

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #7

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Effective Date

2/24/2014

NOTICE OF AN EMERGENCY RULE

AGENCY: West Virginia Higher Education Policy Commission TITLE NUMBER: 133

CITE AUTHORITY: 18B-1-6

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 26

TITLE OF RULE BEING AMENDED: Underwood-Smith Teacher Scholarship Program

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

1) Time limitations. Fiscal Year 2014 appropriations provided funding for teacher loan assistance awards. In order to award the funding, the existing Legislative Rule has been amended to accommodate the new provisions authorized during the 2013 Regular Legislative Session, 18C-4A-1.



Authorized Signature

Use additional sheets if necessary

TITLE 133
EMERGENCY LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

FILED

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SERIES 26
UNDERWOOD-SMITH TEACHER SCHOLARSHIP PROGRAM

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§133-26-1. General.

- 1.1. Scope. This rule establishes guidelines and procedures which will direct the operation of the Underwood-Smith Teacher Scholarship Program.
- 1.2. Authority. West Virginia. Code §18C-4 et seq.
- 1.3. Filing Date. April 26, 2005
- 1.4. Effective Date. April 27, 2005
- 1.5. Modification of Existing Rule: Title 133, Series 26, Legislative Rule of the West Virginia Higher Education Policy Commission dated June 9, 1998 April 27, 2005.

§133-26-2. Purpose.

- 2.1. The intent of the legislation creating the Underwood-Smith Teacher Scholarship Program is to:
 - 2.1.a. Improve the quality of education in the public schools of West Virginia by encouraging and enabling West Virginia residents who have demonstrated outstanding academic abilities to pursue teaching careers at the pre-school, elementary, middle or secondary levels in the public schools of West Virginia.
 - 2.1.b. Make particular efforts to encourage those individuals who have demonstrated outstanding academic abilities to pursue teaching careers by developing selection criteria and procedures to reflect the state's present and projected teacher needs, including needs statewide and in different geographic areas and for teachers with education and training in specific disciplines.

§133-26-3. Funding.

- 3.1. A special revolving fund known as the Underwood-Smith Teacher Scholarship Fund has been created in the State Treasury and is administered by Vice Chancellor for Administration of the West Virginia Higher Education Policy Commission (Commission) solely to grant

scholarships for prospective teachers. Monies received from collections, monies appropriated by the Legislature, interest earned on these monies, and monies received by other sources will be placed in this fund.

- 3.2. Carry-forward monies shall not expire or revert and will be used for future scholarships.
- 3.3. Additional funding may be received from gifts, grants, contributions, bequests, or endowments.
- 3.4. The Vice Chancellor for Administration shall make a reasonable effort to encourage external support for the scholarship program.
- 3.5. Fund balances shall be invested with the state's consolidated investment fund.
- 3.6. In order to encourage support for the Underwood-Smith Teacher Scholarship Program, the Vice Chancellor for Administration may set aside up to one-half of the funds appropriated by the Legislature to match non-state source contributions on behalf of a specific institution of higher education in this state. Such match shall be at the rate of two state dollars to each one dollar contributed by a private source.

§133-26-4. Administration.

- 4.1. The Underwood-Smith Teacher Scholarship Program shall be administered by the Vice Chancellor for Administration or her/his designee.
- 4.2. The Higher Education Policy Commission, in consultation with the State Superintendent of Schools, shall promulgate reasonable legislative rules for the administration of the program and the Vice Chancellor for Administration, in accordance with such rules, shall establish appropriate guidelines for program operation.
- 4.3. ~~Scholar~~ Recipient awards shall not exceed \$5,000.00 per year for a maximum of four academic years for a baccalaureate degree and/or two academic years for a master's degree.
- 4.4. The Vice Chancellor for Administration shall solicit the views of public and private education agencies and institutions and other interested parties in developing the selection criteria and procedures to be used by the selection panel. These views may be solicited by means of written and published selection criteria and procedures in final form for implementation. Views may also be solicited by means of public hearings on the present and projected teacher needs of the state.

§133-26-5. Panel Selection Criteria and Procedures.

- 5.1. The Governor ~~will~~ shall designate the Higher Education Student Financial Aid Advisory Board ~~an existing scholarship selection agency or panel to select Underwood-Smith Teacher Scholarship recipients or, if no such agency or panel exists, will appoint a scholarship selection panel consisting of seven persons representative of public school administrators, teachers, including pre-school teachers, and parents.~~

§133-26-6. Application Process.

- 6.1. Application forms will be made available to public and private high schools in the state and to public and private colleges in the state.
- 6.2. Applications may be distributed and the program advertised to interested parties such as, but not limited to, the National Association for the Advancement of Colored People, Division of Rehabilitation Services, and West Virginia's Women's Commission in an effort to attract students from low income backgrounds, ethnic or racial minority students, students with disabilities, and women or minority students who show interest in pursuing teaching careers in mathematics and science and who are under represented in those fields. Applications may also be distributed and the program advertised in campus newspapers, agency exhibits, and publications directed at interested parties.
- 6.3. In times of limited funding or limited teaching jobs in West Virginia, priority will be given to upper division college applicants.

§133-26-7. Eligibility Criteria.

- 7.1. Academic ability shall be the primary criteria for selecting scholarship recipients.
- 7.2. To be eligible to receive an Underwood-Smith Teacher Scholarship, applicants/renewals must be West Virginia residents who are or will be enrolled on a full-time basis in an accredited institution of higher education in West Virginia pursuing a course of study leading to teacher certification at the preschool, elementary, middle or secondary level in West Virginia who:
 - 7.2.a. Have graduated or are graduating from high school in the top 10 percent of their graduating class or the top ten percent statewide of those West Virginia students taking the American College Test or the Scholastic Assessment Test ~~as determined by the Vice Chancellor for Administration.~~

- 7.2.b. Have completed less than two years of college and have at least a 3.25 cumulative grade point average on a possible 4.0 scale; or
 - 7.2.c. ~~Are public school aides, paraprofessionals or other applicants who have completed two years of college work and have a cumulative grade point average of at least 3.25 on a possible 4.0 scale; or~~
 - 7.2.d. Are graduate students who have graduated or will be graduating with at least a 3.5 grade point average on a possible 4.0 scale from their undergraduate institution.
- 7.3. Recipients must be willing to sign a scholarship agreement which shall fully disclose the terms and conditions under which a teaching obligation must be met or repayment may be required.
- 7.3.a. A ~~scholar~~ recipient may appeal any determination of non-compliance with provisions of the scholarship agreement by submitting a written appeal of the specific complaint within 30 days of notification of non-compliance. Such appeal will be submitted to the Vice Chancellor for Administration or her/his designee for a decision.
 - 7.3.b. No Underwood-Smith funds will be disbursed until a signed agreement has been received by the Vice Chancellor for Administration.
- 7.4. In addition to academic criteria, the following may be considered in the selection of the Underwood-Smith Teacher Scholarship recipients: Pursuit of a degree in a teaching need area as determined by the State Board of Education, grade point average, involvement in extra-curricular activities, financial need, a written essay in which the applicant expresses her/his interest in teaching, and reference letters from faculty members.

§133-26-8. Service Obligation.

- 8.1. Each recipient of the Underwood-Smith Teacher Scholarship shall enter into an agreement with the Vice Chancellor for Administration that within a ten-year period after completing the teacher education program, the recipient agrees to:
 - 8.1.a. Teach full-time under contract with a county board of education in a public education program in West Virginia for two years for each year for which the scholarship was received; or
 - 8.1.b. Teach full-time in West Virginia, one year for each year for which

the scholarship was received, under contract with a county board of education in West Virginia in a teacher shortage area, in an exceptional children program, in a school having less than average academic results or in a school in an economically disadvantaged area as determined by the State Board of Education; or

8.1.c. Perform substitute teaching duties with a county board of education in West Virginia for two years for each year for which the scholarship was received or if teaching in West Virginia in a teacher shortage area, in an exceptional children program, in a school having less than average academic results or in a school in an economically disadvantaged area as determined by the State Board of Education teach one year for each year the scholarship was received. Credit received will be pro-rated based on the number of days in the public school system year. A minimum of 60 days of substitute teaching is required to earn any credit toward the teaching obligation.

8.2. If a recipient is seeking and unable to secure a position as set out in Section 8.1 of this rule following completion of the teacher education program, he/she may be considered for additional options to fulfill the service obligation. Qualifying optional service will be credited at the rate of two years of service for each year the scholarship was received. Such service must be certified in writing by an appropriate employing official and be approved in advance by the Vice Chancellor for Administration or her/his designee. Additional options include:

8.2.a. Teach full-time or permanent part-time in a private school, parochial or other school approved under exemptions (A) or (K) for the instruction of students of compulsory school age pursuant to section one, article eight, chapter eighteen of the West Virginia state code or in an accredited higher education institution or accredited post-secondary vocational education program in West Virginia; or

8.2.b. Perform alternative service or employment in West Virginia in a federal, state, county or locally supported program with an educational component, including mental or physical health care. A minimum of seventy-five percent of the work assignments must involve the educational component to be considered for credit through alternative service or employment. This may include, but not be limited to, those employed as librarians, guidance counselors, instructors at prisons or juvenile correctional facilities, and certain federal early outreach and student services employees; or

- 8.2.c. Perform alternative service with a bona fide tax exempt charitable organization dedicated to the above. Any such employee must meet the education component criteria and percentage as set out in Section 8.2.b.
- 8.3. If extenuating circumstances exist (see Section 9.4), the Vice Chancellor for Administration may extend the period for fulfilling the obligation to fifteen years.
- 8.4. It is the responsibility of the recipient to provide the Vice Chancellor for Administration with evidence of compliance with teaching requirements.

§133-26-9. Monetary Repayment.

- 9.1. If a recipient does not fulfill the service obligation, he/she will be required to make monetary repayment of the scholarship.
- 9.2. In addition to the repayment of the scholarship, interest will ~~accrue at a rate set at the greater of the new borrower rates for either the federal Stafford or PLUS loan programs. Interest rates will be adjusted annually on July 1 from the time the interest be charged at a rate prescribed by the Vice Chancellor for Administration and will begins to accrue to~~ accrue at the time the repayment period begins.
- 9.3. ~~In the event of non-compliance, interest will accrue from the date of the first scholarship disbursement. If a scholar fulfills a portion of the obligation, interest will accrue from the day on which the scholar ceased to fulfill the obligation. If a scholar is substitute teaching but does not earn enough credit to fulfill any of the obligation, interest will accrue from the date of graduation.~~ If a recipient fulfills a portion of the obligation, interest will accrue from the day on which the recipient ceased to fulfill the obligation. If a recipient is substitute teaching but does not earn enough credit to fulfill any of the obligation, interest will accrue from the beginning of the deferment period.
- 9.4. In the event of non-compliance, payment in full will normally be expected 60 days from the date of non-compliance. In the event of extenuating circumstances the Vice Chancellor for Administration may approve an alternate payment plan.
- 9.5. As permitted by federal law, applicable state regulations, and the terms of the scholarship agreement, reasonable collection costs, late charges and attorney fees may be assessed in the collection of delinquent accounts.
- 9.6. If extenuating circumstances exist, the Vice Chancellor for Administration, upon receipt of appropriate documentation, may extend

the period for fulfilling the obligation to fifteen years. Extenuating circumstances include, but are not limited to, a temporary disability, inability to secure a full-time teaching position, or serious family illness.

- 9.7. When the ~~West Virginia Higher Education Policy~~ Commission is advised of a ~~scholar's~~ recipient's application for bankruptcy, such application will be considered by the Vice Chancellor for Administration or her/his designee in consultation with the Attorney General's Office.
- 9.8. When, due to poor health, monetary hardship, or other acceptable reasons, a recipient is unable to make payments, a forbearance may be allowed if the Vice Chancellor for Administration or her/his designee has reason to believe, and so documents in the scholar's file, that the ~~scholar~~ recipient does intend to fulfill the monetary obligation.

§133-26-10. Deferment Provisions.

- 10.1. A recipient is not considered in violation of the agreement entered into and is eligible for consideration of deferment of fulfilling the obligation, including the cessation of interest accrual, provided he/she is:
 - 10.1.a. Pursuing a full-time course of study at an accredited institution of higher education. The student must provide documentation of enrollment on a semester basis.
 - 10.1.b. Serving on active duty, not in excess of four years, as a member of the armed services of the United States. ~~Scholar~~ The recipient must provide documentation from an authorized military official of start date of active duty and discharge date.
 - 10.1.c. Seeking and unable to find full-time employment with a county board of education in West Virginia or acceptable alternative service employment pursuant to Section 8.2. This deferment shall not exceed ~~up to~~ 27 months. To receive this deferment, a ~~scholar~~ recipient must annually provide documentation signed by a school official from two county boards of education verifying that an application for full-time employment is on file.
 - 10.1.d. Seeking and unable to find any full-time employment. This deferment can be approved for a single period not to exceed 12 months. Copies of written correspondence with potential employers and/or other appropriate documentation must be provided every six months.

10.1.e. Providing care for a disabled spouse for a period not to exceed 12 months. A sworn affidavit from a qualified physician must be submitted every six months.

10.1.f. Temporarily totally disabled for a period not to exceed three years. Proof of disability must be established by a sworn affidavit of a qualified physician and verified on an annual basis.

10.2. Deferments may also be considered for other conditions and circumstances as may be approved by the Vice Chancellor for Administration.

§133-26-11. Cancellation of Obligation.

11.1. A recipient's service and monetary obligation is excused in the event the recipient:

11.1.a. Becomes permanently and totally disabled as established by sworn affidavit of a qualified physician. The Vice Chancellor for Administration may require additional evidence of the disability.

11.1.b. Is deceased. A copy of the death certificate must be submitted.

§133-26-12. Relationship to Other Financial Assistance.

12.1. Underwood-Smith Teacher Scholarship awards plus other financial assistance shall not exceed the cost of attendance at the institution the student is attending. Cost of attendance will be provided by a financial aid officer at the school of attendance. Cost of attendance will include the cost of tuition and fees, reasonable allowances for books, educational supplies, room and board, and other expenses necessitated by individual circumstances such as a physical disability.

12.2. Should the scholarship award plus the amount of other financial awards exceed the cost of attendance, the institution's financial aid officer, in consultation with the recipient will determine what aid is to be reduced. This adjustment should be to the best advantage of the ~~scholar~~ recipient.

§133-26-13. Collections.

13.1. Institutions' and Commission staff shall exercise due diligence in collecting monetary repayments from scholarship recipients.

13.2. Institutional due diligence means:

13.2.a. Conducting and documenting an entrance interview (individually

or in groups) with the scholarship recipient before disbursing funds in an academic year. This requirement may be met by correspondence if the institution determines that a face-to-face meeting is not practical.

13.2.b. Conducting and documenting an exit interview with the scholarship recipient in which the institution provides the borrower with information necessary to carry out the terms of repayment, reminds the recipient of the rights and responsibilities associated with the scholarship funds and updates the recipient's personal information to assist in locating the recipient if he or she fails to keep the institution or the Commission informed of his or her current address.

13.3. Commission due diligence means:

13.3.a. Notifying the scholarship recipient of his/her obligations at least twice annually during any grace or deferment period.

13.3.b. Performing regular billing.

13.3.c. Following up past due payments with a series of at least four documented and reasonably spaced attempts to contact the borrower, at least three of which must be in writing at not more than 30-day intervals, before the obligation becomes 120 days past due, provided that the Commission has a current address for the borrower.

13.3.d. Performing address searches when necessary.

13.3.e. Referring defaulted scholarships more than 120 days past due to the Secretary of the Department of Administration or to a collection agent.

13.4. In place of one or more of the procedures outlined above, institutions and Commission staff may substitute collection techniques that are equally or more effective.

§133-26-14. Loan Assistance Eligibility.

14.1. The Higher Education Student Financial Aid Advisory Board or those designated by the Higher Education Student Financial Aid Advisory Board shall select recipients to receive Underwood-Smith Teacher Loan Assistance Awards.

14.2. Eligibility for an award is limited to a teacher who has earned a teaching degree and is certified to teach in West Virginia.

14.3. Priority shall be given to new teachers and teachers who have previously received a loan assistance award that shall agree to teach or shall currently be teaching: a subject area of critical need in a state public school, a teacher that shall agree to teach or shall currently be teaching in a geographic area of the state identified as an area of critical need, or to a certified teacher in a subject area of critical need who is enrolled in an advanced in-field degree course or who has earned an advanced in-field degree who may use the award toward current federal student loans.

14.4. The Commission shall consult with the State Department of Education annually to determine the subject areas of critical need and the geographic areas of the state in critical need.

§133-26-15. Loan Assistance Application.

15.1. Application forms shall be made available to public and private schools in the state via the Commission and the State Department of Education's websites and in other locations convenient to potential applicants.

15.2. Applications will be submitted on an application form approved by the Vice Chancellor for Administration.

15.3. Applications must be submitted by such deadline as may be designated by the Vice Chancellor for Administration.

§133-26-16. Loan Assistance Agreement.

16.1. Before receiving an award, each eligible teacher shall enter into an agreement with the Vice Chancellor for Administration.

16.2. Recipients shall agree to teach full-time in a public school in West Virginia in a subject area or geographic area of critical need under contract with a county board for a period of two school years for each year for which loan assistance is received.

16.3. The Vice Chancellor for Administration may grant a partial award to an eligible recipient whose contract term is for less than a full school year. A partial award is calculated by prorating the full award amount based upon the number of days taught in the school's calendar year.

§133-26-17. Loan Assistance Awards.

17.1. Each award recipient is eligible to receive loan assistance of up to \$2,000

annually.

17.2. Awards will be paid to the recipient's educational loan institution, not directly to the recipient, only after the Commission determines that the recipient has complied with all the terms of the agreement.

17.3. Recipients may have their award terminated or may be required to repay all or part of an award according to the terms of Section 9 of this rule if the recipient does not comply with the terms of the agreement.

17.4. Award amounts shall not exceed the applicant's outstanding loan balance.

17.5. Loans eligible for loan repayment assistance are federal student loans in the applicant's name that were used for educational costs associated with obtaining a degree in teaching or a teaching credential. Parent PLUS Loans are not eligible for loan repayment assistance.

17.6. Loan repayment assistance shall not reimburse applicants for payments to loans already made.

17.7. Federal teacher loan forgiveness programs shall be considered when awards are calculated.

17.8. Recipients shall annually submit proof of fulfillment of the terms of the loan assistance agreement to the Commission in accordance with the loan assistance agreement.

17.9. Half of the annual award will be paid after fulfilling the first year of the agreement; the second half of the annual award will be paid after fulfilling the second year of the agreement.

§133-26-18. Loan Assistance Renewals.

18.1. The recipient is eligible for renewal of loan assistance only during the periods when the recipient is under contract with a county board to teach in a subject area of critical need in a school or geographic area of critical need.

18.2. An applicant must have completed the terms of previous loan assistance awards before being renewed.

18.3. A renewal applicant who is teaching under a contract in a position that no longer meets the definition of critical need defined in Section 14.4 above is eligible for renewal of loan assistance until the teacher leaves his or her current position.

18.4. No recipient may receive loan assistance in excess of \$15,000.

§133-26-19. Loan Assistance Cancellation.

19.1. A recipient's service and monetary obligation is excused in the event the recipient meets the terms of Section 11 of this rule.

§133-26-20. Loan Assistance Deferment.

20.1. A recipient is not considered in violation of the agreement entered into and is eligible for consideration of deferment of fulfilling the obligation if the recipient meets the terms of Section 10 of this rule.

SUMMARY

TITLE 133 EMERGENCY RULE WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 26 UNDERWOOD-SMITH TEACHER SCHOLARSHIP PROGRAM

This rule establishes guidelines and procedures which will direct the operation of the Underwood-Smith Teacher Scholarship Program. The Emergency Rule amends the existing Legislative Rule to implement the provision to allow teachers to apply for and be awarded up to \$2,000 in loan assistance in exchange for two (2) years of service of teaching in a West Virginia public school. For Fiscal Year 2014, money was appropriated to be awarded for this purpose. The Emergency Rule allows for the awards to be available immediately. The Scholarship Program is designed to encourage outstanding high school graduates to pursue teaching careers and to remain in the state at the completion of their college graduation.

EMERGENCY RULE QUESTIONNAIRE

DATE: February 24, 2014

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Higher Education Policy Commission
1018 Kanawha Boulevard, East Charleston, WV 25301 (304) 558-0699

EMERGENCY RULE TITLE: Underwood-Smith Teacher Scholarship Program

1. Date of filing February 24, 2014

2. Statutory authority for promulgating emergency rule:
18B-1-6

3. Date of filing of proposed legislative rule: February 24, 2014

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? Amends current legislative rule, Title 133 Series 26

5. Has the same or similar emergency rule previously been filed and expired?
No.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.
To comply with a time limitation.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

18C-4A-1

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 133-26: Underwood-Smith Teacher Scholarship Program , Emergency Rule

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Higher Education Policy Commission

Address: 1018 Kanawha Boulevard East
Charleston, WV 25301

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	-0-	-0-	-0-	-0-	-0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

There is no direct cost associated with the proposed change to this rule.

3. Objectives of These Rules:

This emergency rule amends the policies and procedures for operation of the Underwood-Smith Teacher Scholarship Program.

Rule Title: 133-26: Underwood-Smith Teacher Scholarship Program

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None

C. Economic Impact on Citizens/Public at Large.

The Program is encourages high school graduates to pursue teaching careers who agree to remain in the State to teach. The Emergency Rule implements procedures to administer the teacher loan assistance provisions.

Date: February 24, 2014

Signature of Agency Head or Authorized Representative:

