



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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12/20/2016 1:13:46 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY **Higher Education Policy Commission**
RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **133-**
RULE NAME **West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence⁰⁷
(PROMISE) Scholarship Program**
CITE AUTHORITY **18B-1-6**

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE 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-Series: 133-07



Rule Id: 10336



Document: 33169



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

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PRIMARY CONTACT

Cindy L. Anderson
1018 Kanawha Boulevard, East

Charleston, STATE ZIP

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AUTHORIZING STATUTE(S) CITATION
18B-1-6

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD
Friday, November 18, 2016

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?
N/A

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED
Sunday, December 18, 2016

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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

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ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.

No comments received

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)

Tuesday, December 20, 2016

**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.**



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IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. GIVE THE DATE UPON WHICH YOU FILED IN THE STATE REGISTER A NOTICE OF THE TIME AND PLACE OF A HEARING FOR THE TAKING OF EVIDENCE AND A GENERAL DESCRIPTION OF THE ISSUES TO BE DECIDED.

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DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS
REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS
None

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

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SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

N/A

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FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
--------------------	--	---------------------------------------	---

**ESTIMATED
TOTAL COST**

PERSONAL SERVICES

CURRENT EXPENSES

**REPAIRS AND
ALTERATIONS**

ASSETS

OTHER

**ESTIMATED
TOTAL REVENUES**

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3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

N/A

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PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

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SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

Proposed revisions to rule include references to residency status, use of sixth semester grades to determine eligibility, replaces GED testing with general terminology, renewal eligibility, grade point averages, student withdraw, and the appeal process for the PROMISE Scholarship Program.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

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TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 7
WEST VIRGINIA PROVIDING REAL OPPORTUNITIES FOR MAXIMIZING IN-STATE
STUDENT EXCELLENCE (PROMISE) SCHOLARSHIP PROGRAM

§133-7-1. General.

1.1. Scope. -- This rule establishes guidelines and procedures for establishing eligibility for the West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence Scholarship Program, hereinafter referred to as PROMISE.

1.2. Authority. -- West Virginia Code §18B-1-6 and §18C-7-6.

1.3. Filing Date. --

1.4. Effective Date. --

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

§133-7-2. Eligibility of High School Graduates for Initial Award.

2.1. To be eligible for an initial PROMISE Scholarship, a high school applicant must be eligible for the award at the time of application and at the time the award is received by meeting all academic criteria in place at the time of application and award; and

2.1.a. Must complete high school graduation requirements at a West Virginia public or private high school unless he or she qualified as a military dependent under Section 6 of this rule, or has commuted to an out-of-state school pursuant to Section 7 of this rule; and

2.1.b. Must complete at least one half of the credits required for high school graduation through attendance at a public or private high school in this state, unless he or she qualified as a military dependent under Section 6 of this rule, or has commuted to an out-of-state school pursuant to Section 7 of this rule; and

2.1.c. Must apply for the scholarship within two years of graduation from high school unless the applicant entered the United States armed services pursuant to Section 5 of this rule; and

2.1.d. Must, while enrolled in high school, have attained a cumulative grade point average of at least 3.0 on a 4.0 scale, based on county board grading policies, in both core courses and overall coursework required for graduation by the State Board of Education; and

2.1.e. Must meet standardized test score criteria on an ACT or SAT national test as established by the West Virginia Higher Education Policy Commission (Commission); and

2.1.f. Must have resided in West Virginia continuously for a minimum of twelve consecutive months immediately preceding the final date of application for a PROMISE Scholarship, unless a member of the Armed Services pursuant to Section 5 of this rule or a military dependent pursuant to Section 6 of this rule, and be a United States citizen, a U.S. permanent resident, or an eligible non-citizen who meets

the residency requirements for Federal Student Aid; and

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

2.1.g.1. Any student who misses the deadline for application may apply by a later date established by the Commission for a spring semester award. This option is contingent upon the availability of funding for late awards.

2.2. The grade point average required in Section 2.1.d. will be determined by the appropriate school official at the end of the sixth high school semester. However, the final calculation of the grade point average and eligibility for the award may be determined as late as after the eighth semester.

2.3. Weighted grades may be used in the computation of a student's core and overall grade point average based on county board grading policies.

2.4. A student who applied for and was deemed eligible for a PROMISE award must enroll for the first regularly scheduled enrollment period after being selected unless granted a deferment under the leave of absence provisions of Section 10.7 or 10.8.

2.5. A student who was deemed eligible for a PROMISE award but elects not to enroll at an eligible institution set forth in Section 8 of this rule may regain eligibility providing the student discontinues enrollment at the ineligible institution no later than one academic year after high school graduation and re-enrolls at an eligible institution. Any such student must meet the eligibility standards for a PROMISE award renewal set out in Section 10 of this rule.

§133-7-3. Eligibility for the Home-Schooled.

3.1. A person who has been home-schooled pursuant to the exemption allowed by W.Va. Code § 18-8-1 for both the 11th and 12th grades as documented by registration with the county school board system is eligible for a PROMISE award, but only if he or she has passed a state approved high school equivalency examination with a minimum score as determined by the Commission.

3.2. A home-schooled student must apply for a PROMISE award within two years of the earlier of passing a state approved high school equivalent examination or the date the student's high school class would normally have graduated and meet all other criteria established by the Commission, including required scores on national standardized tests.

3.3. The parents or legal guardian and the applicant must meet the residency requirements set out in Section 2.1.f. of this rule.

§133-7-4. Eligibility for Graduates of Alternative Educational Programs.

4.1. A person who successfully completed an alternative educational program, such as the Mountaineer Challenge Academy, approved by the Director of State Financial Aid Programs, is eligible for a PROMISE award, but only if he or she has passed a state approved high school equivalency examination with a minimum score determined by the Commission.

4.2. A graduate of such programs must apply for a PROMISE award within two years of the earlier of passing a state approved high school equivalent examination or the date the student's high school class would normally have graduated and meet all other criteria at the time of application established by the Commission, including required scores on national standardized tests.

4.3. The parents or legal guardian and the applicant must meet the residency requirements set out in Section 2.1.f. of this rule.

4.4. A student passing a state approved high school equivalent examination under other exceptional circumstances may appeal for scholarship consideration under the provisions of Section 14 of this rule.

§133-7-5. Eligibility of Members of Armed Services.

5.1. A person who entered full-time, active duty with the United States armed services within two years of his or her high school graduation and is discharged with a status other than dishonorable is eligible to apply or claim a PROMISE award within seven years of the time he or she has initially entered military service. However, this eligibility ends one year after discharge from such military service.

5.2. The applicant must meet all other criteria established by the Commission for eligible high school graduates at the time of the application, including high school grade point average and required scores on national standardized tests.

5.3. The applicant must meet the residency requirements set out in Section 2.1.f. of this rule, or have entered military service from this state, and not have established domicile in another state, at any time during that military service.

5.4. A student attending a United States military academy is only eligible for a PROMISE award if he or she leaves the military academy and meets the requirements of Section 2.5 of this rule.

§133-7-6. Eligibility of Military Dependents.

6.1. The credit hour requirements in Section 2.1.b. and the residency requirements of Section 2.1.f. of this rule shall be waived if:

6.1.a. The applicant both resided in a state other than West Virginia and attended high school in another state or in a United States territory, United States possession or foreign country; and

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

6.1.c. The applicant's parent or legal guardian served in the United States armed forces while the student attended high school in such state, territory, possession or country; and

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

6.1.e. The parent or legal guardian maintained legal residence in West Virginia while stationed in such state, territory, possession or country.

§133-7-7. Eligibility of Commuting Students.

7.1. The credit hour requirements in Section 2.1.b. of this rule shall be waived if:

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

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

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

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

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

7.1.e.1. A dependent student is one who is required to provide parental information on the Free Application for Federal Student Aid because the student does not meet the criteria to be classified an independent student contained in the Higher Education Act of 1965 as amended and implementing regulations.

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

7.1.g. The school to which the student commuted was fully accredited to a degree acceptable to West Virginia's State Superintendent of Schools; and

7.1.h. The school's curriculum requirements for graduation are equivalent, or sufficiently similar to, those required for high school graduation in this state.

§133-7-8. Eligible Institutions.

8.1. Only those institutions specified in W. Va. Code §18C-7-3, or any other regionally accredited, not-for-profit institution in this state approved by the Commission, are eligible to participate in the PROMISE Scholarship Program.

§133-7-9. Awards.

9.1. "Tuition and mandatory fees" means the quarter, semester or term charges imposed by a state institution of higher education upon all students as a required condition of enrollment.

9.1.a. For purposes of this rule, West Virginia University's undergraduate health sciences students shall be treated as paying the same amount of tuition and mandatory fees as all other West Virginia University undergraduate students.

9.1.b. West Virginia University, Potomac State College of West Virginia University and West Virginia University Institute of Technology are considered separate institutions for purposes of determining tuition rates.

9.2. Students awarded a PROMISE Scholarship shall receive an award equal to the lesser of \$4,750 or the actual tuition and mandatory fee charges for resident students at the institution.

9.3. Awards may be made for summer school. To be eligible for a summer award, a student must be academically eligible for scholarship continuation at the end of the spring semester preceding the summer that assistance is requested. Any summer award under this provision is dependent upon the availability of funds as determined by the Commission.

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

9.3.b. Students, other than those graduating at the end of the summer term of enrollment, must be

enrolled for at least 12 credit hours. Students graduating at the end of the summer term of enrollment are only required to enroll for a minimum of 6 credit hours.

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

9.4. Only full-time, first-year students may receive initial awards. Students already enrolled at a higher education institution are not eligible to apply for a PROMISE award except as outlined in Section 2.1.g.1.

9.5. If the Commission determines that adequate funds are available it may make PROMISE awards greater than \$4,750, but not in excess of actual resident tuition and mandatory fees.

§133-7-10. Eligibility for Renewal of Awards.

10.1. For a student to retain or have the PROMISE award renewed each year the student must be continuously enrolled as a full-time undergraduate student; except during the last two semesters of scholarship eligibility the student may be less than full-time; and

10.2. Maintain at least a 2.75 grade point average on a 4.0 scale the first year and a 3.0 cumulative grade point average in subsequent years; and

10.3. Complete and earn a minimum of 30 credit hours in each 12 month period for a student who receives a two-semester award in an academic year. If a student receives a single-semester award, the student must complete and earn a minimum of 15 credit hours in the academic year.

10.3.a. College-Level Examination Program (CLEP) credits may be used to meet the minimum credit hours requirement.

10.3.b. Credit for a course taken again during the same award year, including the summer, to improve a grade, or for any other purpose, may only be counted once in meeting the credit hour requirement.

10.3.c. The 12-month period for calculating renewal begins with the fall semester and ends with the summer semester.

10.4. A student seeking an associate degree is eligible to receive a PROMISE award for no more than a total of four semesters of a two-year degree program.

10.4.a. The student must meet the renewal requirements to receive a PROMISE award for a baccalaureate program.

10.5. A student seeking a baccalaureate degree is eligible to receive a PROMISE award for no more than eight semesters of a four-year degree program.

10.6. If a student enrolls in summer school to attain the minimum credit hours required by Section 10.3 or achieve the grade point average required by Section 10.2, he or she shall not receive a PROMISE award for that summer school enrollment. The summer school enrollment must be completed before the commencement of the regular semester of the PROMISE eligible institution the student is attending. Summer school credits may be obtained from an out-of-state institution with approval of the home institution.

10.6.a. All college credit hours and corresponding grades must be counted in determining PROMISE Scholarship eligibility regardless of whether or not the college accepts these credits. Any college credit hours earned prior to the first semester of fall or spring enrollment may not be counted toward the credit hour requirement in determining eligibility for award renewal.

10.7. PROMISE Scholarship students are expected to maintain continuous enrollment in addition to the other renewal requirements set forth in this section. However, this requirement may be waived by an institution of higher education for a medical or family bereavement absence consistent with program policies. The institution may also grant a leave of absence for students entering or being called to military active duty, or enrolling in a study abroad program, internship, or co-op program.

10.8. Other requests for leaves of absence must be submitted in writing by the student to the Director of State Financial Aid Programs. Student leave of absence requests submitted to the director may include, but are not limited to, programs directly related to the student's educational program, study abroad, extreme financial hardships of the student or the student's immediate family, service or volunteerism or other extraordinary circumstances beyond the student's control when continued attendance would create a substantial hardship for the student.

10.9. A student granted a leave of absence under the provisions of Section 10.7 or 10.8 who resumes his or her education at an eligible institution, assuming he or she meets all other eligibility requirements at the time the leave of absence was granted, shall retain eligibility for a PROMISE Scholarship until the first of the following events:

10.9.a. The student received four semesters of PROMISE Scholarship assistance while enrolled in an associate degree program or graduated from the associate degree program; or

10.9.b. The student received eight semesters of PROMISE Scholarship assistance while enrolled in an associate and/or baccalaureate program or graduated from the baccalaureate degree program; or

10.9.c. The sum of the number of academic years from the date of the student's selection as a PROMISE Scholarship recipient equals six years except for the military service provisions of Section 5.

§133-7-11. Duty of PROMISE Recipient Graduates.

11.1. By accepting a PROMISE award, the recipient agrees to provide the information the Commission may request regarding the recipient's address after graduation, employment after graduation, whether and where the recipient is enrolled in post-graduate programs, and such other relevant information as the Commission may deem necessary to assess the effectiveness of the PROMISE Scholarship Program.

§133-7-12. Community Service for Applicants.

12.1. Applicants for PROMISE awards are strongly urged to perform at least 20 hours of unpaid community service while in high school and college. The community service may include, but is not limited to, participation with non-profit, governmental, institutional or community-based organizations designed to improve the quality of life for community residents, meet the needs of community residents, or foster civic responsibility.

§133-7-13. Coordination with Other Financial Aid.

13.1. PROMISE Scholarship awards shall be coordinated with other financial aid/grant programs in the following manner:

13.1.a. PROMISE awards must be utilized in a manner that maximizes federal scholarship/grant funding (e.g. Pell Grant) and should not be administered in a manner that would result in the loss of federal grant/scholarship funds to a student or to the State of West Virginia.

13.1.b. PROMISE Scholarship awards must be used for tuition and fees.

13.1.c. Institutions are strongly encouraged to allow maximum flexibility in the use of institution based financial aid awards so that they can be used in conjunction with the PROMISE award.

13.2. The amount of a PROMISE award in combination with aid from all other sources shall not exceed the cost of the attendance at the institution the recipient is attending. This restriction does not apply to members of the West Virginia National Guard.

13.3. For those students eligible for federal grant assistance, such as Federal Pell Grants, the federal assistance should be considered the first source of all scholarship/grant funding to the extent permissible under federal law. For students awarded both a PROMISE Scholarship and a need-based grant through the West Virginia Higher Education Grant Program, the PROMISE Scholarship awards shall be considered the first source for these two scholarship/grant programs. West Virginia Higher Education Grants may be combined with PROMISE awards as provided for annually by program policies.

13.4. Should the PROMISE Scholarship award plus the amount of other financial awards exceed the cost of attendance, the institution's financial aid administrator, in consultation with the recipient, will determine what aid is to be reduced. This adjustment should be to the best advantage of the recipient.

13.5. If a PROMISE recipient terminates enrollment for any reason during the academic year, the unused portion of the scholarship shall be returned to the Commission by the institution in accordance with the Commission's rule for issuing refunds pursuant to the provisions of West Virginia Code §18C-5-1 et seq. If the recipient also received federal financial aid, the institution must abide by the refund policy associated with Title IV funds. The institution is responsible for returning the unused portion of the scholarship even if the student does not request a refund from the institution.

§133-7-14. Appeals.

14.1. An applicant for an initial PROMISE Scholarship award may appeal the denial of eligibility for the award with the Director of State Financial Aid Programs.

14.2. Any appeal must be filed within fifteen (15) days of the applicant receiving notice that he or she is not eligible for an initial award. The appeal must detail in writing, and with specificity, including the grounds supporting the appeal and a finding of eligibility. The director may require additional evidence or materials from the applicant or other parties.

14.3. If the appeal is denied by the director, the reasons for the denial shall be communicated in writing to the applicant with an explanation of the reason for the denial.

14.4. An applicant may appeal the director's decision to a review committee appointed by the Commission.

14.5. Any appeal to the review committee must be filed within fifteen (15) days of notification to the applicant that his or her initial appeal was denied. The appeal must be in writing and detail, with specificity, the grounds supporting the appeal. The review committee may require additional evidence or materials be submitted. If the review committee denies the appeal, the reasons for the denial shall be

communicated in writing to the applicant with an explanation of the reason for the denial. The decision of the review committee is final.

14.6. A student granted an initial PROMISE Scholarship may appeal a non-renewal of the award with the person designated at the institution of higher education where the student is enrolled. The appeal process at the institution shall be governed by an established procedure designated by the institution.

14.7. If the appeal of the non-renewal is denied by the institution, the student may appeal that decision to the Director of State Financial Aid Programs. The appeal must be filed within fifteen (15) days of notification to the student of denial of the institutional appeal and shall be heard in the same manner as appeals of denials of initial awards.

14.8. If a student with a PROMISE Scholarship is not eligible for renewal of the award because of failure to maintain academic progress, he or she may not utilize the procedure set out herein to challenge any grade assigned them. Challenges to grades must be brought under established institutional procedures for grade appeals. The process set out above may only be utilized to challenge the application of the eligibility requirements to the grade or grades assigned. If a student is successful on a grade or other appeal and the changing of the grade makes him or her eligible once again for renewal, he or she may petition the Commission for a renewal of the award retroactively.

§133-7-15. Reports.

15.1. The Commission shall report findings about recipients of the scholarships each year to the Legislative Oversight Commission on Education Accountability. Such reports will include the following:

15.1.a. Information on the recipients' demographics including race, income and other variables gathered by the Commission.

15.1.b. Information on students who graduate from college in West Virginia having utilized the PROMISE Scholarship as indicated in Section 11.1 of this rule.

§133-7-16. Accounting, Reporting, and Auditing Requirements.

16.1. Before the end of each fiscal year, each institution's financial aid office must reconcile its PROMISE Scholarship records with:

16.1.a. The Commission's records of PROMISE Scholarship awards and disbursements; and

16.1.b. The institution's business office records of PROMISE Scholarship disbursements.

16.2. All participating institutions may be subject to financial aid audits.