, or other conditions that the Council and the Commission consider appropriate and reasonable.
- 4.2. The Council, in consultation with the Job Classification Committee (JCC), shall have in place a generic job description for every classified job title.
 - 4.3. The Council, in consultation with the JCC, shall develop a Position Information Questionnaire (PIQ) to be used by all organizations to gather data necessary for classification of positions.
 - 4.3.a. Each organization must ensure that a PIQ shall exist for every classified position. A PIQ shall be updated at least every three years for accuracy by the employee and supervisor and submitted to human resources. Submission of an updated PIQ does not constitute a request for a classification review. A formal request must be made pursuant to section six of this rule.
 - 4.3.b. Neither the employee nor the supervisor shall place duties in the employee's PIQ that the employee is not performing, but may be expected to perform in the future.
 - 4.4. Salary adjustments shall be made in accordance with the procedures for upgrades and downgrades specified in Council rule or rules. During the course of its reviews, should the JCC discover the systematic misapplication of the program by an organization, it shall notify the Chancellors, who will take the appropriate action warranted.
 - 4.5. Whenever the Chancellors, in consultation with the Vice Chancellor for Human Resources and the JCC determine that employees have been misclassified at the organizational level, they shall order that these classifications and salaries be immediately adjusted to the proper level.
 - 4.6. Absent fraud on the behalf of the employee, any overpayment to the employee because of an erroneous classification decision by an organization shall not be collected from the employee. However, any erroneous overpayment to such an employee, once corrected, shall not be deemed as evidence in claims by other employees that the classification and compensation program is not equitable or uniform.
 - 4.7. Provide that recommendations from the Compensation Planning and Review Committee (CPRC) and the JCC be considered by the Council and the Commission and be included in the legislative reporting process.

- 4.8. The Council and Commission may allow the CPRC to collapse the three lowest pay grades into a single pay grade and provide for employees to be paid at rates appropriate to the highest of the three lowest pay grades.
- 4.9. Pursuant to State law, the Council may not delegate to the JCC or the CPRC the following:
 - 4.9.a. Approval of a classification and compensation rule;
 - 4.9.b. Approval of the job evaluation plan;
 - 4.9.c. Approval of the annual market salary schedule; and
 - 4.9.d. Approval of the annual minimum salary schedule.

§135-53-5. Job Classification Committee.

- 5.1. The Council hereby establishes a Job Classification Committee (JCC). This committee shall replace the Job Evaluation Committee (JEC) upon the effective date of this rule. The Vice Chancellor for Human Resources shall serve as the Chair of the Job Classification Committee.
- 5.2. The JCC shall be comprised of four classified employees and six Human Resources specialists, ensuring representation from the Council institutions and the Commission institutions.
- 5.3. The Chancellor shall solicit nominations for JCC members from the Advisory Council of Classified Employees (ACCE) and the Chief Human Resources Officers (CHROs).
- 5.4. JCC members shall be appointed by the Chancellor of the West Virginia Higher Education Policy Commission, with concurrence of the Chancellor of the West Virginia Council for Community and Technical College Education, subject to approval by the Commission and Council.
- 5.5. An organization may have no more than two members serving on the Committee at any time and the combined membership representing various groups or divisions within or affiliated with an organization in total may not constitute a majority of the membership.
- 5.6. Committee members shall serve staggered terms. One third of the initial appointments shall be for two years, one third for three years and one third for four years. Thereafter, the term is four years. A member may not serve more than four years consecutively.

- 5.7. The Council shall use a point factor methodology to classify jobs. The Council, in consultation with the Commission, may adjust the job evaluation plan, including the factors used to classify jobs and their relative values, if necessary.
- 5.8. Powers and duties of the Job Classification Committee include, but are not limited to, the following:
 - 5.8.a. Providing a system of audit for all job descriptions to make sure that the responsibilities of positions are accurately reflected;
 - 5.8.b. Modifying and deleting jobs and assigning job titles;
 - 5.8.c. Reviewing and revising job titles to make them consistent among organizations, including adopting consistent title abbreviations;
 - 5.8.d. Establishing job worth hierarchies and data lines for each job title;
 - 5.8.e. Classifying jobs, establishing proper pay grades, and placing jobs in pay grades consistent with the job evaluation plan;
 - 5.8.f. Determining when new job titles are needed and creating new job titles within the system;
 - 5.8.g. Recommending base pay enhancements for jobs for which the application of point factor methodology produces significantly lower salaries than external market pricing. The JCC may exercise this authority only if it reevaluates each job annually to make a determination whether the enhancement should be continued;
 - 5.8.h. Recommending a procedure for performing job family reviews for the joint approval of the Council and Commission;
 - 5.8.i. Determining appropriate career ladders within the classification system and establishing criteria for career progression;
 - 5.8.j. Hearing job classification appeals prior to commencement of the formal grievance process pursuant to Council rule or rules; and
 - 5.8.k. Developing operational procedures which shall include, but not be limited to, the keeping of minutes which shall be recorded, posted and maintained at the direction of the Vice Chancellor for Human Resources.
- 5.9. The JCC shall meet monthly if there is business to conduct and also may meet more frequently at the call of the chair, given adequate lead time. A

majority of the voting members serving on the Committee at a given time constitutes a quorum for the purpose of conducting business providing that both classified staff and human resources representatives are present.

- 5.10. When evaluating jobs, the JCC shall use the following procedure:
 - 5.10.a. Each JCC member shall classify each job individually, independently of other members;
 - 5.10.b. The chair shall compile and share the individual evaluations with the whole JCC; and
 - 5.10.c. After discussing the issues and resolving differences, the JCC shall make a determination of the appropriate classification for each job. The Vice Chancellor for Human Resources shall communicate, in writing, the JCC's decision to the CHROs and members of the JCC within ten working days.

§135-53-6. Classification Review Request of Existing Position.

- 6.1. An incumbent classified employee or the employee's supervisor may request a PIQ review when significant changes occur in the principal duties and responsibilities of a classified position. To initiate the review, the employee and supervisor must revise the PIQ and submit it to Human Resources along with a formal request for a review. The request must include the date and the reason for such request.
 - 6.1.a. The responsibility for assigning tasks and duties to a position belongs to the supervisor.
 - 6.1.b. Requests for position reviews also may be initiated by an employee with Human Resources after discussion with the immediate supervisor.
 - 6.1.c. PIQ reviews also may be initiated by the institution's Chief Human Resources Officer or his/her designee after discussion with the immediate supervisor.
- 6.2. Within forty-five (45) working days from the date of the formal request for review of a PIQ, the institution's Chief Human Resources Officer or his/her designee shall report to the requestor in writing the result of the classification review.
- 6.3. An organization that fails to complete a review within the specified time shall provide the employee back pay from the date the request for review

was received if the review, when completed, produces a reclassification of the position into a job in a higher pay grade.

§135-53-7. Classification Appeals Process.

- 7.1. The objective of classifying a position is to determine job content and its relative worth. A job's title and description are based upon the duties and responsibilities of the position, not the characteristics of the individual holding the position.
- 7.2. In the event that a classified employee disagrees with a classification decision made at the organizational level, he/she may appeal that decision in writing to the Vice Chancellor for Human Resources for review by the JCC. Filing a classification appeal, however, shall not abridge the rights of a classified employee to file a formal grievance, using the statutory grievance process as set forth in West Virginia Code §6C-2-1 *et seq.*; provided, however, upon the simultaneous filing of a statutory grievance and a classification appeal to the Vice Chancellor for Human Resources by a classified employee, a request may be made, in writing, by the classified employee to hold the grievance in abeyance until the review by the JCC is completed and a classification decision is rendered by the JCC.
- 7.3. Time limits.
 - 7.3.a. The classified employee shall submit a completed "Classification Appeals Form" to the organization's Human Resources office within ten (10) working days from the date of receipt of the notice of the organization's classification decision.
 - 7.3.b. The organization's human resources staff shall render a decision on the appeal within five (5) working days whether the original decision shall be upheld.
 - 7.3.c. The classified employee shall have five (5) working days from the date of receipt of the notice upholding the original decision of the organization to appeal the action to the Vice Chancellor for Human Resources for submission to the JCC.
- 7.4. Upon receipt of the classified employee's appeal of the organization's decision, the Vice Chancellor for Human Resources shall forward the appeal to the JCC.
 - 7.4.a. The JCC shall review the Classification Appeals Form, the original PIQ, and all supporting documentation, submitted by a classified employee to the Human Resources Office.

- 7.4.b. The JCC may review comparable positions within the organizations, as defined in Section 3.27 of this rule.
- 7.4.c. The JCC shall notify the classified employee, and the organization's Human Resources Office, of its decision in writing, within twenty (20) working days from the date of receipt of the appeal to the Vice Chancellor for Human Resources. The notification shall specify the effective date should there be any change in status.
- 7.5. An appeal shall not be considered if based on any of the following reasons:
 - 7.5.a. Seniority. An appeal shall not be considered if it is based on the employee's length of service with the organization or with the state of West Virginia.
 - 7.5.b. Qualifications of the individual incumbent. An appeal shall not be considered if it is based upon the individual classified employee's qualifications. A classification determination is based upon the requirements in the PIQ necessary to perform the duties and responsibilities of the position.
 - 7.5.c. Anticipated future job responsibilities. An appeal shall not be considered if it is based upon responsibilities that may be included in the job assignment in the future.
 - 7.5.d. Job Performance. An appeal shall not be considered if it is based upon the performance of the incumbent or certain personality traits (e.g., loyalty, dedication, commitment to organization, hardworking, etc.). A classification determination is based upon the level and complexity of the duties and responsibilities outlined in the PIQ, not the characteristics of the individual holding the position.
 - 7.5.e. Salary within a salary range. An appeal shall not be considered if it is based upon the fact that an employee's salary is close to the maximum of a salary range or the relative position of the salary within the assigned salary range.
 - 7.5.f. Increase in the volume of work. An appeal shall not be considered if it is based on the volume of work rather than the level of responsibilities and complexity of the work.

§135-53-8. Compensation Planning and Review Committee.

- 8.1. The Council and Commission shall hereby establish and maintain a Compensation Planning and Review Committee (CPRC). The Vice Chancellor for Human Resources shall serve as the Chair of the CPRC.
- 8.2. The composition of the CPRC shall consist of the Vice Chancellor for Human Resources, the Vice Chancellor for Finance, four members representing the statewide Advisory Council of Classified Employees, two from institutions under the jurisdiction of the Council and two from institutions under the jurisdiction of the Commission; two members representing the Advisory Council of Faculty; one from institutions under the jurisdiction of the Council and one from institutions under the jurisdiction of the Commission; and two human resources administrators from institutions under the jurisdiction of the Council, and two human resources administrators from institutions under the jurisdiction of the Commission; and a president from each of the two systems.
- 8.3. The method for nominating CPRC members shall be representative of all the higher education organizations and affected constituent groups, including specifically providing for membership selections to be made from nominations from the Advisory Council of Classified Employees, the Advisory Council of Faculty, the human resources representatives, and the Council of Presidents group. The Presidents shall nominate a president from their respective systems. The Chancellors, jointly, shall appoint members from nominations made by these affected constituent groups and require approval of the Council and Commission before beginning service.
- 8.4. An organization may have no more than two members serving on the CPRC at any time and the combined membership representing various groups or divisions within or affiliated with an organization in total may not constitute a majority of the membership.
- 8.5. The CPRC members shall develop operational procedures which shall include, but not be limited to, the keeping of minutes which shall be recorded, posted and maintained at the direction of the Vice Chancellor for Human Resources.
- 8.6. The CPRC shall manage all aspects of compensation planning and review that the Council delegates to it, within the provisions of state law.
- 8.7. CPRC members shall serve staggered terms. One third of the initial appointments shall be for two years, one third for three years and one third for four years. Thereafter, the term is four years. A member may not serve more than four years consecutively.

- 8.8. The CPRC shall meet at least quarterly and at other times at the call of the Chair. A majority of the voting members serving on the CPRC at a given time constitutes a quorum for the purpose of conducting business, provided that at least one member from each constituent group is present.
- 8.9. The CPRC has powers and duties which include, but are not limited to, the following:
 - 8.9.a. Making annual recommendations for revisions in the system compensation plan, based on existing economic, budgetary and fiscal conditions or on market study data;
 - 8.9.b. Overseeing the five-year external market salary study;
 - 8.9.c. Overseeing the annual internal market review;
 - 8.9.d. Meeting at least annually with the JCC to discuss benchmark jobs to be included in salary surveys, market “hot jobs” that may require a temporary salary adjustment, results of job family reviews, and assessment of current job titles within the classification system for market matches and other issues as the Vice Chancellor for Human Resources, in consultation with the Chancellors, determines to be appropriate;
 - 8.9.e. Recommending to the Chancellors a process for their approval to recommend and calculate temporary salary adjustments and any time limits or reviews of these adjustments; and
 - 8.9.f. Performing other duties as assigned by the Council or Commission or as necessary or expedient to maintain an effective classification and compensation system.

§135-53-9. Compensation: Classified Market Salary Structure and Minimum Salary Schedule.

- 9.1. The Council and Commission shall develop and maintain a market salary structure and minimum salary schedule and ensure that all organizations under its jurisdiction adhere to state and federal laws and duly promulgated and adopted organization rules.
- 9.2. The Council and Commission shall jointly contract with a qualified external vendor to conduct a market salary study for each category of employees at least once within each five-year period. Based on the study results, the Council and Commission, in consultation with the CPRC, and taking into consideration the recommendations of the external vendor,

may take any combination of the following actions in regard to the classified market salary structure:

- 9.2.a. Adjust the number of pay grades;
 - 9.2.b. Adjust the point values necessary for a job to be assigned to a particular pay grade;
 - 9.2.c. Adjust the midpoint differentials between pay grades to better reflect market conditions; or
 - 9.2.d. Adjust the range spread for any pay grade.
- 9.3. The Commission, in consultation with the Council, may perform an annual review of market salary data to determine how salaries have changed in the external market. Based on supporting data derived from that review, the Council and Commission, with input from the CPRC, shall adjust the market salary structure. In the absence of a market salary study conducted by a qualified external vendor, the Council and Commission may not adjust the midpoint differentials between pay grades unless required to do so by a change in minimum wage or other laws or regulations and may not adjust the range spread for any pay grade.
- 9.4. The market salary structure serves as the basis for the following activities:
- 9.4.a. Evaluating compensation of classified employees in relation to appropriate external markets. The external market compensation for a job shall be deemed to be the median compensation of substantially comparable positions in the relevant recruitment market; and
 - 9.4.b. Developing the minimum salary schedule to be adopted by the Council and Commission. No organization may compensate a classified employee at a salary rate of less than the minimum salary rate values provided for in the minimum salary schedule.
- 9.5. The market salary structure shall include the following criteria:
- 9.5.a. The number of pay grades and steps to be included in the structure;
 - 9.5.b. A midpoint value for each pay grade which represents the average salary of jobs in that pay grade. The Council and Commission may choose a midpoint step value at its discretion, based on its compensation philosophy, which need not be based exclusively on market salary data; and

- 9.5.c. The minimum and maximum step values based on an established range spread, as well as values for other steps in the salary structure.
- 9.6. The Council and Commission may annually approve a minimum salary schedule that sets forth a compensation level for each step and pay grade below which no organization employee may be paid.
- 9.7. The minimum salary floor for each pay grade and step on the minimum salary schedule shall be at an appropriate percentage of the most recent annual market salary data, to be determined by the Council and Commission. The Council and Commission also shall consider the minimum wage and other laws that ensure that employees earn a living wage and shall maintain a salary structure which ensures that the average salary of each class of employees meets relative market equity among employee classes. The Council and Commission may take into consideration other factors they consider appropriate.
- 9.8. The external market, for purposes of evaluating relative market equity, for a classified, nonclassified or faculty position, shall be deemed to be the median compensation of substantially comparable positions in the relevant recruitment market, as provided for in the approved institutional salary rule.
- 9.9. The salary of a classified employee working fewer than thirty-seven and one-half hours per week shall be prorated. The organization's salary rule may provide for differential pay for certain classified employees who work different shifts, weekends or holidays.
- 9.10. Merit increases may be granted if they are in accordance with state code and with duly promulgated rules of the Council.

§135-53-10. Salary Benchmarking.

- 10.1. The Council and Commission will utilize an experienced compensation consultant to perform the functions related to salary benchmarking.
- 10.2. Job descriptions representative of all categories of employees will be reviewed to ensure that the duties and responsibilities are understood so that appropriate matches can be made to benchmark positions. The following guidelines will be used for benchmark selection:
 - 10.2.a. Representation of all job families and levels throughout the system.
 - 10.2.b. Highly populated jobs.

10.2.c. Jobs found in most of the system institutions.

10.2.d. Jobs with recruitment or retention problems.

10.2.e. Geographic differentials as necessary will be used to ensure that the data are reflective of the labor market and economic conditions.

§135-53-11. Full Funding: Temporary Higher Education Classified Employee Annual Salary Schedule.

- 11.1. Once the Council has certified that an organization under its jurisdiction has achieved full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule, the organization's governing board has the authority to pay classified employees in excess of the salary on the Temporary Higher Education Classified Employee Annual Salary Schedule for their pay grade and years of experience, as long as the governing board has a salary rule in place ensuring that salary increases above the salary schedule are distributed equitably and in a manner consistent with the uniform classification and compensation system.
- 11.2. An organization has achieved full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule when it provides, in total, one hundred percent of the funds needed to meet the salary funding target as calculated in October 2010. When an organization is fully funded, the Chancellor shall provide official certification that the organization has attained full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule.
- 11.3. Until an organization is fully funded or making appropriate progress as defined in this rule, the following restrictions apply:
 - 11.3.a. Classified salary increases distributed within the organization shall be provided in accordance with the uniform classification and compensation system established by §18B-9-1 et seq.
 - 11.3.b. An organization may not provide discretionary salary increases including performance or merit based increases to the president or chief executive or any group or class of employees, other than classified employees.
- 11.4. An organization is considered to be making appropriate progress when it has funded at least twenty-five percent of the amount needed to reach full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule by July 1, 2013; has funded at least fifty percent of the calculated amount by July 1, 2014; has funded at least seventy-five

percent of the calculated amount by July 1, 2015 and has funded one hundred percent of the calculated amount by July 1, 2016.

- 11.5. Until such time that a new salary schedule is implemented, the current Temporary Higher Education Classified Employee Annual Salary Schedule, consisting of a minimum annual salary for each pay grade in accordance with experience in West Virginia higher education or West Virginia state government, shall be in place. An employee is considered equitably compensated if his or her salary is at the minimum salary on the Temporary Higher Education Classified Employee Annual Salary Schedule that is required for his or her pay grade and years of experience on the July 1, 2001 salary schedule.

§135-53-12. Classification System Methodology Audit.

- 12.1. By July 1, 2014 and at least once within each five year period thereafter, the Council and Commission shall review the effectiveness of the system for classifying jobs and submit an in-depth report to the Legislative Oversight Commission on Education Accountability. The report shall include, but is not limited to, findings, recommendations and supporting documentation regarding the following job classification issues:
 - 12.1.a. The effectiveness of the point factor methodology and a determination of whether it should be maintained; and
 - 12.1.b. The status of the job evaluation plan, including the factors used to classify jobs or their relative values, and a determination of whether the plan should be adjusted.

§135-53-13. Nonclassified Employees.

- 13.1. By July 1, 2013, the percentage of personnel placed in the category of nonclassified may not exceed twenty-five percent of the total number of classified and nonclassified employees of that organization.
- 13.2. Except as otherwise provided for in this rule, by July 1, 2015, the percentage of personnel placed in the category of nonclassified may not exceed twenty percent of the total number of classified and nonclassified employees of that organization.
- 13.3. Organizations may request an extension to July 1, 2016, to comply with the requirement that the percentage of personnel placed in the category of nonclassified may not exceed twenty percent of the total number of classified and nonclassified employees of that organization. If an extension is granted, it may not exceed twenty-five percent and it must be

approved in advance of implementing such extension, by both the institution's governing board and the Council.

- 13.4. In establishing return rights of a nonclassified employee to classified status, the return rights must be evidenced in writing, provided to the employee and placed into the employee's personnel file, and must articulate the job title and pay grade. If the institution's compensation system establishes discretion as to placement on the salary schedule, then an indication of that placement must be specified.
- 13.5. In establishing return rights of a nonclassified employee to faculty status, the return rights must be evidenced in writing, provided to the employee and placed into the employee's personnel file, and must articulate faculty track, tenure status if any, faculty rank if any, faculty job title, faculty compensation rate, and if non-tenured, whether the faculty status would be for a term, defined in the document, or for the remainder of the academic or fiscal year following separation from nonclassified status.
- 13.6. Classified employees who were involuntarily transferred to non-classified positions have the right to return to classified positions based on West Virginia Code provisions.
- 13.7. When an organization counts, as faculty or classified staff, those administrators who retain the right to return to faculty or classified positions, these designations apply only to the calculation of the organization's compliance with the statutory maximum ratio of nonclassified employees and are to be treated and counted as nonclassified employees for all other purposes. An organization shall report to the Council all nonclassified employees who retain return rights to either a classified or faculty position in the category of "nonclassified" in all data submissions or analysis other than the determination of the ratio of nonclassified employees, including but not limited to the analysis of relative market equity.
- 13.8. The current annual salary of a nonclassified employee may not be reduced if his or her position is redefined as a classified position solely to meet the requirements of West Virginia Code §18B-7-11. If such a nonclassified employee is reclassified, his or her salary does not constitute evidence of inequitable compensation in comparison to other employees in the same pay grade.

§135-53-14. Employee Performance Evaluations.

- 14.1. After a classified employee's probationary period, during which 3-month and 6-month probationary performance evaluations are required, each employee shall receive a written evaluation of his or her job related

performance on an annual basis. A copy of the evaluation document shall be placed into the employee's personnel file and must include confirmation, through a physical or an electronic signature of the employee, signifying that the employee has participated in the evaluation process.

- 14.2. Organizations shall conduct regular performance evaluations of non-classified employees and faculty as well as classified employees.
- 14.3. Each organization shall develop a consistent, objective performance evaluation system and evaluation instrument(s).
- 14.4. Organizations shall train supervisors in the best practices of conducting employee performance evaluations.
- 14.5. Supervisors who fail to conduct evaluations of those employees who report to them, according to their organization's policies, may be subject to disciplinary action.

§135-53-15. Training and Development.

- 15.1. The Vice Chancellor for Human Resources shall carry out the following duties related to training and development:
 - 15.1.a. Analyzing and determining training needs of organization employees and formulating and developing plans, procedures and programs to meet specific training needs and problems. Successful completion of these tasks requires the Vice Chancellor for Human Resources to work closely with and communicate regularly with the training and development coordinators employed by each organization.
 - 15.1.b. Developing, constructing, maintaining and revising training manuals and training aids or supervising development of these materials by outside suppliers.
 - 15.1.c. Planning, conducting, and coordinating management inventories, appraisals, placement, counseling and training.
 - 15.1.d. Coordinating participation by all employees in training programs developed internally or provided by outside contractors.
 - 15.1.e. Administering and analyzing an annual training and development needs survey. The survey may coincide with the completion of the annual performance review process.

- 15.1.f. Developing model supervisor training programs in order to provide guidance in best practices related to supervision of subordinates and compliance with federal and state employment laws and rules of the Council.
- 15.1.g. Developing training and professional development programs for personnel who administer human resources functions at each organization in response to performance reviews of those personnel, which are conducted at least once every three years.
- 15.2. The Council shall assist organization human resources professionals in applying Fair, Accountable, Credible, Transparent, and Systematic (FACTS) principles to all human resources functions and shall provide model training programs to organizations upon request for assistance.
- 15.3. Funds allocated or made available for employee continuing education and development may be used to compensate and pay expenses for faculty or staff pursuing additional academic study or training to better equip themselves for their duties.
- 15.4. Subject to legislative appropriation therefore, the Council shall provide additional, regular training and professional development for human resources employees and any appointees to committees appointed by this rule. The training and development shall be:
 - 15.4.a. Mandatory with appropriate consideration given to limiting travel demands on employees; and
 - 15.4.b. In addition to and may not supplant the training and professional development regularly provided to any class of employees by each organization.
- 15.5. An account of the total amount, type of training or professional development provided, the number of employees who participated and the overall cost of the training and professional development provided to employees shall be provided to the Council by the organizations as part of the annual personnel reports at a time designated by the Council.

§135-53-16. Organizational Rules.

- 16.1. Each institution shall amend any of its policies/rules to comply with the Council's rule or rules no later than six months after the effective date of any change in statute or Council rule or rules, unless a different compliance date is specified within the statute or rule containing the requirements or mandate.

- 16.2. An institution may not adopt a rule, as mandated by this subsection, until it has consulted with the appropriate employee classes affected by the institution's rule or rule's provisions. At a minimum, consultations with the institutional Classified Employees Council (staff council) and/or the institutional Faculty Senate (faculty senate), as appropriate, shall take place.
- 16.3. If an institution fails to adopt a rule or rules as mandated by this subsection, the Council may prohibit it from exercising any flexibility or implementing any discretionary provision relating to human resources contained in statute or in a Council rule until the organization's rule requirements have been met.
- 16.4. An institution may exercise additional flexibility or areas of operational discretion identified in statute or in Council rule or rules when it meets the following requirements:
 - 16.4.a. Receives certification from the Council that the institution has achieved full funding of the Temporary Higher Education Classified Employee Annual Salary Schedule or is making appropriate progress toward achieving full funding.
 - 16.4.b. Promulgates a comprehensive salary rule or rules as required by statute.
 - 16.4.c. Receives approval for the salary rule from the Chancellor.
 - 16.4.d. Adopts the rule by vote of the institution's governing board.
- 16.5. The Chancellor or his or her designee has the authority and the duty to review each institution's salary rule or rules and to recommend changes to the rule or rules to bring them into compliance with state and federal law, Council rule or rules or legislative and Council intent. The Chancellor may reject or disapprove any rule or rules, in whole or in part, if he or she determines that it is not in compliance with any law or rule/rules or if it is inconsistent with Legislative and Council intent or does not sufficiently address and include measures that foster meaningful accountability of the institution to this rule, its own rules and state and federal law.

§135-53-17. Organizational Accountability.

- 17.1. The Council shall conduct a systematic human resources review of each organization by an external vendor possessing experience and expertise in conducting these reviews every five years, subject to Legislative appropriation. The first review shall be completed no later than June 30, 2013.

- 17.2. The review shall focus on highlighting strengths and identifying and correcting any deficiencies in complying with state and federal law and in adhering to personnel rule or rules of the Council.
- 17.3. The Council shall provide organizations with reasonable notice prior to conducting a human resources review and shall identify the subjects to be examined in the review.
- 17.4. A major deficiency means an organization has failed to comply with federal or state law or with personnel rules of the Council. The following guidelines exist for correcting deficiencies should any be found:
 - 17.4.a. When a major deficiency is identified, the Council shall notify the governing board of the institution in writing within forty working days, giving particulars of the deficiency and outlining steps the governing board is required to take to correct the deficiency.
 - 17.4.b. The governing board shall correct the major deficiency within four months and shall notify the Council when the deficiency has been corrected; however, extensions of this time frame may be requested and granted by the Council.
- 17.5. If the governing board fails to correct the major deficiency or fails to notify the Council that the deficiency has been corrected within a period of four months from the time the governing board receives notification, the Council shall apply sanctions as specified:
 - 17.5.a. A formal reprimand shall be placed in the personnel file of each key administrator who shares responsibility and has operational authority in the area of the identified deficiency. The maximum period of time this reprimand shall remain in the personnel file shall be one year.
 - 17.5.b. Other sanctions may include, but are not limited to, suspending new hiring by the organization and prohibiting compensation increases for key administrators who have authority over the areas of major deficiency until the identified deficiencies are corrected.
- 17.6. To the extent that major deficiencies are identified relative to the Council central office the sanctions described above shall be applicable.
- 17.7. The Vice Chancellor for Human Resources shall report annually to the Council on each institution under its jurisdiction on its adherence to this rule, the institution's own rules and both state and federal law regarding personnel and accountability.



West Virginia Higher Education Policy Commission

Report to the Legislative Oversight Commission on Education Accountability

September 17, 2018

Approval of Emergency and Legislative Rules

West Virginia Higher Education Policy Commission, Title 133
Series 5, Legislative Rule, Guidelines for Governing Boards in Employing and Evaluating
Presidents

West Virginia Higher Education Policy Commission, Title 133
Series 7, Emergency Rule, West Virginia Providing Real Opportunities for Maximizing In-
State Student Excellence (PROMISE) Scholarship Program

West Virginia Higher Education Policy Commission, Title 133
Series 7, Legislative Rule, West Virginia Providing Real Opportunities for Maximizing In-
State Student Excellence (PROMISE) Scholarship Program

Michael J. Farrell, Esq.
Chair



Carolyn Long
Interim Chancellor

West Virginia Higher Education Policy Commission

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MEMORANDUM

TO: Legislative Oversight Commission on Education Accountability

FROM: Carolyn Long

DATE: September 17, 2018

RE: Approval of Emergency and Legislative Rules

On behalf of the West Virginia Higher Education Policy Commission, I am submitting for your consideration, the following revised, Emergency and Legislative rules approved by the Commission on June 22, 2018 and August 24, 2018, and filed with agency approved status with the Secretary of State's Office:

Title 133, Series 5, Legislative Rule, Guidelines for Governing Boards in Employing and Evaluating Presidents

This rule establishes guidelines for governing boards of non-exempted schools to use in employing and evaluating presidents.

Title 133, Series 7, **Emergency Rule**, West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program

This rule establishes guidelines and procedures for eligibility for the PROMISE Scholarship Program.

Title 133, Series 7, **Legislative Rule**, West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program

This rule establishes guidelines and procedures for eligibility for the PROMISE Scholarship Program.

If you have questions regarding this matter, please feel free to contact my office.



TO: Legislative Oversight Commission on Education Accountability

FROM: Sarah Tucker 
Chancellor

DATE: September 7, 2018

RE: Repeal of Legislative Rules

On behalf of the West Virginia Council for Community and Technical College Education, I am submitting for your consideration, the following revised, legislative rule approved by the Council and filed with the Secretary of State's Office on July 2, 2018:

Title 135, Series 32: *Tuition and Fees*

This rule governs approval of tuition and fee increases by the West Virginia Council for Community and Technical College Education (Council) for West Virginia public community and technical colleges as required by West Virginia code.

Further, I also submit for your consideration, the following legislative rule to be repealed. House Bill 2542 passed during the 2017 Legislative Session mandated changes in higher education human resources. As a result, a new legislative rule, Title 135, Series 55, *Human Resources Administration*, was approved during the 2018 Legislative Session, final filed with the Secretary of State's Office and became effective on July 9, 2018. This new rule encompasses portions of the rule below, which is now no longer relevant.

Title 135, Series 53: *Human Resources*

This rule establishes policy in a number of areas regarding human resources administration for the employees of the West Virginia Council for Community and Technical College Education (Council) and the public higher education institutions in West Virginia. It also provides guidelines for governing boards relative to decisions pertaining to public higher education employees.

Thank you for your consideration, and please let me know if you have questions or require further clarification.

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

**SERIES 5
GUIDELINES FOR GOVERNING BOARDS IN EMPLOYING AND EVALUATING
PRESIDENTS**

§133-5-1. General.

1.1. Scope - Rule establishing guidelines for governing boards of non-exempted schools to use in employing and evaluating presidents.

1.2. Authority - West Virginia Code §§18B-1B-4, 18B-1B-6.

1.3. Filing Date – ~~April 14, 2009~~

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

1.5. Sunset Provision. – This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

§133-5-2. State Colleges and Universities.

2.1. The provisions of this rule apply to the employment of presidents of Bluefield State College, Concord University, Fairmont State University, Glenville State College, ~~Marshall University~~, Shepherd University, West Liberty State College University, ~~West Virginia School of Osteopathic Medicine~~, and West Virginia State University and West Virginia University.

2.2. Upon the occurrence of a vacancy in the position of President at one of the institutions set out in Section 2.1, the governing board of the institution shall undertake a search for a new President. The governing board is responsible for the search, both procedurally and financially. The governing board shall adopt a procedure, consistent with this rule, governing the search. The search procedure adopted by the governing board shall be approved by the West Virginia Higher Education Policy Commission (“Commission”) prior to being implemented. The procedure shall require, at the least:

2.2.4a. Input as to the best characteristics and qualities of the President should be solicited by the governing board of its constituencies and utilized in selecting and evaluating the candidates.

2.2.2b. If a search committee is appointed, it shall include representation of faculty, students, and staff, and other constituencies of the institution. The number and constituency of the membership of the committee shall be at the discretion of the governing board.

2.2.3c. A position announcement shall be prepared detailing the characteristics and qualities sought in a new President and distributed to appropriate newspapers and other media sources, heads of higher education associations and organizations, and other appropriate individuals for the purpose

of advertising the position.

2.2.4d. Interviews with the finalists, as determined by the governing board, shall be conducted on campus and, during the campus visits, students, classified employees, non-classified employees, faculty, campus administrators, community leaders, alumni, and other individuals shall be invited to meet with the candidates, and their comments shall be solicited and evaluated by the governing board.

2.2.5e. Background checks may be conducted on each candidate prior to interviewing with the search committee or governing board. Background checks should be conducted on finalists prior to any campus visit made at the invitation of the search committee or governing board and shall be conducted prior to any final selection by the search committee or the governing board. On-site visits to the candidates' current and past places of employment may be conducted and are recommended for the final candidates. Standard industry practices shall be utilized in conducting background checks and, at a minimum, shall include confirmation of degrees and past employment-and criminal and credit checks.

2.3. Candidates may be considered through their own application or by nomination.

2.4. Members of the governing board, or any search committee appointed, may not provide information about the names or backgrounds of any candidates, without their consent, to anyone who is not a member of the governing board or search committee, or authorized agents or staff as designated in the search procedures approved by the Commission. When candidates are invited to a preliminary interview with the search committee, they shall be notified of the conditions under which confidentiality may be waived as to background checks and that in the event that they are invited for a campus interview, their names and backgrounds shall be publicly released at the time they accept an invitation for a formal campus visit.

2.5. At the request of an institution, the Commission may provide the governing board with staff assistance to manage the search process, or the governing board may enter into a contract with a consultant or executive search firm to identify potential candidates in addition to those who have applied or been nominated or to assist in the search.

2.6. The Chancellor shall serve as an ex officio, non-voting member on all search committees or bodies serving in that capacity during the search process. The Commission reserves the right to conduct independent interviews of one or more finalists. Prior to exercising such option, it shall give sufficient notice to the governing board so that any such interviews will occur sufficiently close to the final decision of the governing board. All presidential appointments ~~shall~~ must be ~~approved~~ confirmed by the Commission.

2.7. Terms of compensation and contracts discussed with or offered to candidates shall be consistent with the sections of this rule regarding presidential compensation and contracts.

2.8. Interim Presidents appointed by a governing board shall be ~~approved~~ confirmed by the Commission.

§133-5-3. Presidential Contracts.

3.1. Governing boards under the jurisdiction of the Commission shall receive the approval of the Commission of the total compensation package from all sources for a President when the President is initially hired and for any subsequent changes in the total compensation package.

3.2. A President is considered as will and pleasure employee of his/her governing board unless that status is specifically altered by the President's letter of appointment or contract. Presidential contracts exceeding a term of one fiscal year shall conform to the following:

3.2.4a. An initial offer of employment as President, or guarantee of employment in that or another position, may not exceed two years. After the initial contract, the governing board may offer contracts of up to five years. A President assigned to an alternative position during a guaranteed term of employment shall perform substantive duties on behalf of the institution in order to collect his or her salary.

3.2.2b. All contracts with a term greater than one fiscal year shall be conditioned upon availability of funding.

3.2.3c. A governing board may agree to reasonable notice of the intent not to renew a contract. It is recommended that such notice not exceed one year but may be increased up to two years after five years of service by the President.

3.2.4d. All contracts with a commitment of continued employment must provide that the President may be discharged for "cause" and that such a discharge nullifies any commitment to continued employment. "Cause" includes, but is not limited to, official misconduct, incompetence, neglect of duty, gross immorality, malfeasance, misfeasance, insubordination, and acts of commission or omission in violation of the governing board's directives or policies.

3.3.5e. Provisions in contracts existing on the effective date of this rule that are inconsistent with this rule may remain in effect at the discretion of the governing board unless the provisions are in violation of the statute.

§133-5-4. Compensation.

4.1. The total compensation of a President, from all sources, shall receive prior approval of the Commission. Forms of compensation which require prior approval include: annual salary derived from whatever funding source, deferred compensation, and housing or vehicle allowances. The governing board may require approval of other compensation such as non-state funded discretionary funds, compensation from other employment or for service on a corporate board of directors, and payment of dues or assessments for membership in non-professional related clubs or associations. Any such compensation received shall be reported to the Chancellor. If approval of deferred compensation is being sought, the institution shall submit an actuarial report to the Commission detailing the present cash value of the deferred compensation and conditions for eligibility or receipt of the deferred compensation.

4.2. The total salary from all funding sources for a President should be based on a comparison of the presidential salaries at the institution's peer institutions, ~~as defined by the Commission. Other or other~~ national data sources which may be utilized by the governing board, as appropriate, to establish salary

ranges.

4.3. A percentage presidential salary increase in excess of the average percentage salary increase for all personnel at that institution within the last calendar year may be approved only if a detailed rationale of its governing board justifying the increase is submitted to the Commission.

4.4. Housing allowances granted a President not provided housing by the institution may not be considered as part of the presidential salary for the purposes of Section 4.2 above.

4.5. Annually, the Chancellor shall make available to the governing boards and Commission the most recent College and University Professional Association for Human Resources (CUPA-HR) or other comparable salary data applicable to their institutions.

4.6. The Commission must receive notice, but need not approve or confirm an increase in the compensation of a President that is exactly in the ratio of compensation increases allocated to all institutional employees if approved by the governing board.

§133-5-5. Presidential Evaluation.

5.1. Each governing board shall conduct a formal and structured written performance evaluation of the institution's President every third year of the President's employment. The President's performance shall be evaluated in relation to the duties and responsibilities assigned the President by the governing board, the success of the institution in meeting each requirement of its institutional compact, and any other criteria previously established by the governing board.

5.2. The governing board shall appoint a committee of its own members, a visiting team, or any combination thereof, and utilize institutional personnel-including faculty and staff as well as students, and persons who are knowledgeable of higher education matters ~~who are not otherwise directly employed by a governing board~~ to assist in its evaluation of the President.

5.3. The governing board committee, visiting team, or other body chosen by the governing board, shall visit the campus to receive the views of the President, governing board members, administrators, faculty, classified employees, non-classified employees, students, alumni, and community leaders. A schedule of interviews, meetings, and open forums that will assure a careful assessment of leadership and condition of the campus shall be arranged.

5.4. The governing board shall use the report of its committee, visiting team, or other body chosen by the governing board to assist in its own written evaluation of the President. The governing board's evaluation shall be reported to the President of the institution, the Chancellor, and the Chair of the Commission.

5.5. The Chancellor shall provide the governing boards, upon request, with evaluative tools, guidelines, and procedures recommended for the assessment and evaluation of college and university presidents and provide any assistance requested by a governing board in performing the evaluations set out in this rule.

5.6. The governing board shall conduct a written evaluation at the end of the initial contract period. In addition to the formal and structured evaluation every three years and at the end of the initial contract period, each President shall receive a written yearly evaluation in a manner and form decided by the governing board.

5.7. The Commission shall not approve any request for an increase in compensation of a President prior to receiving an evaluation of that President for the year immediately preceding the requested increase.

**TITLE 133
EMERGENCY 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. -- ~~July 5, 2017.~~

1.4. Effective Date. -- ~~August 5, 2017.~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its 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.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.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.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.d. 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.e. Must meet standardized test score criteria on an ACT or SAT national test as established by the West Virginia Higher Education Policy Commission (Commission); and

2.1.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, a U.S. permanent resident, or an eligible non-citizen who meets

the residency requirements for Federal Student Aid; and

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

2.1.g.1. Any student who misses the deadline for application may apply by a later date established by the 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.d. will be determined by the appropriate school official at the end of the 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 a state approved high school equivalency examination with a minimum score~~ completed the required core and elective coursework necessary to prepare students for success in postsecondary education at the associate and baccalaureate levels by attaining a cumulative grade point average of at least 3.0 on a 4.0 grading scale in both core courses and overall coursework as determined by the Commission. The Commission may inquire into the substance or content of the program to assess the content thereof for the purpose of determining whether a student meets the requirement of Section 3.1.

3.2. A home-schooled student must apply for a PROMISE award within two years of ~~the earlier of passing a 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 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.f. 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 a state approved high school equivalency examination with a minimum score determined by the Commission.

4.2. A graduate of such programs must apply for a PROMISE award within two years of the earlier of passing a 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 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.f. of this rule.

4.4. A student passing a 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 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.f. 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.b. and the residency requirements of Section 2.1.f. of this rule shall be waived if:

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

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

6.1.e. 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.b. of this rule shall be waived if:

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

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

7.1.c. The parent or legal guardian and the applicant must have met the residency requirements set out in Section 2.1.f. of this rule; and

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

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

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

7.1.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.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 Commission, are eligible to participate in the PROMISE Scholarship Program.

§133-7-9. Awards.

9.1. "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.

9.1.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.

9.1.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.

9.2. Students awarded a PROMISE Scholarship 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.

9.3. 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 Commission.

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

9.3.b. Students, other than those graduating at the end of the summer term of enrollment, must be enrolled for at least 12 credit hours unless granted a waiver of the full-time requirement by the Commission. ~~Students graduating at the end of the summer term of enrollment are only required to enroll for a minimum of 6 credit hours.~~

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

9.4. 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.g.1.

9.5. If the 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~~ academic year 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~~ academic year 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.a. College-Level Examination Program (CLEP) credits may be used to meet the minimum credit hours requirement.

10.3.b. 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~~ academic year 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.a. The student must 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 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.a. All college credit hours and corresponding grades 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 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.a. 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.b. 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.c. 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 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 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.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.b. PROMISE Scholarship awards must be used for tuition and fees.

13.1.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.

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

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 Commission for a renewal of the award retroactively.

§133-7-15. Reports.

15.1. The 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 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 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. -- ~~July 5, 2017.~~

1.4. Effective Date. -- ~~August 5, 2017.~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its 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.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.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.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.d. 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.e. Must meet standardized test score criteria on an ACT or SAT national test as established by the West Virginia Higher Education Policy Commission (Commission); and

2.1.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, a U.S. permanent resident, or an eligible non-citizen who meets

the residency requirements for Federal Student Aid; and

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

2.1.g.1. Any student who misses the deadline for application may apply by a later date established by the 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.d. will be determined by the appropriate school official at the end of the 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 a state approved high school equivalency examination with a minimum score~~ completed the required core and elective coursework necessary to prepare students for success in postsecondary education at the associate and baccalaureate levels by attaining a cumulative grade point average of at least 3.0 on a 4.0 grading scale in both core courses and overall coursework as determined by the Commission. The Commission may inquire into the substance or content of the program to assess the content thereof for the purpose of determining whether a student meets the requirement of Section 3.1.

3.2. A home-schooled student must apply for a PROMISE award within two years of ~~the earlier of passing a 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 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.f. 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 a state approved high school equivalency examination with a minimum score determined by the Commission.

4.2. A graduate of such programs must apply for a PROMISE award within two years of the earlier of passing a 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 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.f. of this rule.

4.4. A student passing a 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 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.f. 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.b. and the residency requirements of Section 2.1.f. of this rule shall be waived if:

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

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

6.1.e. 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.b. of this rule shall be waived if:

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

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

7.1.c. The parent or legal guardian and the applicant must have met the residency requirements set out in Section 2.1.f. of this rule; and

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

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

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

7.1.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.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 Commission, are eligible to participate in the PROMISE Scholarship Program.

§133-7-9. Awards.

9.1. "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.

9.1.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.

9.1.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.

9.2. Students awarded a PROMISE Scholarship 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.

9.3. 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 Commission.

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

9.3.b. Students, other than those graduating at the end of the summer term of enrollment, must be enrolled for at least 12 credit hours unless granted a waiver of the full-time requirement by the Commission. ~~Students graduating at the end of the summer term of enrollment are only required to enroll for a minimum of 6 credit hours.~~

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

9.4. 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.g.1.

9.5. If the 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~~ academic year 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~~ academic year 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.a. College-Level Examination Program (CLEP) credits may be used to meet the minimum credit hours requirement.

10.3.b. 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~~ academic year 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.a. The student must 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 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.a. All college credit hours and corresponding grades 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 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.a. 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.b. 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.c. 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 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 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.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.b. PROMISE Scholarship awards must be used for tuition and fees.

13.1.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.

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

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 Commission for a renewal of the award retroactively.

§133-7-15. Reports.

15.1. The 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 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 135
LEGISLATIVE RULE
WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION
SERIES 32
TUITION AND FEES

§135-32-1. General.

1.1. Scope. -- This rule governs approval of tuition and fee increases by the West Virginia Council for Community and Technical College Education (Council) for West Virginia public community and technical colleges as required by West Virginia code.

1.2. Authority. -- West Virginia Code §18B-1D-3(a)(2)(B), §18B-10-1

1.3. Filing Date. -- ~~June 21, 2012~~

1.4. Effective Date. -- ~~June 21, 2012~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

§135-32-2. Purpose.

2.1. The purpose of this rule is to establish guidelines for the Council to approve tuition and fee increases as required by State code. The Council recognizes that each college must have adequate funds to fulfill the institution's mission of delivering comprehensive community and technical college education and that two primary sources of funds are available: state general revenue allocations and tuition and fees collected from students. The Council recognizes the impact that tuition increases have on students and their ability to pay for and attend college. Consistent with this purpose, this rule addresses:

2.1.a. The process by which the Council will approve required in-state resident tuition and fee increases above ~~five~~ten percent (~~5~~10%) and above seven percent (7%) over any three-year rolling period.

2.1.b. The process by which Council staff will review special fees to determine if these fees should be included in required tuition and fees and thus subject to Council approval.

2.1.c. The process by which the Council will review out-of-state nonresident tuition and fee rates to determine if these rates meet the "full cost of instruction" as required by W. Va. Code.

§135-32-3. Definitions.

3.1. Auxiliary Fees. -- Charges levied to all students to support auxiliary enterprises or optional charges levied only on students using the auxiliary service. Auxiliary fees include sales and service revenue from entities that exist predominantly to furnish goods or services to students, faculty or staff such as residence halls, faculty and staff housing, food services, intercollegiate athletics, student unions, bookstores, parking and other service centers.

3.2. Capital Fees. -- Charges levied on all students to support debt service, capital projects and facilities maintenance and renewal.

3.3. Deferred payment plans. -- Payment plans approved by each Board of Governors to allow for payment of tuition and fees at less than full payment prior to the start of classes.

3.4. Educational and General Fees. -- Charges levied on all students to support educational and general program services or optional fees levied for education and general services collected only from students using the service or from students for whom the services are made available. Educational and general expenditures include instruction, research, academic support, student services, institutional support, operation and maintenance of the physical plant, scholarships, and fellowships. Educational and general expenditures do not include expenditures for auxiliary enterprises or independent operations.

3.5. Full Cost of Instruction. -- The direct, functional expenditures from each institution's audit for both instruction and student services expenditures.

3.6. Full-time equivalent students. -- A calculation completed on an annual basis by Council staff using end of term enrollment data and is also referred to as annualized full-time equivalent students (AFTES). The calculation is as follows: end of term course hours for each semester (summer, fall and spring) divided by fifteen to get end of term FTES; sum the FTES for all three semesters; and divide by two to get AFTES.

3.7. Higher Education Price Index (HEPI). -- A measurement for inflation designed specifically to track the main cost drivers in higher education and to measure the change in the price of the goods and services purchased by colleges and universities as measured by the Commonfund Institute.

3.8. Median Family Income. -- Household income that is reported to the U.S. Census Bureau from various surveys and is the statistical center of all reported households income for a region.

3.9. Net college costs. -- The total cost to the student for tuition, room and board minus the amount of any financial aid a student may receive.

3.10. Peer Institution. -- A higher education institution located in another state that is similar to a West Virginia community and technical college and is one of twenty colleges selected to be a peer institution.

3.11. Program Fees. -- Charges levied to all students who take classes in a specific degree program to offset some of the higher, direct, instructional costs of these programs and minimize required tuition charged to all students.

3.12. Reduced nonresident tuition and fees. -- A special tuition and fees rate charged to a specific group of nonresident students typically in counties that border the West Virginia institution.

3.13. Required Tuition and Fees. -- Charges levied to all students and include educational and general fees, auxiliary fees, and capital fees. Increases in these fees above five percent must be approved by the Council.

3.14. Special Fees. -- Operational or user fees charged to offset the specific costs for providing a service. These fees include, but are not limited to, parking, late payments, drug testing, instrument fees, and other services provided to students.

§135-32-4. Goals.

4.1. Objectives. -- The Council, in partnership with the governing boards of the ten community and technical colleges comprising the community and technical college system of West Virginia, shall enhance education opportunities for the widest range of state citizens by:

4.1.a. Establishing tuition and fee levels for in-state students that do not inhibit access to public education nor cause students to incur excessive debt; W. Va. Code § 18B-1D-3(a)(2)(B); and

4.1.b. Establishing tuition and fee rates for out-of-state students at levels which, at a minimum, cover the full cost of instruction unless doing so is inconsistent with a clearly delineated public policy goal established by the Legislature ... or the Council. W. Va. Code § 18B-1D-3(a)(2)(B).

4.2. Findings. -- The Council finds:

4.2.a. Students attending community and technical colleges in West Virginia pay a significantly higher proportion of their family income for tuition and fees than do students in most other states.

4.2.b. The average tuition and fee rate for community and technical colleges in West Virginia exceeds the national average for public community and technical colleges.

4.2.c. Providing opportunities for adult students to enroll in community and technical college programs is a priority, and tuition and fee rates must remain affordable for this targeted population.

4.2.d. A delicate balance exists between the need for tuition increases to address increasing institutional operating costs and the impact on accessibility and affordability for students.

4.2.e. The Council for Community and Technical College Education declares that it is supportive of institutional tuition plans that lead to increase degrees and/or certificates attainment in the State of West Virginia.

§135-32-5. Tuition and Fee Increases.

5.1. Approval of In-State or Resident Tuition and Required Fee Increases.

5.1.a. In establishing guidelines, the Council shall communicate to institutions the benchmarks and guidelines for consideration of any tuition and fee increase above ~~five-ten~~ percent and above seven percent (7%) over any three-year rolling period. The cumulative increase is calculated by averaging the proposed increased with the increase for the immediate two previous years. Tuition and fee increases for online courses are not subject to approval by the Council. The benchmarks and guidelines may include, but are not limited to such items as:

5.1.a.1. The HEPI, or other appropriate inflationary benchmarks, which any new state allocations to the institution's base budget for the next fiscal year did not offset;

5.1.a.2. Continued achievement of benchmarks in the approved institutional compact;

5.1.a.3. Comparison of the most recent year change in the average West Virginia student's net tuition with change in the West Virginia's median household income to determine whether a community and technical college education is costing families more or less over time and thus impacting the ability of families to pay for college;

5.1.a.4. Institutional distance from peer equity levels;

5.1.a.5. Institutional and state funding per full-time equivalent student;

5.1.a.6. Most recent three-year history of tuition and fee increases;

5.1.a.7. Institutional implementation of new, high cost programs as defined by the Council;

5.1.a.8. Total sources of student generated revenue, including special and program fees; and,

5.1.a.9. Other factors as requested or deemed relevant by the Council, or in response to any new statutory language.

5.1.b. A governing board may approve tuition and required fee increases for resident students each fiscal year up to ~~five~~ten percent (~~5~~10%) and not above seven percent (7%) over any three-year rolling period without Council approval.

5.1.b.1. For the purposes of this rule, the ~~five percent~~ tuition and fee increases that require only local governing board approval shall be based on required tuition and fee rates charged to all in-state, resident students.

5.1.b.2. A special fee must be approved by the Council if it is a new fee (or an increase in an existing fee) that is charged to fifty percent or more of the students and if the inclusion causes resident tuition and fee increases to exceed ~~five~~ten percent and above seven percent (7%) over any three-year rolling period. Determination of the fifty percent (or more) of the students is calculated by using most current, unduplicated, fall headcount and comparing these amounts to the institutional reported projected student population to be charged. These fees must be included in both reports to Council discussed in sections 5.1.c. and 5.1.d.

5.1.b.3. Program fees must be approved by each governing board and do not require Council's approval. However, these fees must be included in both reports to Council discussed in sections 5.1.c. and 5.1.d.

5.1.c. In responding to the guidelines and benchmarks provided by the Council, each institution shall provide the Council with an annual report by August 31st that specifies the following information from the most recent academic year:

5.1.c.1. Tuition and fee rates for resident, nonresident, and reduced nonresident required tuition and fees, program fees, and special fees;

5.1.c.2 The total number of students charged resident, nonresident, and reduced nonresident required tuition and fees, program fees, and special fees; and

5.1.c.3. The total revenue generated from resident, nonresident, and reduced nonresident required tuition and fees, program fees, and special fees.

5.1.d. Each institution must provide to the Council by April 1st, any Board approved or proposed new tuition and fees for the next academic year. This report will specify:

5.1.d.1. Current and proposed tuition and fee rates for resident, nonresident, and reduced nonresident required tuition and fees, program fees, and special fees;

5.1.d.2. The estimated number of students who will be charged any new or proposed changes to existing special fees; and

5.1.d.3. The projected revenue increases to be generated from any proposed tuition and fee increases for resident, nonresident, and reduced nonresident required tuition and fees, program fees, and special fees; and

5.1.d.4. The justification for tuition and fee increases that exceed a total of 510 % and above seven percent (7%) over any three-year rolling period.

5.2. Review of nonresident tuition and fees.

5.2.a. A governing board shall propose tuition and required fee rates for out of state or nonresident students at levels that, at a minimum, cover the full cost of instruction unless doing so is inconsistent with a clearly delineated public policy goal established by the Legislature or the Council.

5.2.b. The Council will require each institution to report annually on the number of nonresident students. At no time should the admission of nonresident students to any institution or specific program of study within the institution unreasonably impede the ability of resident students to attend the institution or participate in the programs of the institution.

5.2.c. Full cost of instruction is based on the functional schedule from the most recent financial statements. A calculation will be made for each institution taking the total instruction and student services expenses divided by the institution's full time equivalent students. The System average shall be determined by totaling the instruction and student services expenses for all institutions divided by the full time equivalent students for the entire system. Both calculations shall be provided to the institutions annually by January 31st. Each institution will report all nonresident tuition and fee rates. Nonresident tuition and fees will be reviewed by Council staff to determine if current proposed nonresident total tuition and fees fall below the *lower of* the most recent reported System average or the applicable institutional full cost of instruction.

5.2.d. Institutional governing boards may choose to set nonresident tuition based on the lower of the respective institution's full cost of instruction or the system average full cost of instruction.

5.2.e. In order to provide additional educational opportunities to West Virginia residents, West Virginia community and technical colleges may enter into reciprocity agreements with nearby out-of-state higher education institutions whereby institutions make available programs and courses that are not available at the reciprocating institution.

5.2.e.1. Governing boards may enter into reciprocal regional and interstate agreements, including agreements with the Southern Regional Education Board, that allow nonresident students to be charged resident tuition and fee rates, when the agreements are mutually beneficial to the students of the participating states.

5.2.e.2. Reciprocity agreements shall be approved by the Council. Request for approval shall include an estimate of the total number of participating students from West Virginia and other states over the life of the agreement.

5.2.e.3. Tuition and required fees for nonresident students subject to reciprocity agreements shall be charged by community and technical colleges in a manner that is consistent with the Council approved reciprocity agreement.

5.3. Review of reduced, nonresident tuition and fees.

5.3.a. A governing board may propose a reduced, nonresident tuition and required fee rates for out of state or nonresident students at levels that, at a minimum, covers the full cost of instruction as defined in 5.2.c. unless doing so is inconsistent with a clearly delineated public policy goal established by the Legislature or the Council.

5.3.b. There must be clear, specific criteria provided by each Governing Board to govern what students will be charged this reduced, nonresident tuition rate .i.e. geographic location such as out of state surrounding counties bordering the West Virginia institution.

5.3.c. Each institution must report any proposed or changes to the reduced, nonresident tuition rates to the Council along with the submission of resident and nonresident tuition and fee rates as outlined in section 5.1.d.

§135-32-6. Refunds.

6.1. Each Board of Governors must establish a refund policy for students who officially withdraw during a semester that at minimum establishes refunds that complies with the following schedule:

6.1.a. A student who begins a term and withdraws after completing up to one (1) week or ten percent (10%) of the term is entitled to a refund of ninety percent (90%) of the charges;

6.1.b. A student who withdraws after completing more than ten percent (10%) through twenty-five percent (25%) of the term is entitled to a refund of seventy-five percent (75%) of the charges;

6.1.c. A student who withdraws after completing more than twenty-five percent (25%) through fifty percent (50%) of the term is entitled to a refund of fifty percent (50%) of the charges;

6.1.d. A student who withdraws after completing more than fifty percent (50%) of the term is not entitled to a refund; or

6.2. Each Board of Governors may establish a refund policy for students who officially withdraw during a semester that establishes refunds based upon the same calculations that the United States Department of Education prescribes for the return of Title IV student financial aid funds.

§135-32-7. Deferred Payment Plans.

7.1. Each Board of Governors ~~may establish a policy that provides deferred payment plan for students allowing them to pay their tuition and fees in installments. The deferred payment plan(s) must provide for full payment prior to the end of the academic term. This policy must address:~~ shall permit fee payments to be made in installments over the course of an academic term.

~~7.1.a. The interest rates, if any, that will be charged during the plan.~~

~~7.1.b. The types of installment plans available either institutionally or through a third party provider.~~



West Virginia
Higher Education
Policy Commission



WEST VIRGINIA
COMMUNITY & TECHNICAL
COLLEGE SYSTEM

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

September 17, 2018

**Report on Services to Student Veterans
§18B-4-9**



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



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Sarah Armstrong Tucker, Ph.D.
Chancellor

August 31, 2018

The Honorable Mitch Carmichael
President
West Virginia State Senate
Room 227M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

Office of the Speaker
West Virginia House of Delegates
Room 228M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

Dear Mr. President and Speaker of the House:

In accordance with West Virginia Code §18B-4-9, we are pleased to provide the following report regarding services and facilities for student veterans enrolled in West Virginia’s public colleges and universities. We appreciate the Legislature’s ongoing support of efforts to improve veterans’ access to and success in higher education.

The Office of Veterans Education and Training (OVET) of the West Virginia Higher Education Policy Commission (Commission) has continued to support legislative intent to provide “veteran-friendly” services to student veterans throughout the State. The Commission is designated by the Governor as the “state approving agency” for West Virginia under Title 38, United States Code. OVET works closely with its counterparts at the Department of Veterans Affairs (VA) to ensure that educational programs offered in the State of West Virginia are compliant with State and Federal laws and regulations and are therefore approved for receipt of VA education benefits.

All public institutions of higher education in the State of West Virginia continued to implement the 5 Star Challenge (Challenge). This was a call to action by the Commission and the West Virginia Council for Community and Technical College Education (Council) to ensure our institutions continue to set a high bar for provision of services geared toward student veterans. The chief accomplishment of this Challenge was the implementation of priority registration for classes for student veterans at all our institutions.

The Commission and Council continue to focus on addressing the higher education needs of student veterans. Mr. L.G. Corder is the Director of OVET, a graduate of the WVU College of Law, and a three-time veteran of the Iraq War.

We would like to share with you a few highlights of accomplishments occurring at various institutions that are above and beyond the requirements in the Code.

- Fairmont State University opened a new veterans’ lounge that includes a study room, lounge area, coffee and snacks, and a weekly Taco Tuesday event for both veterans and dependents.
- West Virginia University is in the process of opening a 2,800 square foot Veterans Resource Center which will include a coffee bar. In addition to housing existing veterans’ support personnel, the University is adding an Academic Success Coach and a Counselor. The Center will be open to external stakeholders to provide additional support and will also offer services from tutors on site.
- Marshall University recently became designated as a Purple Heart University by the Military Order of the Purple Heart. Additionally, the University designed and implemented a web-based application that is streamlining the process that student veterans utilize through the University to get certified to the VA for receipt of education benefits. This system is speeding up the certification process.
- Blue Ridge Community and Technical College holds an annual Military and Veterans Appreciation week with activities that include: a “thank you table,” a lunch and learn session, a career essentials workshop, a STEM event, and breakfast with the President.
- Mountwest Community & Technical College conducts monthly “Green Zone” trainings. The trainings are delivered to the College’s faculty and staff to inform them of how to address challenges faced by student veterans and dependents.
- Shepherd University used its experience with the ongoing success of their Team River Runner chapter to encourage more chapters to be formed in West Virginia. This effort led to the creation of a new chapter at the Beckley VA Medical Center. The program provides therapy to veterans through kayaking.

The following table includes the applicable sections of the Code and corresponding findings related to veteran-friendly student initiatives:

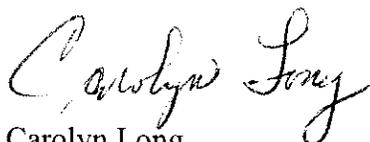
W. VA. CODE §18B-4-9	ACTIVITIES/RESULTS
(1) Establishing veteran-friendly community and technical college degree programs, which recognize and award academic credit toward degrees for various types of technical and vocational military training and experience;	All institutions have accomplished this.
(2) Developing policies for each state institution of higher education to grant academic credit for Armed Forces experiences;	All institutions have accomplished this.

(3) Developing programs to encourage student veterans to share their specialized experience and knowledge gained through military service by making presentations in class, public school programs and local community organizations;	Most institutions have developed methods of encouraging and allowing student veterans to share their experiences.
(4) Establishing and sponsoring an organization for student veterans on campus and encouraging other veteran-friendly organizations;	Nearly all institutions now have active student veteran organizations on campus or have supported and encouraged student veterans to become organized and active.
(5) Appointing and training specific faculty within each degree program or major as liaisons and contacts for student veterans;	Most institutions report they have academic advisors for veterans. Some are faculty; some are staff.
(6) Providing information about programs that grant credit for prior learning to student veterans and potential student veterans;	All institutions have accomplished this.
(7) Coordinating existing disability services on campus with veteran disability services available from the United States Department of Veterans Affairs, other federal and state agencies, and private resources;	All institutions have accomplished this.
(8) Designating individuals to provide financial and psychological counseling services on each campus who are trained to effectively respond to the needs of veterans and to provide services or referrals to services to fulfill these needs for student veterans, and to the extent practicable, providing those services and programs in one location;	All institutions are participating in mental health training targeted at veterans.
(9) Developing training materials on responding to student veteran needs to be available for continued professional development of counselors to student veterans;	Veterans advocates at most institutions provide training to campus staff from various departments on issues specific to student veterans.
(10) Facilitating regular statewide meetings for all personnel at state institutions of higher education who regularly provide specific services to student veterans to discuss and develop best practices, exchange ideas and experiences, and hear presentations by individuals with generally accepted expertise in areas of the various needs of student veterans;	Institutions continue to participate in trainings to stay informed and up-to-date on current trends regarding student veterans. Our office provided training during Financial Aid conferences and during the annual Student Success Summit.
(11) Gathering data on the status of student veterans, including their graduation rates, comparing that rate with the graduation rate of other students in the institution, and reporting those results to appropriate state and federal agencies, including the West Virginia Legislature;	All institutions are identifying student veterans in reports that are submitted to the Commission.

(12) Establishing a program to create a collaborative relationship between student veterans and alumni of the institution, and with prospective employers to facilitate and provide employment as well as social opportunities to graduating student veterans;	The 5 Star Challenge has encouraged institutions to develop this area further.
(13) Developing and facilitating communications between state institutions of higher education and various veteran organizations in the state to advance veteran causes that benefit student veterans;	All institutions have accomplished this.
(14) Coordinating among all relevant departments within each state institution of higher education including but not limited to admissions, the registrar, the bursar, the veterans advocate and financial aid to ensure that relevant deadlines or time-lines are met for certifying veterans' enrollment as early as practicable to ensure that assistance is received from the U.S. Department of Veterans Affairs (DVA) in a timely fashion.	Our institutions have priority registration for student veterans. Our institutions employ VA Certifying Officials that understand and appreciate the need for timely processing of student veteran claims.
(15) Each state institution of higher education shall appoint or designate and train a person, preferably a veteran, to serve as a veterans advocate on its campus.	All institutions have a veterans' advocate.

Please feel free to contact Mr. Corder at 304-558-0263 or either of us if we can provide additional information regarding these initiatives.

Sincerely,



Carolyn Long
Interim Chancellor



Sarah A. Tucker
Chancellor

cc: The Honorable Kenny Mann
Chair, Senate Education Committee

The Honorable Paul Espinosa
Chair, House Education Committee



West Virginia
Higher Education
Policy Commission



WEST VIRGINIA
COMMUNITY & TECHNICAL
COLLEGE SYSTEM

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

September 17, 2018

**Student-Focused Funding for West Virginia Higher Education
§18B-1B-4(d)**

REPORTS ATTACHED AS SEPARATE DOCUMENTS

Also available:

<http://www.wvhepc.edu/resources/reports-and-publications/>

<https://wvctcs.org/reports-resources>



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September 17, 2018

The Honorable Mitch Carmichael
President, West Virginia State Senate
Chair, Joint Committee on Government and Finance
Room 227M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

The Honorable Kenny Mann
Co-Chair, Legislative Oversight Commission on Education Accountability
Chair, Senate Education Committee
Room 417-M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

The Honorable Paul Espinosa
Co-Chair, Legislative Oversight Commission on Education Accountability
Chair, House Education Committee
Room 434-M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

Dear Mr. President, Chairman Mann and Chairman Espinosa:

In accordance with West Virginia Code §18B-1B-4(d), we are pleased to provide the enclosed report detailing our recommendations for fair and equitable performance-based funding models for West Virginia’s public two- and four-year institutions. The two models are designed to drive taxpayer dollars toward the education of West Virginia resident students by: offsetting instructional costs; providing financial support to institutions that, by the nature of their missions, are expected to serve students whose success often depends on the availability of costly academic support services; and holding institutions accountable for student success and degree completion. Additionally, the proposed models include elements that reflect the unique and diverse missions of public institutions across both systems.

The two models use similar methods of allocating general revenue appropriations proportionally based on each institution’s contributions to system-wide performance on key quantitative metrics. The sum of general revenue appropriations within each system will be divided into funding pools that align with the primary dimensions of each system’s master plan – Access, Success, Impact and Research for the four-year system, and Access, Success and Workforce Development for the two-year system. Funding within each

pool will then be distributed proportionally based upon a set of standard quantitative metrics. Table 1 below offers an overview of the key elements of the two proposed models. Additional details are provided in the enclosed presentations.

Table 1: Comparison of Two- and Four-Year Funding Formula Frameworks

Four-Year Model Dimensions		Two-Year Model Dimensions	
Model Dimensions	Quantitative Metrics	Model Dimensions	Quantitative Metrics
Access	<p>Weighted Credit-Hour Production The sum of the number of credit-hours students attempt and successfully earn in an academic year.</p> <p>Weighting factors are applied to account for the increased cost of delivering instruction in high-cost academic disciplines, at various academic levels, and to students in certain high-risk populations.</p>	Access	<p>Weighted Credit-Hour Production The sum of the number of credit-hours students attempt and successfully earn in an academic year.</p> <p>Weighting factors are applied to account for the increased cost of delivering instruction in high-cost academic disciplines, at various academic levels, and to students in certain high-risk populations.</p>
Success	<p>Weighted Progress Toward Degree The number of first-time, full-time, associate- and bachelor's-degree-seeking freshmen who, at the end of their first, second and third years of college have earned 30, 60 and 90 credit-hours, respectively.</p> <p>Weighting factors are applied to account for the increased cost of providing academic support to students in certain high-risk populations.</p>	Success	<p>Weighted Certificate and Degree Completion The number students who successfully earn a certificate or degree in an academic year.</p> <p>Weighting factors are applied to account for the increased cost of providing academic support to students in certain high-risk populations, and for certificates and degrees awarded in high-demand fields such as healthcare or teacher education.</p>
Impact	<p>Weighted Degree Completion The number students who successfully earn a degree in an academic year.</p> <p>Weighting factors are applied to account for the increased cost of providing academic support to students in certain high-risk populations, and for certificates and degrees awarded in high-demand fields such as healthcare or teacher education.</p>	Workforce Development	<p>Clock-Hour Production The number of clock-hours students complete in non-credit workforce development programs.</p>
Research	<p>Institutional Investments in Research and Development Actual dollars invested in research and development activity, as reported in annual audited financial statements.</p>		

Work on the two models began in the spring of 2017, shortly after House Bill 2815 was adopted by the Legislature and signed by the Governor, with a review and analysis of research related to performance-based funding models and an examination of funding models employed by other states. Our research staff conducted a series of mathematical modeling exercises to determine current per-full-time-equivalent (FTE) funding rates for each institution, and to explore the effects of various quantitative metrics on institutional funding levels. The results of these analyses were shared with Legislative leaders through a series of individual in-person meetings in mid- to late-fall. During the same period, then Chancellor Paul Hill and Higher Education Policy Commission (Commission) staff hosted a series of nine internet-based meetings with the executive leadership teams of each of the state's public four-year institutions. The purpose of these meetings was to solicit ideas and feedback from campus leaders on a broad framework for the new funding model and to compile a list of potential funding formula metrics.

We presented the first version of the Student-Focused Funding Model for four-year institutions as an information item to the Commission at its March 23, 2018 meeting, and later to the Legislature's Joint Standing Committee on Education and the Legislative Oversight Commission on Education Accountability on May 21, 2018. Following the March 23 Commission meeting, we invited the public to review the proposed model and feedback during a 30-day public comment period. The Commission received more than 1,300 individual emails, most of which were general messages of support. All comments received during and after the public comment period are available for review using the following link:

http://www.wvhepc.edu/wp-content/uploads/2018/08/HEPC_FundingModelComments_23Aug2018.pdf

The most noteworthy and substantive recommendations are found in the first chapter of the comment document. Our assessment of each recommendation, its potential effect on the model, and its alignment with national best practices led to a number of significant changes to the initial proposal. These changes were presented collectively as an information item to the Commission at its August 24, 2018 meeting. Copies of both the original and modified proposals are enclosed for your reference. These documents are also available online using the following link:

<http://www.wvhepc.edu/resources/reports-and-publications/>

In an effort to obtain an objective assessment of the four-year funding model proposal, we enlisted the help of HCM Strategists, a nationally-recognized independent consulting firm with expertise in performance-based funding model development. HCM conducted an extensive review of the four-year proposal to determine the extent to which it aligns with national best practices and the four-year system master plan. A copy of the final HCM report is included in the enclosed documents. This independent review was conducted at no cost to the state with support from the Lumina Foundation.

Our efforts to develop a two-year funding formula proposal followed a similar process, beginning when Chancellor Sarah Tucker hosted a series of nine individual webinars with campus leaders in early May 2018. The Council for Community and Technical College Education (Council) also hosted a public, full-day funding model summit, which was attended by members of the Council, Council staff, institutional leaders, and members of the public. Information gathered during these meetings was used to craft a proposal that was presented to the Council on July 27, 2018. A two-week public comment period followed, with only three comments received.

A copy of the two-year proposal is enclosed for your review, and is available online at the following link:

<https://wvctcs.org/reports-resources>

We thank you for the opportunity to conduct this important work on your behalf and stand ready to discuss the proposal in greater detail with you and your distinguished colleagues after you have had an opportunity to review the enclosed documents. Should you have questions in the meantime, please feel free to contact us, or Dr. Chris Treadway, Senior Director of Research and Policy, at (304) 558-1112 or chris.treadway@wvhepc.edu.

Sincerely,


Carolyn Long
Interim Chancellor


Sarah A. Tucker
Chancellor