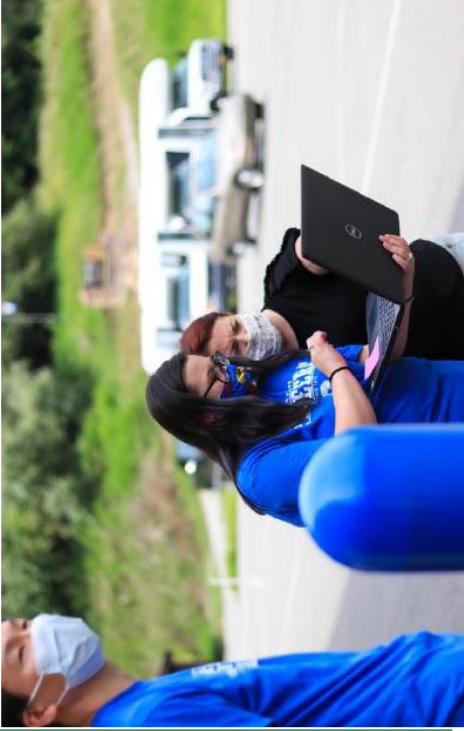


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**Report to the Legislative Oversight Commission on Education
Accountability**

**COVID
Fall 2021 Update**



COVID Fall 2021

Plans for Fall Semester Covid Safety on Campus and in Clinical Facilities

Cynthia Persily PhD, Senior Director of Health Sciences



Fall 2021 Planning

- The HEPC Division of Health Sciences serves as higher education's representative to the JIATF.
- Fall 2021 planning began in May 2021 for all colleges and universities
- The HEPC Division of Health Sciences released guidance and FAQs consistent with CDC guidance to all colleges and universities throughout the summer to assist with planning
- Planning continued throughout the summer
- The increase in the Delta variant caused many campuses to revisit plans
- A table-top exercise was performed in mid August with JIATF and Higher Education representatives to evaluate capacity and plan for any surges on campuses due to the Delta variant.



Covid Testing Availability

- All schools have access to a statewide contract for saliva-based PCR test at low cost that was bid and awarded using state purchasing guidelines
- All schools have been provided with a small stock of rapid antigen-based tests from DHHR Emergency Command for use in case of surge (defined by DHHR Epidemiology)
- Schools have the choice to use any vendor they wish for tests
- A request for public assistance project has been opened by the HEPC to be evaluated by FEMA for reimbursement of schools for saliva-based PCR tests purchased under the state contract
- Schools who purchase tests outside of the statewide contract can open their own projects at FEMA to be evaluated for reimbursement



Covid Testing Plans for Fall 2021

	Back to School testing offered or required	Surveillance testing offered or required
2 year CTCS (15 campuses)	7 campuses offering or requiring testing (8 still planning at time of survey)	12 campuses testing a percentage of unvaccinated students weekly or monthly
4 year HEPC (12 campuses)	10 offering or requiring testing	11 campuses testing a percentage of unvaccinated students weekly or monthly 1 testing only if unvaccinated contact or symptomatic



Vaccines

- Vaccines were coordinated through the HEPC and JIATF in Spring 2021—56,000 doses were administered from late December through early May to faculty, staff and students
- Vaccine orders are now available to colleges and universities through their own health centers (if applicable and they are an approved immunization provider) or through their local health departments or primary care partners for those without a health center
- No public 2-year or 4-year school has a vaccine mandate
- All campuses will offer vaccines on campus either via their health center or local partners this semester



Clinical Facility Vaccine Mandates

- Many clinical facilities have instituted vaccine mandates for their staff. These decisions have been made to keep patients safe while they pursue health care services. Our students are subject to the same policies as staff.
- All of our health sciences programs require clinical hands-on experiences for their students. Clinical experiences are a core and inseparable component of the coursework.
- If one or more of the academically necessary clinical assignments of the student cannot be made due to not providing proof of vaccination satisfactory to clinical sites, there is no assurance that an alternative academic accommodation will be possible; the student may be left with no alternative but to withdraw from the course(s).



What about third doses and boosters?

- Third doses for a narrowly defined group of immunocompromised patients were approved in mid August.
- All campuses have this guidance and are working with students, faculty, staff and their local health authorities to implement third doses for this group.
- Boosters are not yet authorized by the FDA or CDC. Once authorized (expect mid September), schools will begin offering boosts as recommended. Expected recommendation is that the boost occur 8 months after the second dose of either mRNA vaccine.
- All campuses have current guidance and once authorization is received, they will work to assure that all who wish to receive boosts do so.



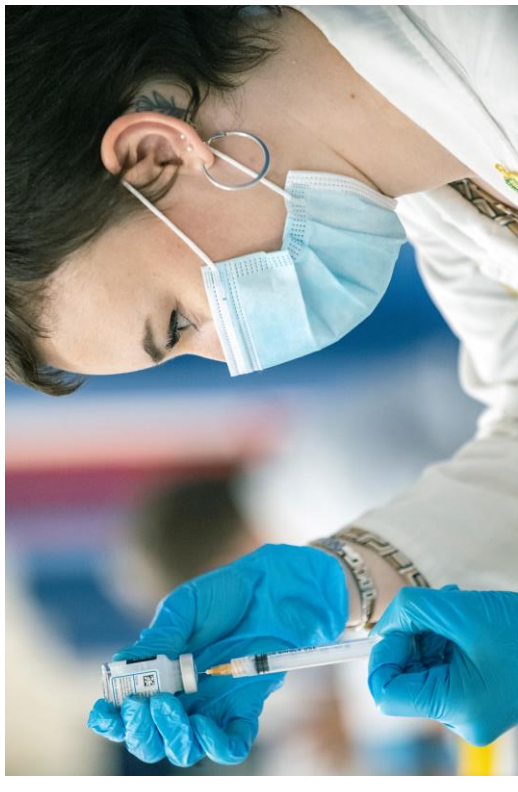
Lessons learned from the 2020-2021 Academic year

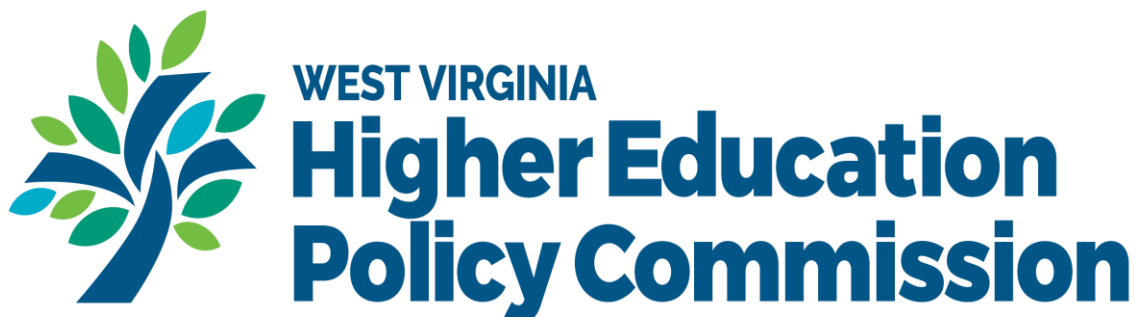
- Many campuses reported increases after large parties, community based social events, and among athletes and Greek life
- Campus increases were frequently noted to co-occur with local community spread
- Many staff cases were reported as community or family member spread
- Changes to on campus activities worked last year when needed:
 - Pivoting to online classes for period of time
 - Halting athletic practices for period of time
 - Robust testing plans



Continued Plans for 2021-2022

- Attempts to overcome vaccine hesitancy, ready availability of vaccines for those who wish to be vaccinated
- Continuous monitoring of adequacy of quarantine and isolation space especially for unvaccinated students
- Rapid testing plans in case of surges
- Consider food service alternatives for local surges
- Work closely with LHDs, primary care, hospitals and EMS in case of any surge activity
- Keep our students safe.





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

**Approval of Sunset Date Extension
West Virginia Higher Education Policy Commission
Title 133, Series 48, Legislative Rule, Research Trust Fund**



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF SUNSET PROVISION EXTENSION REQUEST

AGENCY: Higher Education Policy Commission

TITLE-SERIES: 133-48

RULE TYPE: Legislative CITE STATUTORY AUTHORITY: 18B-1-6

RULE NAME: 133-48 Research Trust Fund

PLEASE SELECT A SUNSET PROVISION OPTION:

☒ EXTEND THE SUNSET DATE OF THE RULE.

5 REQUESTED NUMBER OF YEARS FOR EXTENSION (SUBJECT TO LRMRC REVIEW).

☐ LET THIS RULE EXPIRE.

PLEASE INDICATE IF THIS RULE INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS

☐

INCORPORATED BY REFERENCE

☐

PLEASE PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Establishes guidelines documentation standards for the distribution of funds in the West Virginia Research Trust Fund.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE REASONS FOR REQUESTING A SUNSET PROVISION EXTENSION:

The West Virginia Research Trust Fund is part of the Science and Technology Plan Vision 2025.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

N/A

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Cindy L Anderson -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 48
RESEARCH TRUST FUND PROGRAM

§133-48-1. General.

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

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

1.3. Filing Date. ~~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 on~~ .

§133-48-2. Definitions.

2.1. Commission. West Virginia Higher Education Policy Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§133-48-3. Administration.

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

§133-48-4. Eligibility Criteria.

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

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

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

4.3.a. Energy and environmental sciences;

4.3.b. Nanotechnology and materials sciences;

4.3.c. Biological, biotechnical and biomedical sciences;

4.3.d. Transportation technology and logistics;

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

4.3.f. Gerontology.

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

§133-48-5. Institutional Research Plans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§133-48-6. Expenditure Compliance Procedures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§133-48-9. Commission Review.

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

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

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

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

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

§133-48-10. Appeals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§133-48-14. Reporting Requirements.

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

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

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

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

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

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



WEST VIRGINIA

Higher Education Policy Commission

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

**Approval of Sunset Date Extension
West Virginia Higher Education Policy Commission
Title 133, Series 52, Legislative Rule, Annual Reauthorization of
Degree-Granting Institutions**



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF SUNSET PROVISION EXTENSION REQUEST

AGENCY: Higher Education Policy Commission

TITLE-SERIES: 133-52

RULE TYPE: Legislative CITE STATUTORY AUTHORITY: 18B-1-6

RULE NAME: 133-52 Annual Reauthorization of Degree-Granting Institutions

PLEASE SELECT A SUNSET PROVISION OPTION:

☒ EXTEND THE SUNSET DATE OF THE RULE.

5 REQUESTED NUMBER OF YEARS FOR EXTENSION (SUBJECT TO LRMRC REVIEW).

☐ LET THIS RULE EXPIRE.

PLEASE INDICATE IF THIS RULE INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS

☐

INCORPORATED BY REFERENCE

☐

PLEASE PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Establishes policy regarding annual reauthorization of degree-granting institutions which offer degrees above the associate level.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE REASONS FOR REQUESTING A SUNSET PROVISION EXTENSION:

Policy and procedure remains in effect.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

N/A

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Cindy L Anderson -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 52
ANNUAL REAUTHORIZATION OF DEGREE-GRANTING INSTITUTIONS

§133-52-1. General.

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

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

1.3. Filing Date. -- ~~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~~ on .

§133-52-2. Purpose.

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

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

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

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

2.5. Existing institutions of higher education authorized to operate in West Virginia prior to the effective date of this rule are subject to the reauthorization provisions of this rule and shall report annually to the Commission on all items related to reauthorization prescribed in this rule.

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

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

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

§133-52-3. Definitions.

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

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

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

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

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

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

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

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

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

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

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

3.8.a. An instructional site within the state.

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

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

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

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

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

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

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

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

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

§133-52-4. Exemptions.

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

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

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

4.2.b. Out-of-state institutions:

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

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

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

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

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

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

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

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

§133-52-5. Annual Reauthorization.

5.1. All authorized institutions, except those previously exempted in section 4.2 of this rule, must annually submit a reauthorization application report in a format prescribed by Commission staff. The annual reauthorization year will be from July 1 through June 30, with the 2012-2013 year being the initial reporting year. The annual application is due each November 1 and must be accompanied by an annual fee as provided in section 9 of this rule.

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

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

5.4. The reauthorization application must include the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.9. Each institution shall provide, at the request of the compliance review committee, all information

the committee considers necessary to assess the performance of the institution and determine whether the institution continues to meet the minimum standards for conferring degrees. Information may include but is not limited to the following:

5.9.a. Institutional information.

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

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

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

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

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

5.9.b. Accreditation information.

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

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

5.9.c. Program information.

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

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

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

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

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

5.9.d. Faculty information.

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

5.9.e. Financial information.

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

5.9.f. Facilities information, if applicable.

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

5.9.g. Student information.

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

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

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

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

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

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

5.9.h. Other information.

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

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

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

5.10. On-site review.

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

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

5.10.c. A draft of a staff report prepared in accordance with this section will be provided to the institution for correction of factual errors and comment. The institution may provide the Commission a

response to the report within ten (10) working days of receipt of the report. The institutional comments will be included with the compliance review committee report presented to the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

§133-52-9. Reauthorization Fees.

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

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

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

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

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

10.1. Intermediate sanctions.

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

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

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

10.2. Termination of state authorization.

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

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

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

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

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

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

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

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

10.3. Notification to cease offering degrees or degree credits.

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

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

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

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

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

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

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

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

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

§133-52-12. Notification: Appeals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12.13. All motions related to a case set for hearing, except motions for continuance and those made during the hearing, shall be in writing and shall be received in the office of the Chancellor at least ten (10)

business days before the hearing. Pre-hearing motions shall be heard at a pre-hearing conference or at the hearing prior to the commencement of testimony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

**Approval of Sunset Date Extension, West Virginia Council for
Community and Technical College Education, Title 135, Series 35,
Correspondence, Business, Occupational and Trade Schools**



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

4/5/2021 11:22:33 AM

Office of West Virginia
Secretary Of State

NOTICE OF SUNSET PROVISION EXTENSION REQUEST

AGENCY: Community And Technical College Education

TITLE-SERIES: 135-35

RULE TYPE: Legislative CITE STATUTORY AUTHORITY:

RULE NAME: 135-35 Correspondence, Business, Occupational, and Trade Schools

PLEASE SELECT A SUNSET PROVISION OPTION:

☒ EXTEND THE SUNSET DATE OF THE RULE.

5 REQUESTED NUMBER OF YEARS FOR EXTENSION (SUBJECT TO LRMRC REVIEW).

☐ LET THIS RULE EXPIRE.

PLEASE INDICATE IF THIS RULE INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS

☐

INCORPORATED BY REFERENCE

☐

PLEASE PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Rule regarding the issuance, renewal, and revocation of permits to business, occupational, and trade schools in West Virginia. No changes requested.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE REASONS FOR REQUESTING A SUNSET PROVISION EXTENSION:

This rule remains necessary for the WV Council for Community and Technical College Education to continue to issue, renew and revoke operational permits for these schools in West Virginia.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

NA

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Angela S Kerns -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 135
LEGISLATIVE RULE
WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION
SERIES 35
BUSINESS, OCCUPATIONAL, and TRADE SCHOOLS

§135-35-1. General.

1.1. Scope. -- Rule regarding the issuance, renewal, and revocation of permits to business, occupational, and trade schools.

1.2. Authority. -- ~~West Virginia~~ W. Va Code §18B-2B-9.

1.3. Filing Date. -- ~~July 19, 2017.~~

1.4. Effective Date. -- ~~July 19, 2017.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on ~~July 19, 2022.~~

§135-35-2. Definitions.

2.1. Accredited School

A school that is accredited by a regional or national accrediting agency that is recognized by the United States Department of Education.

2.2. Associate Degree

A degree that may be awarded by accredited schools pursuant to a program of not less than two (2) academic years as authorized by West Virginia Code 18B-2B-9.

2.3. Council

The West Virginia Council for Community and Technical College Education.

2.4. Campus

A permanent facility where instruction takes place, or a facility where courses are taught for more than ten (10) days per calendar year.

2.5. Chancellor

The Chancellor of the West Virginia Council for Community and Technical College Education or his or her designee.

2.6. Financially Sound

Meeting two of the following: a current ratio of at least 1:1 regarding total current assets compared to total current liabilities, positive total equity, or current year profitability.

2.7. Immediate Family

Spouse, parent, sibling, child, or grandchild.

2.8. Ownership Change

When the change of ownership results in a change in control of the school outside the immediate family.

2.9. Person

Any individual, group of individuals, partnership, association, organization, business, trust, corporation, or other business entity.

2.10. Business, Occupational, or Trade School

An institution, organization, or entity no matter how titled, maintaining or conducting classes or instruction for a consideration, remuneration, or tuition, designed to prepare an individual for employment or enhance employment skills.

2.11. Representative

Any person representing a school, whether such school is located within or outside of the State of West Virginia, or acting as an agent, solicitor, procurer, broker, or independent contractor to produce students or enrollees for any such school by solicitation in any form at any place in this state.

2.12. School

Business, occupational, or trade, school.

2.13. Specialized Associate Degree

Degree that may be awarded by accredited schools pursuant to a degree program of not less than two (2) academic years.

2.14. State

The State of West Virginia.

2.17. Terms

Regularly established divisions of the academic school year, each with an established starting and ending date, which is normally referred to as modules, quarters, trimesters, or semesters.

§135-35-3. Exemptions.

3.1. For the purpose of this rule, the following are not defined as a correspondence, business, occupational, or trade school:

3.1.a. Any school or person licensed or approved to offer education or training by any other statutory licensing or accrediting agency pursuant to statutes of the West Virginia Code other than 18B-2B-9.

3.1.b. Any school or organization whose courses of instruction offered are solely for the purpose of teaching preparation of tax returns.

3.1.c. Any school conducted by any person, solely on a contractual basis with private or governmental organizations where obtaining a permit is not a condition of the contract and students are not charged tuition or other fees, and no advertisement of courses takes place.

3.1.d. Any training or apprenticeship program conducted by a company, union, or other organization in which students, members, or employees enrolled in the training or educational programs are not charged tuition or other fees.

3.1.e. Schools that offer courses which are conducted solely for personal development or information, do not prepare or represent themselves as preparing, an individual for a career or enhancing employment opportunities, are not offering sequential courses comprising an entire program and are not offering courses for more than twenty-four (24) weeks per calendar year.

3.1.f. Tutorial instruction given in a private home or elsewhere as supplemental to regular classes for students enrolled in public or private schools.

3.1.g. Non-profit independent colleges, universities, and other non-profit entities that are accredited by a regional accrediting agency recognized by the United States Department of Education.

3.1.h. Public colleges, universities, and schools under the jurisdiction of the West Virginia Council for Community and Technical College Education, or the West Virginia Board of Education.

§135-35-4. Application for Permit.

4.1. Unless exempted as defined in Section 3 of this rule, a person or corporation shall not solicit students or operate any business, occupational, trade school, or branch campus in the state without first applying for or obtaining a permit issued by the Council. A permit shall be issued authorizing the solicitation of students and/or authorizing the operation of a school if all conditions of the laws and regulations of this state pertaining to correspondence, business, occupational, and trade schools are met.

4.2. If a person as defined in Section 2 of this rule wishes to operate or continue to operate a school or branch campus or to solicit students in the state, that person shall submit an original application for a permit to do so on forms provided by the Council.

4.3. As a condition of the issuance of a permit, a school shall submit with the application:

- 4.3.a. A copy of the curriculum and description of courses for each program being offered;
- 4.3.b. A copy of the student enrollment contract;
- 4.3.c. A copy of the school's tuition refund policy and schedule;
- 4.3.d. A fully executed surety bond in the appropriate amount;
- 4.3.e. The appropriate permit fee;
- 4.3.f. A list of all representatives of the school who will be soliciting students; and
- 4.3.g. If accredited, documentation from the accrediting agency regarding accreditation status.

4.4. Persons shall not be deemed to have submitted an initial application for a permit to operate a school or solicit students in this state unless a properly completed application, the application fee, the required surety bond, and all other information and documentation required by this rule has been submitted to the Council

and the following has been provided:

4.4.a. A listing of the individual's or organization's prior school operation history in this state, other states, or other countries.

4.4.b. Information detailing the involvement in, or relationship to, any school that lost its accreditation, lost its authorization to operate because of violation of state or federal laws, was terminated from participation in the federal financial aid programs, closed without arranging a teach-out for students or arranging refunds, or other discharge of the school's contractual obligation to the student.

4.4.c. Proof at the time of filing an initial application that adequate facilities are available and ready for occupancy and that all instructional equipment, books, supplies, and personnel are in place and ready for operation and verified by an on-site visit by a representative of the Council.

4.5. As a condition of permit renewal, all schools shall make annual reports to the Council on forms furnished by the Council.

4.6. In addition to the requirements set forth above, all out-of-state schools shall annually provide evidence of authority to operate or accreditation by the regulatory agency of each state in which the school is located or conducts business.

4.7. A permit shall be valid for one year corresponding to the effective date of the surety bond as required herein.

4.8. Any information of a confidential or proprietary nature provided to the Council by a school for the purpose of obtaining or renewing a permit, and exempted from public disclosure pursuant to the terms of West Virginia Code §29B-1-4, shall not be disclosed for any purposes inconsistent with this rule or statute.

§135-35-5. Approval to Offer Degrees.

5.1. All schools planning to offer a degree at the specialized associate's degree, associate's degree, or higher must receive approval from the Council and/or the West Virginia Higher Education Policy Commission prior to offering the degree. Schools seeking approval to offer the degree shall submit the following for review:

5.1.a. All degree requirements and the course curriculum

5.1.b. Faculty credentials and experience

5.1.c. A description of all available student support services

5.1.d. A description of available library and instructional materials

5.1.e. A description of program learning objectives and assessment methodology

5.2. Once a school is approved to offer the degree, that school is subject to annual reauthorization as provided in Legislative Rule, Title 135 (Council) or 135 (Commission), Series 52, Annual Reauthorization of Degree-Granting Institutions .

§135-35-6. Permit Application Fee.

6.1. Any person applying for a permit to solicit students or operate a school, as defined by this rule, or branch campus in this state shall submit an initial application fee in the amount of two thousand dollars

(\$2,000) with the application.

6.2. Any person applying for renewal of a permit shall submit an annual fee of five hundred dollars (\$500) with the renewal application for each campus operated by the school.

6.3. Any person submitting a permit renewal application and surety bond more than sixty (60) days after the last effective date of the applicant's previous surety bond shall be considered a new applicant for the purpose of paying the initial application fee.

§135-35-7. Surety Bond Requirements.

7.1. A school located in the state shall submit with its initial or renewal application, the original fully executed continuous surety bond written by a company authorized to do business in this state in the sum of fifty thousand dollars (\$50,000) unless required otherwise by a provision of this section.

7.2. Any school which has its physical facilities located in this state and has operated in this state under the present ownership, or ownership control within the immediate family, for at least ten (10) years is required to submit with its renewal application the original copy of a fully executed continuous surety bond written by a company authorized to do business in this state in the sum of thirty-five thousand dollars (\$35,000).

7.3. Schools having branch campuses within this state shall provide one fully executed surety bond in the appropriate amount providing coverage for all campuses.

7.4. In the event of notice of cancellation of the surety bond by a bonding company, the school shall furnish a fully executed replacement to the Council within sixty (60) days of the school's receipt of the notice of cancellation. But in no event may a school solicit or enroll new students until the appropriate surety bond is in effect.

7.5. The termination of a school's surety bond coverage shall be grounds for revocation of its permit if the school fails to replace the bond within the required time.

7.6. A school whose physical facilities are located outside this state, and which applies for a permit to solicit students in this state, shall submit a fully executed surety bond in the sum of fifty thousand dollars (\$50,000).

7.7. The Council may increase the bond requirement of any school to one hundred fifty thousand dollars (\$150,000) if the school has its accreditation terminated or its institutional eligibility under the Higher Education Act of 1965, as amended, is terminated for cause.

7.8. If, in accordance with the standards of the American Institute of Certified Public Accountants, the school's audited financial statements are qualified because the school's continued financial viability as an ongoing concern is in doubt, and the school is not financially sound as defined in Section 2 of this rule, the Council may require the surety bond be increased up to an amount not to exceed four hundred thousand dollars (\$400,000) if the Council determines an increased bond is reasonably necessary to protect the financial obligations legally due to the students then enrolled at the institution.

7.9. Confidentiality Statement - any financial information submitted to the Council by a school covered under this rule shall be used by the Council only for purposes of this rule.

§135-35-8. Maintenance of Records.

8.1. A school shall maintain records at a central location and have them available for inspection by a representative of the Council.

8.2. A school shall maintain academic records suitable for transcript purposes for each student for fifty (50) calendar years after the student has departed the school, or until the student becomes 65 years of age. The records shall include, as a minimum:

- 8.2.a. The name and address of the school;
- 8.2.b. The full name and address of the student;
- 8.2.c. The starting and completion or separation dates;
- 8.2.d. The course of instruction or subject;
- 8.2.e. The amount of credit, if any;
- 8.2.f. The grade for each subject; and
- 8.2.g. A statement indicating whether the student graduated or completed the course.

8.3. A school shall develop and enforce security measures to protect student records from damage or destruction for the required period of time.

§135-35-9. Change of School Ownership.

9.1. A school must notify the Council at least thirty (30) days in advance of the change of ownership control. Within thirty (30) days of such notification, the Council will notify the school of permit status.

9.2. When a school is located in this state and has a change of ownership control and the new ownership control is outside of the immediate family of the previous owner, the school may continue to operate under the present permit. However, before the solicitation of students can continue, the school shall submit to the Council the following:

- 9.2.a. A fully executed surety bond in the amount of fifty thousand dollars (\$50,000).
- 9.2.b. The names, addresses, and corporate titles of all persons or other entities having a financial interest in the school, and the names and addresses of any other schools in which these persons or entities have or have had a financial interest.
- 9.2.c. A revised listing of all programs to be offered if changes were made with new ownership.
- 9.2.d. An application for each representative of the school who will be soliciting students.

9.3. If the school is located outside this state, the school must show evidence of compliance with the laws and regulations in the state where the school is located. In addition, before the solicitation of students continues in this state, the school must submit the following:

- 9.3.a. A fully executed surety bond in the amount of fifty thousand dollars (\$50,000);
- 9.3.b. An application for each representative of the school that will be soliciting students in West Virginia;
- 9.3.c. A revised listing of all programs to be offered if changes are made with new ownership; and

9.3.d. The names, addresses, and corporate titles of all persons or other entities having a financial interest in the school.

§135-35-10. School Closing.

10.1. A school which is closing, either voluntarily or involuntarily, shall:

10.1.a. Inform the Council of this action immediately by certified mail;

10.1.b. Supply the Council with the name, address, and telephone number of the person responsible for closing arrangements;

10.1.c. Supply the Council with the name, address, telephone number, and the course of study for each student who has not completed his or her course of study;

10.1.d. Supply the Council with information on the dates of enrollment, the amount of class time left for each student to complete the course, and the amount of entitled refund, if any, for which each student is eligible;

10.1.e. Inform currently enrolled students by written notice of the appropriate procedures they are to follow to secure refunds due if suitable teachouts have not been arranged, or to continue their education and supply the Council with a copy of this notice; and

10.1.f. Inform the Council and currently enrolled students of plans to store the permanent student records and the procedure to obtain copies.

§135-35-11. Student Enrollment Contract.

11.1. Before the schooling begins, all students shall receive a completed, signed and dated enrollment contract specifying both the school's and student's legal rights and obligations. The agreement may incorporate into the contract by reference information in the school's catalog, student handbook, or other school publication without printing such information or publication in the contract itself. The enrollment contract must contain, but is not limited to, the following:

11.1.a. The name and address of the school;

11.1.b. The name of the course of study or program, including the number of credit or clock hours of classroom instruction, home study lessons, or other study units required;

11.1.c. The total cost of the course, term or program for which the student is obligated under the contract including tuition, fees, books, and any other charges the student will incur shall be clearly stated;

11.1.d. The school's cancellation and refund policy including an explanation of the procedures a student will follow to cancel the contract or enrollment agreement; and

11.1.e. The signature of the student applicant, a parent or other sponsor if the student is under the age of eighteen (18), and the appropriate school officials, plus the date signed.

11.2. An application for admission is not to be construed as binding on the student, therefore limiting total student financial obligation to the payment of an application fee.

11.3. The school shall provide the student with a copy of the completed enrollment agreement that is signed and dated.

11.4. Those schools that are accredited by a national or regional accrediting agency recognized by the United States Department of Education may adhere to the accrediting agency's criteria regarding student enrollment contracts to satisfy the requirements of this section. However, in the event that enrollment contracts are not addressed by accrediting agency criteria, the provisions of this section must be followed.

§135-35-12. Cancellation and Refund Policies.

12.1. To obtain a permit a school shall have a cancellation and refund policy that incorporates the following provisions:

12.1.a. A statement relative to the unused portion of tuition, fees, and other charges if the student does not begin classes, withdraws, or is dismissed.

12.1.b. All fees and payments remitted to a school by a prospective student shall be refunded, minus any stated application fee not to exceed fifty dollars (\$50), if the student is not admitted due to ineligibility.

12.1.c. An admitted student applicant may cancel, by written notice, his or her enrollment any time prior to the first class day of the session for which the application was made, and the school shall refund all tuition paid by the student minus an application fee not to exceed fifty dollars (\$50).

12.1.d. For the purposes of refund calculations, an individual's status as a student shall be considered terminated by the school not later than seven (7) calendar days after the last day on which the student actually attended the school. Termination may be effected earlier by proper notification. A home study program of instruction shall be terminated if a school does not receive a lesson or an appropriate response from the student within six months after receipt of the last lesson, and the date of withdrawal shall be the date of the last lesson received. The date of withdrawal initiated by a student shall be the date a letter is postmarked or proper notification is given. The school shall provide a receipt for the letter or withdrawal notice received.

12.1.e. Schools are required to submit refunds to individuals or the appropriate agency within twenty (20) days after receipt of a proper notification of termination from a student.

12.1.f. The student refund policy for withdrawals and terminations for schools not accredited by an accrediting agency recognized by the United States Department of Education must at a minimum comply with the following:

12.1.f.1. 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 less the application fee.

12.1.f.2. A student who begins a term and 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 less the application fee.

12.1.f.3. 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 less the application fee.

12.1.f.4. A student who withdraws after completing more than fifty percent (50%) of the term is not entitled to a refund.

12.2. Refunds shall be calculated for a specific term as defined in Section 2 of this rule, or the total cost of programs not exceeding one year. In the event that students are financially obligated for a year-long

program, the refund policy shall be on a weekly prorata basis through the first sixty percent (60%) of the program. The student's financial commitment shall not be for more than one year at any given time.

12.3. Those schools that are accredited by a national or regional accrediting agency recognized by the United States Department of Education, may use the accrediting agency's refund policy to meet the requirements of this section. However, student refunds must be made within twenty (20) days after receipt of a proper notification of termination.

12.4. Those schools having their physical facilities located outside this state must comply with the cancellation and refund policies of their home state. If there is no state cancellation and refund policy in their home state, Section 11 of this policy must be followed.

§135-35-13. Advertising.

13.1. Each school and its representatives shall not make or cause to be made any oral, written, or visual presentation in connection with the offering or publicizing of a subject or course of instruction which is false or misleading.

13.2. In its advertising, a school shall:

13.2.a. Limit reference to its authority to operate to "Permit to Operate Issued by the West Virginia Council for Community and Technical College Education;

13.2.b. Disclose that it is a home study school if it provides such instruction;

13.2.c. Advertise starting or average salaries of its former students only if these claims can be documented for the most recent twelve- (12) month period preceding the advertisement for more than fifty percent (50%) of the graduating class.

13.3. In its advertising, a school shall not:

13.3.a. Advertise that it is "supervised," "recommended," "endorsed," "approved," or "accredited" by the Council;

13.3.b. Describe its courses of instruction and subjects in a misleading manner.

13.3.c. Use photographs or other illustrations in ways which misrepresent the size and location of the school, its equipment and facilities for the career for which the student is being trained;

13.3.d. Represent that it is endorsed by or affiliated with a college or university, unless such statements can be documented;

13.3.e. Advertise or indicate in any manner the transferability, or possibility of transferability, of its credits to colleges and universities unless it has written evidence on file of current acceptability of such credits from said colleges or universities;

13.3.f. Advertise that it is endorsed by manufacturers, business establishments, or organizations engaged in the line of work for which the school gives training unless written documentation regarding the endorsement is on file;

13.3.g. Advertise accredited status unless such status has been received from an accrediting body currently listed as recognized by the United States Department of Education and such accrediting body must be named if used in any advertisement or promotional material;

13.3.h. Advertise as an employment agency, or under the same or similar name as such an agency, or advertise training courses in the "Help Wanted" section of any newspaper;

13.3.i. Advertise any tuition, fees, or other charges in amounts other than those currently on file in the chancellor's office or advertise them without showing the total costs;

13.3.j. Falsely guarantee job placement or employment at a certain wage; or

13.3.k. Use endorsements, commendations, or recommendations by students without their written consent.

13.4. A school eligible to offer a course of instruction or program leading to an associate degree or specialized associate degree shall, in any advertisement, promotional material, or the school catalogue refer to this degree designation as an "Associate Degree" or a "Specialized Associate Degree."

13.5. Those schools that are accredited by a national or regional accrediting agency recognized by the United States Department of Education may adhere to the accrediting agency's criteria regarding advertising to satisfy the requirements of this section. However, in the event that advertising is not addressed by accrediting agency criteria, the provisions of this section must be followed.

§135-35-14. Student Complaints.

14.1. A school shall attempt to resolve student complaints promptly and fairly and shall not subject a student to punitive action as a result of a written complaint having been filed with the school or Council.

14.2. The school shall have written procedures that describe in detail how a student may register a complaint with the school and Council, and how the school will investigate and attempt to resolve the complaint.

14.3. The Council will begin the investigation of a written complaint within thirty (30) days of the date of receipt of the complaint unless it is a complaint regarding a matter over which the Council has no jurisdiction or it is intrinsically not credible. The initial investigation should be completed within sixty (60) days of the filing of the complaint.

14.4. The school shall provide all enrolled students with a written copy of the student complaint procedures and make prospective students aware that such procedures exist and provide copies upon request.

14.5. Each school that is being investigated, as a result of a written student complaint, will be notified by the Council that such an investigation is being conducted, and a copy of the written complaint will be forwarded to the school. The name of the complainant may be withheld if so requested.

14.6. The school being investigated must respond to any inquiry by the Council relating to the investigation within ten (10) work days of its receipt of the inquiry.

14.7. Any school refusing to cooperate with an investigation of a written student complaint by the Council or any other governmental agency shall have its permit to operate or solicit students in West Virginia revoked in accordance with the due process provisions of Section 14 of these rules.

14.8. The Council, upon completion of the investigation of a written student complaint, will supply the school by certified mail with a written report of the findings and any proposed corrective action. The school will have twenty (20) work days to reply to the Council before any action may be taken.

14.9. The school has a right to request a hearing regarding any findings or action proposed by the Council resulting from an investigation involving student complaints.

14.10. The Council may forward any information pertaining to a written complaint found to have merit involving student financial aid to the United States Department of Education.

§135-35-15. Warning, Suspension, Withdrawal, or Revocation of Accreditation, License, and/or Approval To Operate.

15.1. A school shall provide the Council with a copy of any notice of warning, suspension, revocation, or other adverse action received from any national, regional, or state accrediting and/or approval agency or the United States Department of Education within five (5) days of receipt of such notice. The school shall at the same time inform the Council in writing of activities being taken to correct the deficiencies.

15.2. The Council may for good cause, suspend, withdraw, or revoke the authorization of a school to operate within this state or to solicit students within the state. Good cause shall consist of:

15.2.a. Loss of accreditation by a nationally or regionally recognized accrediting agency;

15.2.b. Cancellation of the school's bond by the bonding company and failure to secure a replacement in accordance with this rule;

15.2.c. A final determination that the school has engaged in conduct prohibited by this rule, and the conduct warrants suspension, withdrawal, or revocation of the approval to operate a school or solicit students in this state, and corrective action has not been taken within the required time;

15.2.d. Closure of the school without adequately providing for the completion of students' classes or course work, without refunding students' unearned tuition or otherwise discharged the institutions contractual obligations to the students;

15.2.e. Conviction of the owner of a school for a felony or crime involving administration of the school or involving Federal Student Assistance programs; or

15.2.f. Refusal to cooperate with an investigation pursuant to Section 13 of this rule.

15.3. Upon receipt by the Council of information constituting any of the above grounds for suspension, withdrawal, revocation, or other adverse action, the Council shall notify the school and its owner in writing of its intent to recommend suspension, withdrawal, revocation, or other adverse action and the grounds for such recommendation.

15.3.a. The owner of the school may, within ten (10) work days of receipt of such notice, request a hearing upon the recommended action. Such hearing, if requested, shall be commenced within twenty (20) work days of such request at the chancellor's office or at such other location convenient to the parties and witnesses as may be designated by the chancellor.

15.3.b. The hearing shall be conducted by the Chancellor of the West Virginia Council for Community and Technical College Education or the chancellor's designee, pursuant to the procedures set forth in Chapter 29A, Article 5 of the Code of West Virginia.

15.3.c. The chancellor or the chancellor's designee may continue the hearing at the request of the school for good cause shown. Continuances shall not be granted as a matter of right.

15.3.d. If the owner or a representative of the school does not request a hearing within the requisite time period, the recommendation of the chancellor shall be deemed unchallenged by the school and reported to the Council for final action.

15.4. At the hearing, the grounds for suspension, withdrawal, or revocation of authorization to operate the school or other adverse action must be established by clear and convincing evidence.

15.4.a. The owner of the school or its designated representative may appear to defend the interests of the school, may present witnesses and evidence on behalf of the school, and may cross-examine witnesses against the school. The school may retain legal counsel to represent its interests at the hearing.

15.4.b. The Council does not have the power to issue subpoenas, but the chancellor or the school may request the appearance of witnesses at the hearing, who shall be notified of such request by the chancellor or the chancellor's designee with the date, time, and location of the hearing in writing.

15.4.c. The rules of evidence shall not strictly apply, and evidence may be admitted if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Objections to evidence offered by either party shall be ruled upon by the chancellor or the chancellor's designee who conducts the hearing.

15.4.d. The hearing shall be recorded by mechanical means or by a certified court reporter retained by the chancellor.

15.5. The chancellor shall make written findings of fact and conclusions of law as to whether or not the school or its representative has committed acts in violation of the law or these rules which would justify the suspension, withdrawal, or revocation of its authorization to operate. Such findings and conclusions shall be reported to the Council, and a copy of same shall be provided to the school on the same date it is filed with the Council and placed upon its agenda for action.

15.6. The Council shall act upon the report at its next regularly scheduled business meeting to accept or reject the findings of the chancellor or the chancellor's designee, and to suspend, withdraw, or revoke the authority of the school or its representative to operate and/or solicit students within this state. Notification of the Council's action shall be given to the school and/or its representative in writing within two (2) business days following such action of the Council, by certified mail, or by personal delivery. For good cause shown in the minutes of the Council's, action upon the chancellor's report may be deferred to a date not later than the next regularly scheduled business meeting of the Council.

15.7. A school or its representative may appeal an adverse action of the Council to a court of competent jurisdiction within the time period specified by state law.



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

**Approval of Sunset Date Extension, West Virginia Council for
Community and Technical College Education, Title 135, Series 52,
Legislative Rule, Annual Reauthorization of Degree-Granting
Institutions**



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

4/6/2021 3:00:35 PM

Office of West Virginia
Secretary Of State

NOTICE OF SUNSET PROVISION EXTENSION REQUEST

AGENCY: Community And Technical College Education

TITLE-SERIES: 135-52

RULE TYPE: Legislative CITE STATUTORY AUTHORITY: §18B-4-7

RULE NAME: 135-52 Annual Reauthorization of Degree-Granting Institutions

PLEASE SELECT A SUNSET PROVISION OPTION:

☒ EXTEND THE SUNSET DATE OF THE RULE.

5 REQUESTED NUMBER OF YEARS FOR EXTENSION (SUBJECT TO LRMRC REVIEW).

☐ LET THIS RULE EXPIRE.

PLEASE INDICATE IF THIS RULE INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS

☐

INCORPORATED BY REFERENCE

☐

PLEASE PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule establishes the policy regarding annual reauthorization of degree-granting institutions which offer degrees not above the associate level.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE REASONS FOR REQUESTING A SUNSET PROVISION EXTENSION:

Rule remains necessary for The West Virginia Council for Community and Technical College Education, through a process of granting authorization and annual reauthorization of education institutions operating in West Virginia that provide instruction up to and including the associate degree level, has the responsibility of protecting consumers and ensuring students are offered quality education by postsecondary providers to West Virginia residents. An institution authorized by the Council shall be required to operate in accordance with fair consumer practices to ensure that students can make appropriate decisions concerning their investment of time and money.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

NA

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Angela S Kerns -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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

SERIES 52
ANNUAL REAUTHORIZATION OF DEGREE-GRANTING INSTITUTIONS

§135-52-1. General.

1.1. Scope. -- This rule establishes the policy regarding annual reauthorization of degree-granting institutions which offer degrees not above the associate level.

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

1.3. Filing Date. -- ~~July 19, 2017.~~

1.4. Effective Date. -- ~~July 19, 2017.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect ~~July 19, 2022.~~

§135-52-2. Purpose.

2.1. The West Virginia Council for Community and Technical College Education (Council), through a process of granting authorization and annual reauthorization of education institutions operating in West Virginia that provide instruction up to and including the associate degree level, has the responsibility of protecting consumers and ensuring students are offered quality education by postsecondary providers to West Virginia residents. An institution authorized by the Council shall be required to operate in accordance with fair consumer practices to ensure that students can make appropriate decisions concerning their investment of time and money.

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

2.3. Authorization is required for all postsecondary providers that offer certificates, degrees, or instruction at the associate degree level or below, and entities that use the term "academy," "college," "institution," "university" or similar title, hereafter referred to as "institution," unless otherwise exempt.

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

2.5. Existing institutions of higher education authorized to operate in West Virginia prior to the effective date of this rule are subject to the reauthorization provisions of this rule and shall report annually to the Council on all items related to reauthorization prescribed in this rule.

2.6. While the provisions of this rule apply directly to the annual reauthorization of any private institution

in West Virginia which offers degrees at or below the associate level, the criteria for annual reauthorization also apply to public higher education institutions that offer degrees at or below the associate level in the state, and are under the purview of the Council.

2.7. The Council shall make available information on institutional performance of all public institutions located in West Virginia on the Council's website and through other appropriate venues.

§135-52-3. Definitions.

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

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

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

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

3.5. "Degree" means any earned award conferred by a higher education institution which represents satisfactory completion of the requirements of a program at the associate level.

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

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

3.7.a. offers courses or programs of study or instruction which lead to or which may reasonably be understood to be applicable toward an associate or other specialized certification/degree designation at or below the associate level; or

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

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

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

3.8.a. An instructional site within the state.

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

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

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

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

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

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

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

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

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

§135-52-4. Exemptions.

4.1. Institutional exemption is subject to annual review and/or revocation any time the activity deviates from the original determination factors for exemption. An institution which claims to be exempt under the provisions of this section must submit such information as may be required by the Council to determine whether the institution is exempt from reauthorization.

4.2. Any institution fully authorized to operate in West Virginia prior to the effective date of this rule is subject to the provisions of this rule pertaining to reauthorization.

4.3. The following institutions shall be exempt from the provision of this rule:

4.3.a. Out-of-state institutions:

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

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

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

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

4.3.a.5. offering online courses or programs with Council approval for a specified period of time.

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

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

§135-52-5. Annual Reauthorization.

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

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

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

5.4. The reauthorization application must include the following:

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

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

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

5.4.d. Verification of current accreditation status and copy of latest annual HLC/NCA Institutional Update Report or other USDE-recognized regional accrediting agency.

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

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

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

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

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

5.4.j. Licensure pass rates for completion of all professional programs, e.g., allied health, for the most recent year.

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

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

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

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

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

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

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

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

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

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

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

5.9.a. Institutional information.

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

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

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

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

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

5.9.b. Accreditation information.

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

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

5.9.c. Program information.

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

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

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

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

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

5.9.d. Faculty information.

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

5.9.e. Financial information.

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

5.9.f. Facilities information, if applicable.

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

5.9.g. Student information.

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

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

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

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

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

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

disposition of each.

5.9.h. Other information.

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

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

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

5.10. On-site review.

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

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

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

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

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

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

§135-52-6. Public Institutions and Annual Reauthorization.

6.1. All public institutions under the purview of the Council shall apply for annual reauthorization and shall meet the conditions for reauthorization as provided in section 5 of this rule.

6.2. The Council shall make available to the public information on matters of institutional performance for all public institutions under its purview, as provided in section 2 of this rule.

§135-52-7. Dissemination of Institutional Information.

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

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

§135-52-8. Change of Ownership and Control.

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

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

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

§135-52-9. Reauthorization Fees.

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

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

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

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

§135-52-10. Sanctions and Termination of State Authorization.

10.1. Intermediate sanctions.

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

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

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

10.2. Termination of state authorization.

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

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

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

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

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

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

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

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

10.3. Notification to Cease Offering Degrees or Degree Credits

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

§135-52-11. Notification and Deposit of Records Upon Discontinuance of Operations.

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

11.2. Records shall be permanently maintained and copies may be obtained by authorized parties. Such records shall include but not be limited to information pertaining to the admission of each student and former student and the educational record of each student and former student.

Financial aid records of each student and former student shall be retained consistent with state and federal regulations.

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

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

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

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

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

§135-52-12. Notification: Appeals:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12.13. All motions related to a case set for hearing, except motions for continuance and those made during the hearing, shall be in writing and shall be received in the office of the Chancellor at least ten (10) business days before the hearing. Pre-hearing motions shall be heard at a pre-hearing conference or at the hearing prior to the commencement of testimony.

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

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

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

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

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

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

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

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

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

12.20. Any final order entered by the Council following a hearing conducted pursuant to these rules shall be made pursuant to the provisions of West Virginia Code §29A-5-3. Such orders shall be entered within sixty (60) days following the submission of all documents and materials necessary for the proper disposition

of the case, including transcripts, and shall contain findings of fact and conclusions of law unless good cause exists to extend such time or by agreement of the parties.

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

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

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

12.24. Any relief a student believes he or she was not rightfully awarded by the Council pursuant to this rule may be pursued in any other appropriate forum.



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

**Vision 2025:
The West Virginia Science and Technology Strategic Plan
(§18B-B-2)**

MEMORANDUM

TO: Legislative Oversight Commission on Education Accountability (LOCEA)

FROM: Dr. Juliana Serafin, Senior Director Division of Science and Research, HEPC

DATE: September 1, 2021

RE: Vision 2025: Science & Technology Strategic Plan Annual Report

West Virginia Code §18B-18B-2 requires the West Virginia Science and Research Council (SRC) report to the Legislative Oversight Commission on Education Accountability annually on progress in implementing its strategic state plan, as well as any updates to the plan. This year, the SRC is pleased to provide to LOCEA a completely revised strategic plan, **Vision 2025: West Virginia Science and Technology Plan**, which was created with input from more than 60 stakeholders from industry, higher education, and state government.

The strategic plan was developed with an eye toward attracting future federal research funding and new high-tech industries to West Virginia. Through the plan, over the next five years, we have an incredible opportunity to attract more external investments that will allow new sectors to take root right here at home.

To achieve that critical goal, **Vision 2025: West Virginia Science & Technology Plan** prioritizes four science and technology platforms for the state, based on our research strengths and workforce needs: **Life Sciences, Computer and Data Science, Advanced Manufacturing** and **Advanced Energy**. Life Science and Computer/Data Science were chosen for the state's EPSCoR Research Infrastructure Improvement proposal, a \$20 million federal National Science Foundation grant submitted by the state in August 2021.

The new plan covers five focus areas: **STEM Talent Pipeline, Research Enterprise, Innovation & Entrepreneurship, High-Tech Companies** and **Stakeholder Alignment**. The plan sets Vision, Goals, Actions and Metrics for each focus area. It also analyzes trends that affect technology and workforce in the state and includes a SWOT analysis for the four science and technology platforms. The Appendices of the Plan provide supporting data and other information:

- Appendix 1: Science & Research Council Members
- Appendix 2: List of Stakeholders Interviewed
- Appendix 3: West Virginia Economic Data
- Appendix 4: Research Enterprise Data
- Appendix 5: Innovation and Entrepreneurship Data
- Appendix 6: STEM Talent Pipeline Data

A summary of the Vision, Goals and Actions follows:

Focus Area One: STEM Talent Pipeline

Vision: The vision is for West Virginia students to become interested in high-tech career pathways and actively pursue STEM degrees. Ultimately, companies will locate in West Virginia because of the availability of STEM talent in the state.

The goals are to increase two- and four-year STEM degree enrollment and conferral, and to increase research opportunities and internships for students with the support of federal grants and the state-funded Research Challenge Fund.

Actions include expanding K-12 STEM opportunities, partnering with organizations in the state to help prepare and retain STEM students, and partnering with companies and federal labs to increase the number of available internships.

Focus Area Two: Research Enterprise

Vision: The vision for the research enterprise is that West Virginia will be recognized for its academic research in the four target platforms (Life Sciences, Computer and Data Science, Advanced Manufacturing and Advanced Energy), and that industry will seek technical expertise and collaborations with academic researchers.

Goals are to increase the number of STEM doctoral degrees conferred at West Virginia's universities, and to increase research expenditures in the four target platforms. Actions include increasing funding for the Research Challenge Fund, securing federal research capacity-building grants, increasing federal grants and contracts in the four target platforms, and identifying critical lab and facility needs and assessing funding mechanisms to fulfill those needs.

Focus Area Three: Innovation and Entrepreneurship

Vision: The vision for Focus Area Three is that successful startups in West Virginia will attract more Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) funding and venture capital to increase operations.

Goals include increasing industry-university research and development activity, including patents and invention disclosures, and SBIR/STTR awards. Actions include piloting an R&D voucher program, supporting the FAST program (Federal and State Technology Partnership Program to help West Virginia companies apply for SBIR/STTR funding and providing the SBIR/STTR match) and increasing the Entrepreneurship and Innovation Investment Fund. This Department of Economic Development-managed Fund supports entrepreneurship, creation of business startups, improvements in workforce participation, and attracting individuals to relocate to West Virginia.

Focus Area Four: High-Tech Companies

Vision: The vision is to make West Virginia home to high-tech companies and industries and to grow business R&D and innovation activities.

Goals include attracting R&D-oriented federal operations; ensuring that infrastructure, facilities and specialized equipment are available to high-tech companies; and working with the West Virginia

Department of Economic Development (DED) on recruitment of high-tech companies. Actions include supporting programs to move federal anchors to the state, leveraging R&D vouchers, and collaborating for high-tech company recruitment.

Focus Area Five: Stakeholders

Vision: The vision is that industry-academic-government stakeholders agree on the importance of science and technology in the state economy and collaborate on plan goals and actions.

Goals include establishing strong communications between stakeholders and working together to overcome challenges. Actions include conducting meetings for industry, academics, legislators and executive branch stakeholders that identify two to three collaborative projects each year and reporting on the outcomes of the plan.

The revised **Vision 2025** presents an opportunity for significant development of science and technology in West Virginia. The Division of Science & Research announced the plan in July 2021 and is developing additional outreach methods and communications including in-person, social media and public events.

A full copy of **Vision 2025** may be accessed here: <https://westvirginiaresearch.org/wp-content/uploads/2021/06/Vision2025WestVirginiaScienceTechnologyPlan.pdf>

Executive Summary

“Science and technology, paired with design thinking and an entrepreneurial spirit, will be critical to West Virginia’s ability to effectively participate and compete in the 21st century. Who will be accountable for transforming this vision into reality?”

- Brad Smith, Executive Chairman of the Board, Intuit

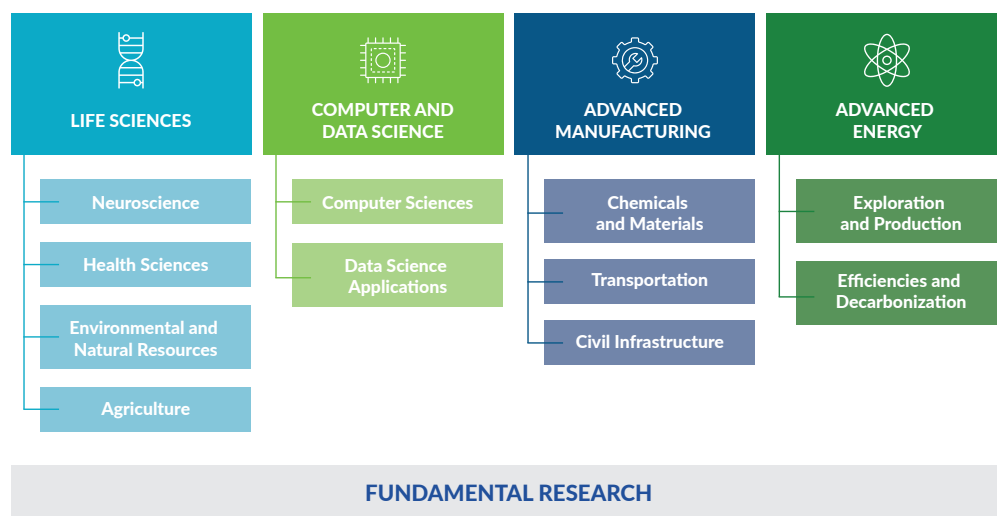
The aspirations of West Virginia stakeholders present a vision for the role that science and technology (S&T) will play in West Virginia’s economic growth and competitiveness in the next five years and beyond. Science, technology, and innovation have driven similar industry growth in West Virginia in the past, most notably in the first-to-world chemical engineering and process technologies invented by Union Carbide.

Today, a new generation of innovation-based companies are growing in West Virginia. They are delivering information technology solutions and data analytics (Leidos, NextGen Federal), high-performance manufactured products (Boeing, Procter &

Gamble, Toyota, Dow), and engineering and scientific research, development, and testing (Virgin Hyperloop, MATRIC).

In positioning the state to launch and attract more of these companies, Vision 2025, West Virginia’s S&T plan, identified four high-priority S&T platforms, shown in the figure below. These four platforms leverage corporate and federal demand for technologies driven by the megatrends of digitalization, robotics and automation, and sustainability. They represent large and growing university-based research and educational activities and align strongly with target industries and workforce needs.

FIGURE ES-1. S&T PLATFORMS FOR VISION 2025: WEST VIRGINIA S&T PLAN



The Vision 2025 goals, presented in the table below, aim to develop West Virginia's science, technology, engineering, and mathematics (STEM) talent pipeline, expand the research enterprise, catalyze more innovation and entrepreneurship activity, and support the growth of high-tech companies. The set of proposed actions to advance these

goals build on existing initiatives and collaborative efforts among higher education, industry, and government. A few are new and others re-establish state programs recognized for contributing to research capacity-building in the past. Each action is supported by a strong business case with metrics to track progress.

FIGURE ES-2. VISION 2025: WEST VIRGINIA S&T PLAN GOALS AND ACTIONS

	GOALS	ACTIONS
STEM TALENT PIPELINE	<ul style="list-style-type: none"> • Increase two-year and four-year STEM degree enrollment • Increase research experiences and internships supported by federally funded grants and the Research Challenge Fund • Increase STEM degrees conferred 	<ul style="list-style-type: none"> • Expand K-12 STEM opportunities for teachers and students • Partner with HSTA, First2Network, etc., to prepare and retain STEM college students • Partner with companies and federal labs to increase internships
RESEARCH ENTERPRISE	<ul style="list-style-type: none"> • Increase number of PhDs to support research activity • Increase research expenditures in target platforms 	<ul style="list-style-type: none"> • Re-establish \$4.5M funding model for Research Challenge Fund • Win large federal capacity-building grants (e.g., NSF EPSCoR) • Increase federal R&D grants and contracts in target platforms • Identify critical lab and facility needs and assess funding mechanisms in other states
INNOVATION & ENTREPRENEURSHIP	<ul style="list-style-type: none"> • Increase number of industry-university R&D collaborations • Increase innovation activity, invention disclosures, and patents • Increase number of SBIR/STTR awardees and awards 	<ul style="list-style-type: none"> • Pilot WV \$350K R&D Voucher Program • Support FAST Program led by TechConnectWV and WV SBDC • Fund \$1.1M for WV Entrepreneurship & Innovation Investment Fund
HIGH-TECH COMPANIES	<ul style="list-style-type: none"> • Attract R&D-oriented federal operations with contracting activity • Ensure WV has the infrastructure, facilities, and access to specialized equipment appropriate for high-tech companies • Work with the WV DED¹ to proactively recruit high-tech and R&D-based companies 	<ul style="list-style-type: none"> • Support Opportunity Move, the federal anchors strategy • Invest in sites identified by Opportunity Move Steering Committee Leverage new WV R&D Vouchers Program • Continue collaboration on high-tech recruitments and WV business case development

West Virginia's five-year plan is fully supported by the three EPSCoR Research Infrastructure Improvement (RII) Program Track-1 research universities and was developed in consultation with over 60 stakeholders representing the perspectives of West Virginia companies, higher education, and state government. Vision 2025 articulates their shared vision of what West Virginia can accomplish by continuing to work together, as well as with new partners.

¹ The West Virginia Development Office changed its name to the West Virginia Department of Economic Development (WV DED) in the spring of 2021.

Report to the Legislative Oversight Commission on Education Accountability

2021 Annual Report on Services for Student Veterans (§18B-4-9)

August 26, 2021

**West Virginia
Higher Education
Policy Commission**

Andrew A. "Drew" Payne III
Chair

Sarah Armstrong Tucker, Ph.D.
Chancellor

www.wvhepc.edu

**West Virginia
Council for Community
and Technical
College Education**

Christina Cameron
Chair

Sarah Armstrong Tucker, Ph.D.
Chancellor

www.wvctcs.org

1018 Kanawha Blvd., East
Suite 700
Charleston, WV 25301
304-558-2101 (phone)
304-558-1011 (fax)

The Honorable Craig Blair
President
West Virginia State Senate
Room 229M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

The Honorable Roger Hanshaw
Speaker of the House
West Virginia House of Delegates
Room 228M, Building 1
State Capitol Complex
Charleston, West Virginia 25305

Dear Mr. President and Mr. Speaker:

In accordance with West Virginia Code §18B-4-9, I am 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' 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. OVET works closely with its counterparts at the U.S. 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 available to students using VA education benefits.

All public institutions of higher education in the State of West Virginia continued participation in the 5 Star Challenge (Challenge). The primary accomplishment of this Challenge was the implementation of priority registration for classes for student veterans at all our institutions. Further, the Commission and Council continue to focus on addressing the higher education needs of student veterans.

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.

- Concord University awarded the first Gregory and Mary Aloia Veteran Scholarship. To be eligible to receive the scholarship, a student must be a veteran and active in Concord's Student Veterans Association. The student must also maintain at least a 2.5 GPA. The scholarship is named for Dr. Gregory Aloia and his wife Mrs. Mary Aloia. Dr. Aloia served as Concord's President from 2008 to 2013. Additionally, Concord has begun networking with local veteran-owned businesses to form internships and potential career opportunities for student veterans and alumni.
- Pierpont Community and Technical College created a new Student Veteran Organization. They also relocated their School Certifying Official/Student Veteran Advocate to an office adjoining the Student Veterans' Lounge. The official remarked that the new location has had a direct positive impact on their ability to reach student veterans and students willingness to make more frequent in-person visits.
- Southern West Virginia Community and Technical College implemented *SSConnect*, a virtual Student Services platform. The institution says the platform has been an integral part of streamlining communications and connecting with students during the past year.
- West Virginia Northern Community College utilized emergency financial aid to meet the needs of students facing challenges related to COVID-19.
- West Virginia University has completed the union of all campuses (Morgantown, Keyser, Beckley, and Charleston) within the VA system. They also added a 3rd full-time school certification officer, and will soon add a financial services representative dedicated specifically to support veterans and military-connected students.

All 20 institutions participated in a survey to determine compliance with the various sections of the Code. The following table includes the applicable sections of the Code and corresponding findings based on the survey results. Full survey responses can be provided if necessary. Of note, West Virginia University Institute of Technology was previously reported as a separate institution. In 2021, the facility's approval was transferred under the umbrella of West Virginia University.

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;	19 of our 20 institutions report compliance. Due to the unique mission of the West Virginia School of Osteopathic Medicine, it is unable to accept credit in this area toward the completion of its program.
(2) Developing policies for each State institution of higher education to grant academic credit for Armed Forces experiences;	19 of our 20 institutions report compliance. Due to the unique mission of the West Virginia School of Osteopathic Medicine, it is unable to accept credit in this area toward the completion of its program.
(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 (16 of 20) institutions have developed methods of encouraging and allowing student veterans to share their experiences. Some institutions convey that veterans are encouraged to do so but often elect not to participate.
(4) Establishing and sponsoring an organization for student veterans on campus and encouraging other veteran-friendly organizations;	Nearly all institutions (16 of 20) have active student veteran organizations. Others have offered to support such organizations but do not have an active organization at this time either due to lack of interest or too few veterans enrolled. Some cited COVID-19's impact on on-campus activities as a barrier.
(5) Appointing and training specific faculty within each degree program or major as liaisons and contacts for student veterans;	Many institutions (12 of 20) report compliance. Some institutions described trained faculty or staff available for some but not every program or major. One institution cited an active project to meet this goal by 2022.
(6) Providing information about programs that grant credit for prior learning to student veterans and potential student veterans;	19 of our 20 institutions report compliance. Due to the unique mission of the West Virginia School of Osteopathic Medicine, it is unable to accept credit in this area toward the completion of its program.

(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 20 institutions report compliance.
(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;	Most (18 of 20) institutions report compliance with this goal.
(9) Developing training materials on responding to student veteran needs to be available for continued professional development of counselors to student veterans;	Many (14 of 20) institutions report compliance.
(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;	All 20 institutions report compliance.
(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;	All 20 institutions report compliance.

(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;	Most (14 of 20) institutions have accomplished this. Several institutions report meeting parts of this goal, if not wholly. For example, some institutions relate linking graduating student veterans with prospective employers, but not having an alumni association. Others convey fostering relationships between student veterans and alumni, but not currently offering career services.
(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 20 institutions report compliance.
(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.	All 20 institutions report compliance.
(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 20 institutions report compliance.

Additionally, our institutions were asked to share any emerging student veteran concerns that they believe the Legislature could address.

One institution (Mountwest Community and Technical College) noted concern that Federal COVID-19 legislation that permits students to receive their monthly housing stipends at the resident rate while taking approved converted (online) courses is scheduled to expire on December 21, 2021. Given growing concerns related to the Delta variant of COVID-19, institutions may need to shift from resident-taught courses to distance education.

One institution (West Virginia Northern Community College) detailed concerns about equitable access to health care, particularly mental health services, and addiction treatment, for all West Virginia residents. The institution also discussed challenges students are facing related to equitable broadband access.

Two institutions (Marshall University and West Virginia University) provided similar suggestions for all public West Virginia colleges and universities to provide in-state tuition rates to any individual receiving VA education benefits regardless of their state of residency.

Please feel free to contact Mr. Cody Tomblin, OVET Interim Director at 304-558-0263 if we can provide additional information regarding this report.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sarah Armstrong Tucker'.

Sarah Armstrong Tucker, Ph.D.
Chancellor

cc: The Honorable Patricia Rucker
Chair, Senate Education Committee

The Honorable Joe Ellington
Chair, House Education Committee

Report to the Legislative Oversight Commission on Education Accountability

Report on Free Expression on Campus (§18B-20-7)

MEMORANDUM

West Virginia
Higher Education
Policy Commission

Andrew A. "Drew" Payne III
Chair

Sarah Armstrong Tucker, Ph.D.
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www.wvhepc.edu

West Virginia
Council for Community
and Technical
College Education

Christina Cameron
Chair

Sarah Armstrong Tucker, Ph.D.
Chancellor

www.wvctcs.org

1018 Kanawha Blvd., East
Suite 700
Charleston, WV 25301
304-558-2101 (phone)
304-558-1011 (fax)

TO: Legislative Oversight Commission on Education Accountability

FROM: Matt Turner
Vice Chancellor for Administration

DATE: August 31, 2021

RE: Free Expression on Campus

During its 2021 Regular Session, the West Virginia Legislature passed Senate Bill 657, which now requires each public higher education institution to post on its website any policies it has enacted regarding protected expression under the First Amendment (**W. Va. Code §18B-20-7**). Institutions also must report to the Higher Education Policy Commission or Council for Community and Technical College Education "... as applicable, a description of any barriers to, or incidents of disruption of, free expression occurring on campus."

This new law became effective July 8, 2021. Each year, the Commission and Council are required to report to the Legislative Oversight Commission on Education Accountability (LOCEA) any free expression barriers or incidents reported to our agency.

The Commission and Council have not received any reports of disruptions or incidents related to free expression since the law was enacted. In addition, Commission/Council staff polled the presidents of each public institution to ensure they had nothing to report or had not made any significant changes to their policies related to free expression on campus.

As of August 30, 2021, there are no additional updates to provide LOCEA.