

**WEST VIRGINIA  
SECRETARY OF STATE  
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ADMINISTRATIVE LAW DIVISION**

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Form #5

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF TECHNICAL CHANGES TO RULE**

AGENCY: WV Council for Community and Technical College Education TITLE NUMBER: 135

CITE AUTHORITY: §18B-2B-6, §18B-1B-6

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES X NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 5

TITLE OF RULE BEING AMENDED: Employing and Evaluating Presidents

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS April 20, 2009

*Angela S. Kerns*

Digitally signed by Angela S. Kerns  
DN: cn=Angela S. Kerns, o=WV Council for Community and Technical  
College Education, ou=Chancellor's Office, email=kerns@wvctcc.org, c=US  
Date: 2015.11.05 13:56:41 -0500

Authorized Signature



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OFFICE WEST VIRGINIA SECRETARY OF STATE

**SUMMARY**  
**TECHNICAL CHANGES TO RULES**  
**WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION**

**Explanation of Need for Technical Changes:**

Four rules were found to have institutional names of community and technical colleges that have long since been changed. In place of individually listing each individual community and technical college, a broader statement of "Public, higher education institutions within the Community and Technical College System of West Virginia" has been used to avoid future issues of the same.

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**Title 135 – Series 5**

**Existing Language:**

2.1. The provisions of this rule apply to the employment of presidents of Blue Ridge Community and Technical College, the Community and Technical College at West Virginia University Institute of Technology, Eastern West Virginia Community and Technical College, Marshall Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia University at Parkersburg, West Virginia Northern Community College, and West Virginia State Community and Technical College.

**New Language:**

2.1. The provisions of this rule apply to the employment of presidents at public, higher education institutions within the Community and Technical College System of West Virginia.

**Title 135 – Series 37**

**Existing Language:**

2.3 Eastern West Virginia Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community College, New River Community and Technical College, Marshall Community and Technical College, Fairmont State Community and Technical College, Community and Technical College of Shepherd, West Virginia State Community and Technical College, Community and Technical College at West Virginia University Institute of Technology, West Virginia University at Parkersburg and any other college so designated by the Legislature.

**New Language:**

2.3 Public, higher education institutions within the Community and Technical College System of West Virginia.

**Title 135 – Series 45**

**Existing Language:**

2.1.1 The provisions of this section shall apply only to the establishment of a faculty instructional load policy at the Eastern WV Community and Technical College, Fairmont State Community and Technical College, New River Community and Technical College, Marshall Community and Technical College, Community and Technical College of Shepherd, Southern WV Community and Technical College, WV Northern Community College, WVU-Parkersburg, Community and Technical College at WVU Tech, West Virginia State Community and Technical College, and any other community and technical colleges so designated by the West Virginia Legislature.

To facilitate the development of a policy at each community and technical college, the institution will submit the established policy to the WV Council for Community and Technical College Education for review and approval.

**New Language:**

2.1 The provisions of this section shall apply only to the establishment of a faculty instructional load policy at public, higher education institutions within the Community and Technical College System of West Virginia.

To facilitate the development of a policy at each community and technical college, the institution will submit the established policy to the WV Council for Community and Technical College Education for review and approval.

**Title 135 – Series 49**

**Existing Language:**

3.3. "Higher Education Institution" or "Institution." Blue Ridge Community and Technical College, Community and Technical College at WVU Tech, Eastern West Virginia Community and Technical College, Marshall Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community College, West Virginia State Community and Technical College, and West Virginia University at Parkersburg.

**New Language:**

3.3. "Higher Education Institution" or "Institution." Public, higher education institutions within the Community and Technical College System of West Virginia.

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

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SERIES 5  
EMPLOYING AND EVALUATING PRESIDENTS

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§135-5-1. General.**

1.1. Scope. -- Rule establishing guidelines for governing boards to use in employing and evaluating Presidents

1.2. Authority. -- West Virginia Code §18B-2B-6, 18B-1B-6.

1.3. Filing Date. -- November 4, 2015.

1.4. Effective Date. -- April 20, 2009.

1.5. Repeal of former Rule. -- Repeals and replaces procedural rule Series 5 of Title 135 adopted by Council on June 7, 2005.

**§135-5-2. Community and Technical Colleges.**

2.1. The provisions of this rule apply to the employment of presidents at public, higher education institutions within the Community and Technical College System of West Virginia.

2.2. Upon the occurrence of a vacancy in the position of president at one of the institutions set out in Section 2.1, the governing board of the institution shall undertake a search for a new president. The governing board is responsible for the search, both procedurally and financially. The governing board shall adopt a procedure, consistent with this rule, governing the search. The procedure shall require, at the least, that:

2.2.1. A statement of characteristics and qualities which the new president should possess shall be adopted by the governing board and utilized in soliciting and evaluating the candidates.

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

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

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

2.2.5. Background checks may be conducted on each candidate prior to interviewing with the search committee or governing board. Background checks should be conducted on finalists prior to any

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

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

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

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

2.6. The governing board shall confer with the Chancellor and agree to a method and process for Council members to interview the finalists when brought to campus, or the Council may schedule its own interviews with the finalists before approving the final selection of a president. The agreed upon process shall not permit Council members to serve on the institutional presidential search committee. The governing board, or any search committee appointed by it, shall promptly transmit to the Chancellor a copy of the procedure adopted to govern the search and provide agendas and minutes of meetings involving the search.

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

2.8. Interim presidents appointed by a governing board shall be approved by the Council.

### **§135-5-3. Presidential Contracts.**

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

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

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

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

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

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

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

**§135-5-4. Compensation.**

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

4.2. The total salary from all funding sources for a president should be based on a comparison of the presidential salaries at comparable institutions as reported by the College and University Professional Association for Human Resources (CUPA-HR), and should be between the salary listed for the 20th percentile and that listed in the 80th percentile. The governing board of an institution wishing to pay a Presidential salary in excess of the 80th percentile shall submit a detailed rationale to the Council justifying the action. Other national data sources may be utilized by the governing board, as appropriate, to establish salary ranges.

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

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

4.5. The Chancellor annually shall make available to the governing boards the most recent CUPA-HR or other comparable national data applicable to their institutions.

**§135-5-5. Presidential Evaluation.**

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

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

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

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

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

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