

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

JUN 21 3 20 PM '95

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: State College System Board of Directors TITLE NUMBER: 131

RULE TYPE: Legislative; CITE AUTHORITY Higher Education Act, Title IV, Part H, Subpart I

AMENDMENT TO AN EXISTING RULE: YES NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED:

TITLE OF RULE BEING AMENDED:

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 19

TITLE OF RULE BEING PROPOSED: State Postsecondary Review Program

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 21, 1995 AT 5:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Office of the Chancellor
State College System of WV
1018 Kanawha Blvd., East
Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Handwritten signature of Barbara Ann Shumby

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

9.40

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 131:19 State Postsecondary Review Program

Type of Rule x Legislative Interpretive Procedural

Agency State College System of West Virginia Board of Directors

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services					
Current Expense	N/A	N/A	N/A	N/A	N/A
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates

The State Postsecondary Review Entity (SPRE) requires no expenditure of state monies. States are not required to perform the review functions unless the U. S. Congress appropriates funds for that purpose.

3. Objectives of these rules

The SPRE is being created to review postsecondary institutions referred to it by the U. S. Department of Education. This Rule responds to the federal requirement for the development and implementation of the new review 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

None

Date: 6/21/95

Marie Carter
Signature of Agency Head or Authorized Representative

**TITLE 131
LEGISLATIVE RULE
STATE COLLEGE SYSTEM OF WEST VIRGINIA
SERIES 19**

TITLE: STATE POSTSECONDARY REVIEW PROGRAM

SUMMARY: In the Fall of 1992, the U.S. Congress amended the Higher Education Act by strengthening the responsibilities of the states, the accrediting bodies, and the U. S. Department of Education in the supervision and administration of institutions participating in federal financial aid programs. The states' increased responsibilities revolve around the implementation of a new review program to be administered by a State Postsecondary Review Entity (SPRE). The Central Office of the State College and University Systems has been designated by the Governor as the SPRE for West Virginia.

The SPRE is being created to review postsecondary institutions referred to it by the U. S. Department of Education. The purpose of the review would be to assure that the institution being reviewed continues to meet the standards required for approval to participate in federal financial aid programs. Within the bounds of Congressional appropriations, federal funding will be provided to reimburse the states for costs necessary for the SPRE to perform its responsibilities.

TITLE 131
LEGISLATIVE RULE
STATE COLLEGE SYSTEM OF WEST VIRGINIA
SERIES 19

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE: STATE POSTSECONDARY REVIEW PROGRAM

SECTION 1. GENERAL

- 1.1 Scope - The State Postsecondary Review Program was created to conduct or coordinate reviews of postsecondary institutions reported to the State by the U. S. Secretary of Education for the purpose of determining eligibility to participate in Federal financial aid programs authorized under Title IV of the Higher Education Act (HEA) of 1965, as amended.
- 1.2 Authority - The Central Office of the State College System Board of Directors has been designated by the Governor as the West Virginia State Postsecondary Review Entity (SPRE) pursuant to Title IV, Part H, Subpart 1 of the Higher Education Act of 1965, as amended (20 U.S.C. 1099a to 1099a-3).
- 1.3 Filing Date -
- 1.4 Effective Date -

SECTION 2. DEFINITIONS

- 2.1 Academic Year A minimum of 30 weeks of instructional time during which a full-time student is expected to complete at least either (1) 24 semester or trimester hours or 36 quarter hours in a program whose length is measured in credit hours, or (2) a minimum of 900 clock hours for a program whose length is measured in clock hours.

- 2.2 Admission Testing The administration of an objective measure of a prospective student's basic skills as well as any other skills relevant to the educational program.
- 2.3 Annual Tuition and Fees All institutional, program, and class tuition and fees (except charges for books and tools or instruments which become the property of the student) charged for one academic year of a program or for a full program of less than one academic year.
- 2.4 Catalog The primary information document published by the institution that describes its rules, regulations, tuition and fees, and academic programs, regardless of the formal title or presentation format of this document.
- 2.5 Central Office The Central Office of the State College and University Systems of West Virginia.
- 2.6 Classification of Instructional Programs (CIP) Codes, titles, and descriptions of educational programs used by institutions and states for reporting and analyzing education data at the national level as described in a manual published by ED, National Center for Education Statistics.
- 2.7 Comparable Program A program determined by the SPRE as appropriate for comparison with an institution's program for purposes of assessment of performance standards on the basis of CIP classification, program length, and type or level of award granted.
- 2.8 Complaint A concern or dissatisfaction with the academic or nonacademic policies or practices of an institution expressed by a student, a faculty or staff member, or another person following procedures established by the institution.
- 2.9 ED The United States Department of Education.
- 2.10 Enrolled Student A student who has met the institution's established enrollment requirements, which may

include, but need not be limited to: registration, payment of appropriate charges or incurrence of expenses other than a registration fee, signing of an enrollment agreement, and attendance beyond a minimum established period of time.

- 2.11 Financially at Risk The U.S. Secretary of Education has determined that a postsecondary education institution does not satisfy the factors of financial responsibility in the Student Assistance General Provisions Regulations, 34 CFR Part 668.
- 2.12 General Educational Development Certificate (GED) A generally recognized equivalent of a high school diploma.
- 2.13 Peer Review Entity A nationally recognized accrediting agency or other peer review system that SPRE determines to have demonstrated competence in assessing educational programs.
- 2.14 Professional Program An undergraduate or graduate educational program that: (i) is listed in the Classification of Instructional Programs (CIP); and (ii) prepares individuals for an occupation, if that occupation (a) requires at least a bachelor's degree to qualify for entry into the profession; (b) involves the independent practice or application of a defined or organized body of competencies that is unique to the occupation; and (c) is formally recognized and regulated under a national or state licensure, accreditation, or permit system.
- 2.15 Program The award or degree level (certificate, diploma, degree, or other formal award) offered by the institution.
- 2.16 Prospective Student A person who contacts an institution and requests specific information about enrollment at that institution.
- 2.17 Referred Institution An institution that the West Virginia SPRE may review as a result of one of the following circumstances:

- 2.17.1 A referral by ED pursuant to Federal regulations
- 2.17.2 Identification by the West Virginia SPRE as authorized by Federal regulations and based upon more current data.
- 2.18 Senior Administrator The person hired by the chancellors of the governing boards in accordance with section one, article four of Chapter 18B, West Virginia Code, with such powers and duties as may be provided for in section two, article four, Chapter 18B, of the Code.
- 2.19 SPRE Staff Staff designated by the Senior Administrator to carry out the functions of the West Virginia SPRE.
- 2.20 Title IV, HEA Programs The Federal financial aid programs set forth at Parts A, B, C, D, and E of Title IV.
- 2.21 Vocational Program An educational program, below the bachelor's level, designed to prepare individuals with the skills and training required for employment in a specific trade, occupation, or profession related to the educational program.
- 2.22 West Virginia State Postsecondary Review Entity (SPRE) The Central Office of the State College and University Systems of West Virginia.

SECTION 3. INSTITUTIONAL REVIEWS

- 3.1 Institutions participating in Federal financial aid programs will be identified for review by the West Virginia SPRE in the following manner:
 - 3.1.1 Referred by ED for meeting one or more of the criteria set forth in section 494C(b) of the Higher Education Act of 1965, or
 - 3.1.2 Based on the latest data available to it, the SPRE, subject to ED approval, identifies an institution pursuant to section 494C(b) of the Higher Education Act of 1965. However, before requesting approval of ED, the SPRE shall:

- 3.1.2.1 Notify the institution of the selection and provide the institution with the reasons for its selection; and,
 - 3.1.2.2 Follow the procedures outlined in the applicable Federal regulations regarding an institution's right to challenge the accuracy of the information being used for the identification.
- 3.1.3 Approval by ED of a review recommended by the SPRE occurs when:
 - 3.1.3.1 ED approves the SPRE request; or
 - 3.1.3.2 ED does not respond to the SPRE request within twenty-one (21) days of its receipt by ED.
- 3.2 Once an institution has been referred for review, the SPRE will accomplish the following actions:
 - 3.2.1 Inform the institution of the referral and the actions required in preparing for the review.
 - 3.2.2 Assign a priority for review as outlined in paragraph 3.4.
 - 3.2.3 Determine the type of review and method to be used as outlined in paragraph 3.5.
- 3.3 The WV SPRE is required to notify a nationally recognized accrediting agency as follows:
 - 3.3.1 When it plans to conduct a review of an institution accredited or preaccredited by that agency; and
 - 3.3.2 After conducting a review of the institution, the SPRE shall notify the accrediting agency of its findings and the actions the SPRE takes, or plans to take, as a result of those findings. (20 U. S. C. 1099a-3)
- 3.4 If the SPRE anticipates that the cost of reviewing all the referred institutions will exceed the Federal funding allotment provided by ED, the following points system will be used to prioritize the list of referred institutions:
 - 3.4.1 A review criteria point value will be assigned to each review criterion as follows:

- 3.4.1.1 Referred for limitation, suspension, or termination action: 2 points.
 - 3.4.1.2 Referred for failure to meet financial responsibility standards: 2 points.
 - 3.4.1.3 Referred for excessive default rate: 2 points.
 - 3.4.1.4 Referred for a pattern of complaints to ED: 1.5 points.
 - 3.4.1.5 Referred for any other criterion (criteria): 1 point per criterion.
- 3.4.2 All referred institutions will be grouped into two groups:
- 3.4.2.1 Group I - all institutions which have been scheduled for recertification by ED during the current year.
 - 3.4.2.2 Group II - all other referred institutions.
- 3.4.3 All institutions in Group I will be ranked according to the point-value assigned pursuant to section 3.4.1, above. Group I institutions will be reviewed by the WV SPRE in the order ranked, beginning with the highest point-value, until all institutions have been reviewed or until all Federal funds provided for the program have been used.
- 3.4.4 After Group I institutions have been reviewed, institutions in Group II will be ranked according to the point-value assigned pursuant to section 3.4.1, above. Group II institutions will be reviewed by the West Virginia SPRE in the order ranked, beginning with the highest point-value, until all institutions have been reviewed or until all Federal funds have been used. Group II institutions referred for either a failure to submit an acceptable audit report by the deadlines established by ED or a change in ownership that resulted in a change of control will be assigned the lowest priority in the event there are ties in the point values.
- 3.4.5 If the total point value results in a tie, and an excessive default rate was one of the review criteria, the institution with the highest default rate in the most recent year for which data are available would be assigned a higher priority for the SPRE review.
- 3.5 The West Virginia SPRE will conduct reviews using one of three methods. The method selected would depend upon the review criteria used to make

the referral, the type of institution being reviewed, and the length of time since the last accreditation review by the institution's accrediting body. The three methods are:

3.5.1 A SPRE review team, consisting of three to five members, would be appointed by the Senior Administrator of the Central Office to review the institution for compliance with Standards 1 through 14.

3.5.1.1 The membership of the review team, at a minimum, would consist of at least one member from the SPRE staff, one member from the appropriate licensure or credentialing agency, and one member (with appropriate expertise) from the postsecondary education sector of the institution being reviewed.

3.5.1.2 The size of the review team may be expanded to five with the addition of members from institutions in the region which are accredited by the same accrediting agency or association as the institution being reviewed. The size of the team would depend upon the size of the institution being reviewed and the potential magnitude of the review based upon the SPRE's prior knowledge of the institution and its complexity.

3.5.1.3 The SPRE would contract with the appropriate approved accrediting agency or association to provide a copy of its most recent report of accreditation. The SPRE would perform a desk audit to evaluate the quality and content of the institution's programs. Based upon the desk audit, the accrediting agency or association report may be accepted by the SPRE as satisfying the program review standard or the accrediting body may be requested to perform a limited review of selected programs.

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3.5.2.1 The membership of the review team, at a minimum, would consist of at least one member from the SPRE staff, one member from the appropriate licensure or credentialing agency, and one member (with

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3.5.2.2 The size of the review team may be expanded to five with the addition of members from institutions in the region which are accredited by the same accrediting agency or association as the institution being reviewed. The size of the team would depend upon the size of the institution being reviewed and the potential magnitude of the review based upon the SPRE's prior knowledge of the institution and its complexity.

3.5.2.3 The SPRE would contract with the appropriate approved accrediting agency or association, or another peer review entity with demonstrated competence, to review the quality and content of the reviewed institution's programs. [HEA § 494C(d)(15)]

3.5.3 The SPRE would contract with the appropriate approved accrediting agency or association, or another peer review entity with demonstrated competence, to perform a review of the institution for compliance with all review standards and a review of the quality and content of the institution's programs. The contract would require a report to the SPRE regarding the review and would include recommendations for corrective action(s) where discrepancies were noted.

SECTION 4. REVIEW STANDARDS

4.1 Institutions shall make available to all students and prospective students, prior to enrollment, accurate written descriptions of: admissions requirements; course descriptions; schedules of tuition, fees, and other charges; policies regarding course cancellations and refunds; and the rules and regulations of the institution relating to students. Institutions shall ensure that such written descriptions accurately describe institutional policies, courses, and programs offered by the institution. [HEA § 494C(d)(1)]

4.1.1 The institution shall demonstrate that current and accurate written descriptions of the following are made available to every enrolled student (and every prospective student upon request). A reasonable fee may be charged by the institution to cover production and mailing costs for these materials.

- 4.1.1.1 The program in which he or she is enrolled, including objectives and outline of content;
 - 4.1.1.2 Admission requirements;
 - 4.1.1.3 Current tuition, fees and all other charges;
 - 4.1.1.4 Refund policies;
 - 4.1.1.5 The institution's rules, regulations and policies regarding student progress and conduct; and
 - 4.1.1.6 Enrollment agreement, if appropriate.
- 4.1.2 The institution must be able to verify that written descriptions of changes in the above criteria were made available to all currently enrolled students affected by the changes. The institution's catalog and other written documentation must comply with the standards prescribed by the appropriate nationally recognized accrediting body.
- 4.1.3 In preparation for review, the institution shall provide the SPRE with a list of the materials made available to its enrolled and prospective students and details as to how and when the information is made available. When information is subject to change, it should be indicated where the most current information may be located.
- 4.2 The institution shall establish, publish, and apply uniform standards for the admission of students to its program of study or training and shall maintain adequate records bearing thereupon. If a high school diploma or GED is not required for admission, the institution shall, for purposes of admission of non-high school graduates, use an independently administered and approved examination that is appropriate to the objectives of the program of education or training to determine the student's ability to benefit from the instruction. Institutions may not admit to programs leading to licensure students who the institution knows, or by the exercise of reasonable care should know, would be ineligible to obtain licensure in the occupation for which they are being trained. [HEA § 494C(d)(2)]
- 4.2.1 The institution shall provide evidence that its admission requirements and procedures assess that a student has the ability to successfully complete the educational program for which he or she applies. At a minimum, the institution shall demonstrate the following:

- 4.2.1.1 Where testing conducted by the school is part of the admission process, the test is administered and used in accordance with the publisher's requirements, is relevant to the course of study the applicant wishes to pursue, and is scored in accordance with the publisher's requirements.
- 4.2.1.2 The institution provides notification to each admitted applicant that he or she has satisfied admission requirements.
- 4.2.1.3 Admission testing for applicants who have neither a high school diploma nor a GED is conducted in accordance with the requirements of federal law and regulation pertaining to admission of ability to benefit applicants.
- 4.2.1.4 An institution may also establish that it complies with the requirements of this standard by demonstrating that it meets any one of the following criteria:
 - 4.2.1.4.1 The institution requires the applicant to have graduated from high school (or have a GED); or
 - 4.2.1.4.2 If the institution does not require the applicant to hold a high school diploma (or GED), the institution requires the student to pass an examination:
 - 4.2.1.4.2.1 That is approved by the U. S. Department of Education for the admission of non-high school graduates (or GED holders), or
 - 4.2.1.4.2.2 That is acceptable to the accrediting commission which accredits the institution, or
 - 4.2.1.4.2.3 That was developed for or is commonly used by the employment sectors which would commonly employ graduates from the program or was developed for that purpose, or

4.2.1.4.2.4 That was developed by an organization which develops tests used for screening potential employees in the fields for which the graduate may be employed, for that purpose, or

4.2.1.4.2.5 The institution develops data which establishes that the test provides a statistically supportable indication of the student's ability to successfully complete the course of study for which he/she applied.

4.3 The institution shall maintain records for each student that detail admission, standing, coursework completed, and formal educational achievements. In addition, the institution must have a written policy that defines what constitutes satisfactory academic progress in accordance with Title 34 of the Code of Federal Regulations and must periodically review the progress of each student to determine whether sufficient academic progress is being achieved. Such a policy must specify the range of actions the institution may take if satisfactory academic progress is not achieved. [HEA § 494C(d)(3)]

4.3.1 The institution shall provide evidence that it has developed, published and adheres to standards of satisfactory academic progress toward program completion that require levels of credit or clock hour accrual with a minimum grade point average or its equivalent at stated intervals.

4.3.2 The institution shall demonstrate that its institutional academic records:

4.3.2.1 Maintain accurate and current data on the students who are not making satisfactory academic progress.

4.3.2.2 Informs students that they are not making satisfactory academic progress and of the actions taken in such cases.

4.3.2.3 Are maintained according to procedures recommended by the appropriate accrediting agencies and/or the standards of appropriate professional associations.

- 4.3.2.4 Are maintained in an adequate form for at least five years after the student either terminates enrollment or graduates.
- 4.3.3 The institution shall provide evidence that for each currently enrolled student requiring a financial aid record that the institution's record system contains:
 - 4.3.3.1 The student's name and a permanent or other address at which the student may be reached;
 - 4.3.3.2 Dates of enrollment for each term, quarter, or semester;
 - 4.3.3.3 Documentation that the student is/was seeking a degree or other formal award offered by the institution;
 - 4.3.3.4 If applicable, a copy of the enrollment agreement or contract and other instruments relating to the payment for educational services;
 - 4.3.3.5 Records relating to required financial aid counseling;
 - 4.3.3.6 Records relating to financial aid payments and refunds;
 - 4.3.3.7 Required authorization documents; and
 - 4.3.3.8 A financial aid transcript as required.
- 4.4 All structures shall be maintained in a safe, sanitary condition. Equipment necessary to complete the stated course objectives and adequate safety equipment in laboratories and other hazardous areas shall be maintained in good working order. The institution shall comply with codes which are applicable such as health, fire, building, safety, and sanitation codes. [HEA § 494C(d)(4)]
 - 4.4.1 It is the responsibility of the institution to determine which municipality, county, and state agencies have jurisdiction of such codes, to comply with those codes, to obtain evidence of compliance, and to maintain evidence of current compliance.
 - 4.4.2 The institution at a minimum, must provide the following documentation to demonstrate compliance with this standard:

- 4.4.1.1 Listing of owned and leased facilities used by the institution.
 - 4.4.1.2 Most recent inspection reports for fire code compliance for all owned and leased facilities and/or a certificate of occupancy.
- 4.5 The financial and administrative capacity of the institution shall be appropriate considering the nature and size of the institution and its program offerings. The institution shall maintain adequate financial and other administrative records to manage itself effectively, and to enable others to determine its administrative capacity. [HEA § 494C(d)(5)]
 - 4.5.1 Institutions must comply with the financial responsibility and administrative capability standards, including the required annual audits, contained in the Title IV regulations or other Federal financial aid regulations and, if applicable, the institution's accrediting agency or commission and, if applicable, state licensure standards.
 - 4.5.2 The applicable Title IV regulations include but are not necessarily limited to 34 CFR Sections 668.13, 668.14, and 668.15.
 - 4.5.3 The institution must, at a minimum, have available the following documentation to demonstrate compliance:
 - 4.5.3.1 Current organization charts and table, including the names of office holders;
 - 4.5.3.2 Current description of the institution's administrative structure and delineation of responsibilities;
 - 4.5.3.3 Current governance documents, charter, bylaws, and minutes concerning administrative oversight; and
 - 4.5.3.4 Copies of certified audits and management letters for the three most recent years.
 - 4.5.4 An institution will be deemed to be in compliance with financial capacity requirements of this section if it is in compliance with the applicable federal regulation stated above or if its most current audited financial statements did not contain an "ongoing concern" qualification.

- 4.5.5 Financial information regarding the institution, including but not limited to audits and management matters, may be reviewed by the state postsecondary review entity but shall be deemed confidential, to the extent allowed by law, and shall not be made any part of public record and shall remain in the school's possession.
- 4.5.6 If an institution fails to meet fiscal or administrative capacity requirements, including those contained in the applicable sections of Title 34 of the Code of Federal Regulations, the following additional documentation may be submitted by the institution for consideration by the SPRE:
 - 4.5.6.1 The longevity of operation of the institution;
 - 4.5.6.2 The overall history of the institution's operations;
 - 4.5.6.3 The experience, education, and/or training of the institution's administrators;
 - 4.5.6.4 The number of significant findings in program reviews, or audits, conducted during the prior five-year period;
 - 4.5.6.5 The number of material student complaints that are ultimately shown to be valid that were filed in the prior five-year period;
 - 4.5.6.6 In regard to proprietary institutions, length of current ownership; and
 - 4.5.6.7 Limitation, suspension, or termination actions initiated during the prior five years.
- 4.6 Institutions that are financially at risk as defined in these rules shall have a written plan to assist students in the event of closure. The plan shall include providing students with such assistance as is practical to help the students transfer to another institution to complete their educational programs, or provide for a full refund to students of tuition paid for all course work for which the student did not receive academic credit because of closure, or such other assistance as is satisfactory to the student or discharges the institution's legal obligation to the student. If the governing body of the institution decides to close the institution, then the institution shall notify the students of their options under the plan, the availability of equivalent educational programs, and the procedures for transfer where transfer is appropriate and feasible. The plan shall include provisions for: (1)

maintaining institutional records, such as course descriptions necessary for institutions to evaluate equivalencies; (2) retention of financial aid and academic records; and (3) written notification to students regarding access to the records. [HEA § 494C(d)(6)]

4.6.1 Institutions that are deemed to be financially at risk as defined in these rules, shall demonstrate that they have a plan to attempt to secure such written agreements as are feasible with other institutions to receive transferring students and to accept their records. When an institution determines transfer is not feasible, provisions shall be made for a full refund to students as stated in this standard. Where financial aid is concerned, particularly federal or state grants, arrangements should be made with the appropriate agencies to transfer, to the extent allowable, the aid to the receiving institution. In cases where students have held institutional scholarships or grants and there are available funds which can legally be used to support students while completing programs at other institutions, appropriate agreements should be negotiated. Arrangements for transfer to other institutions will require complete academic and financial aid records, and other related information which must be transmitted promptly to receiving institutions.

4.6.2 Institutions that are financially at risk under these standards shall develop a plan to provide for the retention and disposition of records in the event of closure. The plan shall provide for the assignment of the records to another institution willing to accept responsibility for their safety and maintenance or to the appropriate regulatory agency. Written verification of willingness to accept responsibility for the records from the institution or agency shall be included. If the institution cannot provide for assignment of the records to another institution or agency, the SPRE shall take possession of the records and, as necessary, negotiate for assignment of the records to another institution or agency that will accept responsibility for their safety, maintenance, distribution, and, where appropriate, disposal. The plan must also provide for all enrolled students and graduates to be notified of the location where records are stored in the event of closure.

4.7 For courses and programs which prepare students for employment in specific occupations related to their studies, (a) the program tuition and fees shall not be excessive in relationship to anticipated earnings of students who successfully complete the course or program; and (b) the content and length of the course or program of study shall be appropriate for the required preparation for employment. For the purposes of the State Postsecondary

Review Program, this standard is applicable only to vocational programs below the baccalaureate level. [HEA § 494C(d)(7)]

4.7.1 Reasonable Tuition and Fees

4.7.1.1 The tuition and fees charged will be deemed not excessive if one of the following exists:

4.7.1.1.1 Annual tuition and fees (based on an academic year or full program of less than an academic year) do not exceed annual compensation in the occupational field for which the program prepares students as indicated by (1) a statewide, regional, or national wage study by an authoritative source (e.g., West Virginia Bureau of Employment Programs, U.S. Department of Labor, etc.), or (2) by a statistically reliable and valid wage survey by the institution of its graduates; or

4.7.1.1.2 The institution can establish that either: (a) the rate of return on the student's tuition and fees investment in his/her education (at the level of education being sought) exceeds 6% or (b) that the present value of the student's increased earning capacity exceeds the student's tuition and fees investment; or

4.7.1.1.3 The institution can present credible evidence that its tuition and fee charges are not excessive.

4.7.2 Content, Length, and Useful Employment

4.7.2.1 The content and length for vocational programs shall be considered reasonable and appropriate if the institution can provide evidence that one of the following conditions has been met for each program being evaluated.

4.7.2.1.1 The length of each vocational program offered is acceptable to or approved by the institution's accrediting commission or its State licensing or credentialing agency, by available industry or government standards, guidelines, or recommendations, or by other credible evidence that demonstrates that the program is of appropriate length to attain its stated

educational objectives (as measured in either credit or clock hours); or

4.7.2.1.2 The length of each vocational program offered is comparable to the average lengths of similar (CIP-coded) programs in the state or region; or

4.7.2.1.3 Programs will be considered adequate to prepare students for useful employment in a recognized occupation in the state if the institution can provide appropriate evidence by reference to available industry standards or guidelines, published employment requirements/recommendations or advertisements for employment, the testimony of employers, or by relevant statistics on the training of currently employed workers or graduates in the field.

4.7.2.2 Courses or programs shall be considered of appropriate length to provide the necessary quality of training required for gainful employment if the program's length is not clearly inadequate or excessive and if the subject matter contained in the program is not inappropriate. (Courses or subject matter that is required by accrediting or other agencies shall not be deemed inappropriate.)

4.8 Each institution of postsecondary education must provide students enrolled in occupational, professional and vocational programs information pertaining to the occupational outlook and availability of employment opportunities in career fields related to their instructional programs. Each institution of postsecondary education must provide students information that specifies courses necessary to meet the current requirements for state licensure in specific occupations. [HEA § 494C(d)(8)]

4.8.1 An institution shall demonstrate that it has made available to its students upon request, either as a part of the institutional catalog or other basic information documents, the most recent available data concerning employment statistics appropriate to the occupational program from the United States Department of Labor, the West Virginia Division of Employment Security, or from other agencies or sources of reliable information.

4.8.2 The above information should be provided for each vocational, technical, or occupational program below the baccalaureate level and

to professional programs at the baccalaureate level leading to the practice of a profession for which a license or other certification is a necessity, along with any state licensing requirements for any job for which the institution provides courses and/or curricula. Information shall be provided on the organization and sequencing of courses and/or curricula consistent with the knowledge, skills, and abilities required to meet eligibility requirements for state licensure in specific occupations.

- 4.9 The institution shall require an appropriate number of credit or clock hours for the completion of its programs. For the purposes of the State Postsecondary Review Program, this standard is applicable only to vocational, technical, or occupational programs below the baccalaureate level and to professional programs at the baccalaureate level and above leading to the practice of a profession for which a license or other certification is a necessity. [HEA § 494C(d)(9)]
- 4.9.1 The institution shall provide written documentation that explicitly identifies the number of credits (contact/clock hours or credit hours) that are required for the completion of each academic program, and the calculation of these shall conform to existing Federal requirements and existing state licensing/chartering standards.
- 4.9.2 The institution shall demonstrate for each of its programs of more than 300 but less than 600 clock-hours, that program length is sufficient and necessary to enable students to attain the levels of knowledge and skill specified in its objectives.
- 4.9.3 The institution shall demonstrate compliance with this standard by providing to the SPRE:
- 4.9.3.1 Evidence that all programs offered meet the criteria for an "eligible program" contained in Title 34, Code of Federal Regulations, with regard to credits and/or academic calendar.
- 4.9.3.2 Written descriptions through catalogs, program brochures (or equivalents) of the specific number of hours or credits required to complete each program.
- 4.9.3.3 Evidence that each of its programs is of appropriate length as demonstrated by:

- 4.9.3.3.1 Conformity with applicable accrediting or credentialing agency requirements, available industry standards, or other credible evidence; or
 - 4.9.3.3.2 Comparability with the average lengths of similar (CIP-coded) programs in the state or region; or
 - 4.9.3.3.3 Evidence that the coursework in the program provides skills and education that are appropriate or necessary to obtain initial employment or advancement in fields related to the program's major and that the program does not include training or education that is unnecessary or inappropriate in the employment fields related to the program's major, (courses required by law or accrediting or approving entities shall be deemed appropriate); or
 - 4.9.3.3.4 The program's overall content meets suggested academic or skill standards provided by the State of West Virginia, United States Department of Labor, or other recognized authority.
- 4.10 The institution being reviewed shall certify that no owner, shareholder, board member, or chief executive officer has been convicted of or has pled *nolo contendere* or guilty to a crime or misdemeanor involving funds under Title IV. [HEA § 494C(d)(10)]
- 4.10.1 The following actions by the owner(s), chief executive officer, or other person(s) exercising control, shall be deemed to adversely affect eligibility for programs under Title IV:
 - 4.10.1.1 Conviction of, or pleading *nolo contendere* or guilty to, a crime involving the acquisition, use, or expenditure of funds, or being judicially determined to have committed fraud involving funds under Title IV; or
 - 4.10.1.2 Within the past ten years, being successfully sued for; the fraudulent conversion of Title IV funds; or
 - 4.10.1.3 Knowingly falsifying or violating legal requirements by knowingly providing materially false information to the U. S. Secretary of Education or the State Postsecondary Review Entity.

- 4.10.2 None of the above criteria should be construed as being in conflict with rights guaranteed under federal and state bankruptcy laws.
- 4.10.3 The institution must have in place written policies and procedures applicable to senior administrative and executive personnel, members of governing boards, and shareholders (if applicable) which address conflict of interest and provide protection against self-dealing by persons exercising control over the institution.
- 4.10.4 Cited below are examples of supporting documentation, at a minimum, that an institution shall use to demonstrate compliance with this standard:
 - 4.10.4.1 Employee Handbook
 - 4.10.4.2 Institutional Policies and Procedures Manual
 - 4.10.4.3 Governing Board Policies and Procedures Manual
- 4.11 The institution shall have written procedures that describe in detail how a student may register a formal, written complaint; how the institution will investigate the formal, written complaint; and how the institution will attempt to resolve the formal, written complaint. [HEA § 494C(d)(11)]
 - 4.11.1 These procedures shall address at least the following areas:
 - 4.11.1.1 Standardized procedures are available to any student who registers a formal, written complaint.
 - 4.11.1.2 The specific time frame that the institution will follow in investigating and resolving the complaint.
 - 4.11.1.3 Assurance of the involvement of an individual who will serve as an impartial representative of the institution, or at the next higher level of supervision or management, and not be directly involved in the area of the complaint.
 - 4.11.1.4 Assurances that no adverse action will be taken against the student for registering the complaint.
 - 4.11.2 The institution shall make available complaint procedures to all currently enrolled students in writing and shall make all

prospective students aware of the existence of such procedures and provide copies upon request.

4.11.3 The institution will provide an explicit response to all formal written complaints.

4.11.4 In accordance with Federal and state laws, and applicable accreditation standards, the institution shall maintain records of all such complaints and their resolution for an appropriate time period.

4.11.5 In fulfillment of this standard, the institution shall be able to provide to the SPRE:

4.11.5.1 Evidence that it has established, publicized, and consistently administered procedures for receiving, investigating, and resolving student complaints, such as copies of procedures used, due process assurances, etc.

4.11.5.2 Evidence that it has responded in writing to each formal complaint registered within the time period designated from its receipt stipulated by the institution's policy.

4.11.5.3 Evidence that it maintains records of each complaint and its resolution for a reasonable period of time.

4.11.5.4 Documentation of the actual number of complaints received in the most recent year, the specific topics of these complaints, and the number of specific resolutions reached.

4.12 Each institution shall maintain high ethical standards in advertising, promotion and recruitment practices. The institution is responsible for ensuring that all oral and written recruiting activities and advertising or promotional materials are accurate and truthful. Advertising and recruiting conducted by or on behalf of the institution must be in compliance with West Virginia laws related to truth-in-advertising. [HEA § 494C(d)(12)]

4.12.1 Advertising and Promotional Material:

4.12.1.1 All statements and representations must be clear, current, accurate, and factual. Materials to support all promotional statements must be kept on file and

available for review in accordance with Federal and state laws and accreditation guidelines.

- 4.12.1.2 Financial aid may not be used as a primary incentive in promotional materials and availability of financial aid should be presented accurately.
- 4.12.1.3 The correct name (or commonly recognized name or acronym) of the institution must appear in all advertising and promotional material. Blind advertisements are not to be used.
- 4.12.1.4 If accreditation references are used, they must be for current accreditation only. Material must name the accrediting agency and must limit references to recognized accrediting agencies as defined by the U.S. Department of Education.
- 4.12.1.5 If advertising of salaries or average salaries is used, it must disclose the entry level salary for the specific occupation as published in the most recent studies by governmental agencies or other sources of reliable information. Claims must be specific and avoid generalized statements.
- 4.12.1.6 If institutions desire to disclose graduation rates or job placement rates in their advertising, the information included in such material must be as computed for use in Section 4.14 of these rules or the Student Right-to-Know Act.
- 4.12.1.7 If the institution is in violation of its accrediting body's standard relating to advertising and promotional material, then it is in violation of this standard.
- 4.12.2 Recruiting Practices: These include all oral, written, or visual contact with prospective students by an institutional representative, agent of solicitor, or through promotional materials designed to encourage enrollment in an institution. An institution may be found to be responsible and liable for acts of its recruiters acting within the scope of their authority. Systems to familiarize recruiters with accurate information about the institution must be in place and training must be provided to recruiting personnel.

- 4.12.2.1 Institutions must ensure accurate representation of institutional name, full cost of study, refund policies, and expected student performance necessary to complete each specific program of study.
- 4.12.2.2 With the exception of scholarships or other forms of financial aid which need not be repaid, institutions must ensure that representatives of the institution do not offer money, misleading testimonials or endorsements, or any inducements other than enrollment in the program of study to encourage enrollment.
- 4.12.2.3 Institutions or representatives must not state that employment will be guaranteed as a result of completion of the program unless agreement for placement has been made in advance of enrollment. Institutions may use the most recent information on supply and demand as maintained by the West Virginia Division of Employment Security or from other agencies or sources of reliable information.
- 4.12.2.4 Institutions or representatives must not falsely represent that students completing a course or program of study may transfer credits to another institution of higher education.
- 4.12.2.5 Institutions must represent accurately the credentials and qualifications of their faculty and the current accreditation and/or licensure of programs.
- 4.12.2.6 Institutions must provide evidence that, when recruiting students representatives accurately represent to prospective students their credentials, purposes, and position or affiliation with the institution.
- 4.12.2.7 Institutions may not use Title IV financial aid as the primary incentive for enrollment.
- 4.12.2.8 The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of financial assistance [except for

foreign students not eligible for federal student aid as defined in Section 487(a)(20) of the HEA].

- 4.12.3 Cited below are examples of supporting documentation that an institution might use to demonstrate compliance with the standard in this section:
- 4.12.3.1 Sound statistical evidence on the past performance of its program graduates that substantiates any public claims of job placement rates, graduation rates, starting salaries, or licensing examination pass rates.
 - 4.12.3.2 Copies of any current agreements with employers, organizations, or agencies that support claims of employment upon completion of any program.
 - 4.12.3.3 Copies of catalogs, brochures, or other information that is provided to prospective students indicating the specific costs of attendance and the kinds and levels of financial aid assistance available.
 - 4.12.3.4 Copies of advertisements and other promotional literature. Institutions using these materials must keep copies of them on file for the period of time specified for retention by Federal or state laws and accreditation guidelines.
 - 4.12.3.5 A written statement that certifies and payment records which reflect that no employee receives commissions, bonuses, or other incentive payments based on securing enrollments or financial aid during the recruitment or enrollment process.
 - 4.12.3.6 Evidence that any and all services claimed to be available to students (e.g., placement services, career counseling, opportunities to remediate skills deficiencies, library and/or laboratory facilities, internships, etc.) are in fact made available substantially as advertised with respect to their accessibility and what is provided, such as detailed descriptions of these services, their resources and hours of operation, and their current levels of utilization.

4.13 Refund Policy:

- 4.13.1 The institution shall have and enforce an explicit refund policy for students that contains at minimum the following provisions:
 - 4.13.1.1 A statement that clearly indicates what portion of tuition and fees is refundable within what time period.
 - 4.13.1.2 Specified procedures for payment of the refunded amounts.
 - 4.13.1.3 Specification of any additional charges or fees (if applicable) that may be refunded and under what circumstances.
- 4.13.2 The institution shall provide a copy of its refund policies to all students, prior to or simultaneous with enrollment, and shall make all prospective students aware of the existence of such policies with copies available upon request. [HEA § 494C(d)(13)]
- 4.13.3 The institution shall have and enforce explicit refund policies which are in compliance with the applicable provisions of the following:
 - 4.13.3.1 State law or regulation,
 - 4.13.3.2 The institution's accrediting body, and
 - 4.13.3.3 Federal law or regulation.
- 4.13.4 The institution's refund policy shall apply both to students who enroll but withdraw before classes begin and to students who terminate enrollment for any reason after classes begin.
- 4.13.5 The institution's refund policy shall, at a minimum, apply to mandatory tuition and fees.
- 4.13.6 The institution's records shall reflect the fact that it makes refunds within time-frames consistent with its refund policy.
- 4.13.7 Cited below are examples of supporting documentation that, at a minimum, an institution shall use to demonstrate compliance with this standard:

- 4.13.7.1 Written refund policy,
 - 4.13.7.2 Records of refunds made with cancelled checks, and
 - 4.13.7.3 Audit and program reviews.
- 4.14 For the purposes of the State Postsecondary Review Program, a "program" is defined as the award or degree level (certificate, diploma, degree, or other formal award offered by the institution). An institution shall demonstrate the success of its programs by calculating:
- 4.14.1 The rates of the institution's students' completion and graduation by level of degree or other formal award offered by the institution, taking into account the length of the program at the institution and the selectivity of the institution's admissions policies [HEA § 494C(d)(14)];
 - 4.14.2 The withdrawal rates of students from the institution [HEA § 494C(d)(14)];
 - 4.14.3 With respect to programs (baccalaureate level and below) which are designed to prepare one for employment in a specific occupation, the rates of placement of the institution's graduates in occupations related to their course of study [HEA § 494C(d)(14)];
 - 4.14.4 Where appropriate, the rate at which the institution's graduates pass licensure examinations which are required to practice for each applicable career program [HEA § 494C(d)(14)]; and
 - 4.14.5 The variety of student completion goals, including transfer to another institution of higher education, full-time employment in the field of study, and military service. [HEA § 494C(d)(14)]
 - 4.14.6 Program Completion/Graduation - The institution's completion rates will be determined annually by level of award or degree offered. Following the cohort methodology for calculating graduation rates, an institution's graduation rate is defined as the percentage of full-time, undergraduate, degree- or certificate-seeking students entering postsecondary education for the first time who complete the program of study within 150 percent of the normal time to completion. If the program completion rate for the institution is not considered satisfactory based on the criteria listed below, the institution must provide evidence that definitive actions have been taken to ensure a satisfactory award

completion/graduation rate and that these actions are having a positive effect in increasing the award completion/graduation rates:

Program Completion Rates

	<i>Completion Rates</i>
Bachelor's Degree	35%
Associate Degree	35%
Postsecondary credit hour diplomas	40%
Postsecondary credit hour certificates	40%
Postsecondary clock hour diplomas/certificates	40%
Programs of less than 600 clock hour	70%

For the purpose of demonstrating compliance with the graduation rates shown above, institutions enrolling a majority of part-time students may calculate graduation rates using an alternative methodology. For institutions selecting this alternative, graduation rates will be calculated as the number of graduates in the most recent academic year divided by the total number of program-placed, matriculated students enrolled in the fall of that same academic year. In assessing an institution's program completion rate, the SPRE will take into consideration the institution's mission, the length of the specific program, the selectivity of the institution and program admission policies, and the extent to which program non-completing students transfer to another institution or program, gain full-time employment in a related field, or enter military or other public service including the National Service Program.

- 4.14.7 Withdrawal Rates - The institution's withdrawal rates will be based on the same cohorts used to compute the graduation and completion rates for paragraph 4.14.6. The institution's withdrawal rate shall be considered satisfactory if it is equal to or less than the percentages established below for each award or degree level. If the withdrawal rates for the institution are not considered satisfactory based on the criteria and data listed below, the institution must provide evidence that definitive actions have been taken to ensure a satisfactory withdrawal rate and that these actions are having a positive effect in decreasing the withdrawal rates.

Withdrawal Rates

Withdrawal Rates

Bachelor's Degree	33%
Associate Degree	33%
Postsecondary credit hour diplomas	33%
Postsecondary credit hour certificates	33%
Postsecondary clock hour diplomas/certificates	33%

Calculations will be based on the formula:

$$(ES-PS)/ES = WR$$

PS = Graduating, transferring, or persisting students

ES = Entering students as determined by the starting matriculation date of the first term

WR = Withdrawal rate

- 4.14.8 Placement Rates - At least once every two years, the institution shall survey graduates of applicable vocational programs below the baccalaureate level and graduates of professional programs at the baccalaureate level which lead to the practice of a profession for which a license or other certification is an entrance requirement. The institution shall provide data based on this survey which demonstrate the institution's placement rates by program as defined above. The rate shall be considered satisfactory if the institution's overall rate for applicable programs meets or exceeds the rates below. Alternatively, for institutions which prefer to survey the above described graduates every year, the rate shall be considered satisfactory if the institution's overall rate for applicable programs meets or exceeds the rates below for at least two of the most recent three years. The placement cohort shall include the total of the graduates employed in occupations related to their field of study, continuing their education or entering military service as compared to the total number of graduates seeking such status. If the placement rates for the institution are not considered satisfactory based on the criteria and data listed below, the institution must provide evidence that definitive actions have been taken to improve the placement rate.

Placement Rates

Placement Rates

Bachelor's Degree	60%
Associate Degree	60%
Postsecondary credit hour diplomas	60%
Postsecondary credit hour certificates	60%
Postsecondary clock hour diplomas/certificates	60%
Programs of less than 600 clock hours	70%

The calculation shall be based on the formula:

$$SP/GS = PR$$

SP = Students placed in related occupations, continuing education and entering military service

GS = Number of students completing or graduating from the program and seeking employment, continuing education or military service.

PR = Placement rate

(NOTE: Institutions must demonstrate the integrity of survey methodology and data.)

- 4.14.9 Licensure Examination - Institutions shall provide data based on annually determined pass rates on licensing examinations which are required to practice for each applicable career program. The licensing examination pass rate shall be considered satisfactory if the overall pass rate of program graduates who took the examination in two of the past three years is equal to or greater than one standard deviation (a statistical measure of deviation from the mean) below the national or state pass rate for all administrations of the examination in a calendar year as determined by the entity administering the examination. If the licensure pass rate for any program is not considered satisfactory based on the above data and criteria, the institution must provide evidence that definitive actions have been taken to ensure a satisfactory pass rate and that these actions are having a positive effect in increasing the pass rate.

Calculation shall be based on the formula:

$$\text{PLE/STE} = \text{LPR}$$

PLE = Number of students passing licensure exam

STE = Number of students taking the licensure exam

LPR = Licensure pass rate

4.15 With respect to an institution which meets one or more of the criteria established to initiate a required postsecondary review, the West Virginia SPRE shall contract with the appropriate approved accrediting agency or association or another peer review system with demonstrated competence in assessing programs to carry out a review and provide information regarding such agency's or association's assessment of the following:

4.15.1 The quality and content of the institution's courses or programs of instruction, training, or study in relation to achieving the stated objectives for which the courses or programs are offered; and

4.15.2 The adequacy of the space, equipment, instructional materials, staff, and student support services (including student orientation, counseling, and advisement) for providing education and training that meets such stated objectives; and

4.15.3 Other such areas as specified in the agency's contract with the State Postsecondary Review Program agency.

SECTION 5. CORRECTIVE ACTION

5.1 No later than forty-five (45) days after the West Virginia SPRE completes its review of a referred institution, an initial report of the SPRE's findings will be provided to the institution by certified mail, return receipt requested. If the SPRE finds that the institution is in violation of a standard, for each finding, the SPRE must:

5.1.1 Cite the standard violated and the nature of the violation; and

5.1.2 Prescribe a course of action the institution must follow to correct the violation; or

- 5.1.3 Determine, based on compelling evidence provided by the institution, that the institution's failure to satisfy a state standard does not warrant any further action by the SPRE; or
- 5.1.4 Initiate a proceeding under the appropriate Federal regulations to effect the termination of the institution's participation in the Title IV, HEA programs.
- 5.2 The SPRE shall give the institution an opportunity to respond to its findings and required actions. The SPRE shall determine an appropriate period for the institution to correct the violation(s) and bring itself into compliance with the SPRE's review standards, or to provide evidence that the institution's failure to satisfy a State standard does not justify any further action by the SPRE.
- 5.3 If the institution responds to the SPRE's report within the time permitted by the SPRE, the SPRE must evaluate the institution's response and:
 - 5.3.1 Issue a draft final report to the institution if the SPRE finds that the response challenges a SPRE finding, is incomplete, or some additional information or corrective action is required. The SPRE shall determine an appropriate period for the institution to respond to the draft final report and, at a later date, shall issue a final report to the institution that includes its findings and required action; or
 - 5.3.2 Issue a final report to the institution that includes its findings and required action.
- 5.4 The SPRE must provide to ED a copy of its final report to an institution within thirty (30) days of its issuance to the institution. If the institution does not respond to the SPRE's initial report by the date specified by the SPRE pursuant to Section 5.2, the SPRE shall provide a copy of its initial report to ED.
- 5.5 The SPRE's initial report to the institution pursuant to Sections 5.1.1 and 5.1.2 becomes its final report on the day after the date provided to the institution for responding to that report, if the institution does not respond.
- 5.6 If the SPRE accepts evidence from an institution as an acceptable variation from a review standard and does not prescribe a course of action the institution must follow to correct a violation of the state's standards, the SPRE must include in its report to ED an explanation of why no action was prescribed.

5.7 In addition to a violation of a state review standard, the SPRE may initiate a proceeding to effect the termination of an institution's participation in the Title IV, HEA programs if that institution:

5.7.1 Does not respond to the SPRE's findings or comply with the SPRE's required actions within the time permitted by the SPRE, and the SPRE's findings show violations of the state's standards;

5.7.2 Does not allow SPRE personnel access to the institution; or

5.7.3 Fails to provide SPRE officials with prompt access to its documents and records. (Authority: 20 U.S.C. 1099a-3)

SECTION 6. NOTICE OF INTENT TO INITIATE PROCEEDING TO TERMINATE AN INSTITUTION'S PARTICIPATION IN TITLE IV, HIGHER EDUCATION ACT PROGRAMS

6.1 In the event the SPRE determines it would be appropriate to initiate termination proceedings pursuant to Section 5.1.4 or Section 5.7, of this rule, a notice will be sent to the institution's chief executive officer, by certified mail, return receipt requested. The notice shall contain:

6.1.1 The SPRE's conclusions and the facts and documentation relied upon to support the conclusions and the specific review standard(s) violated;

6.1.2 The consequences of such determination; and

6.1.3 Informing institutional officials of the right to file a written appeal with the Senior Administrator. Within fifteen (15) working days of receipt of the notice, the institution must notify the Senior Administrator of its intent to appeal. The appeal must be submitted to the Senior Administrator within sixty (60) days of the receipt of the notice by the institution.

SECTION 7. DUE PROCESS

7.1 Within sixty (60) days of receipt of the SPRE notice of intent to initiate termination proceedings, the institution may submit a written appeal to the Senior Administrator.

- 7.2 The written appeal shall respond to the basis for the SPRE's determination and shall present all evidence and information which institutional officials believe are pertinent to the case.
- 7.3 The Senior Administrator shall refer the written appeal to the SPRE Advisory Council (see Section 8 of this rule) for review and recommendation(s). The referral to the SPRE Advisory Council shall be made within twenty (20) work days of receipt of the school's appeal.
- 7.4 The SPRE Advisory Council shall issue its recommendations to the Senior Administrator who shall make a final decision and notify institutional officials within sixty (60) days of the referral. If the Senior Administrator decides to proceed with termination, a hearing shall be conducted pursuant to the provisions of the West Virginia Code § 29A-5-1 et seq. At such hearing the Senior Administrator, or his/her designee, shall conduct the proceedings.
- 7.5 Based upon all evidence presented in the initial SPRE findings, the institutional appeal, the findings and recommendations of the SPRE Advisory Council, and the hearing set out in Section 7.4 of this rule, the Senior Administrator will issue a final report to ED and to all interested parties, such as the institution's accrediting and licensure agencies.

SECTION 8. SPRE ADVISORY COUNCIL

- 8.1 An advisory council will be formed to assist the Senior Administrator in making major procedural and policy decisions relative to the State Postsecondary Review Program (SPRP).
- 8.2 The primary function of this body will be to help assure the consistent impartial application of the SPRP to the myriad of institutions and review/approval entities involved in postsecondary education in West Virginia.
- 8.3 The SPRE Advisory Council will consist of nine members constituted as follows:
 - 8.3.1 One representative from the universities, graduate/professional schools, and regional campuses appointed by the Chancellor of the University System Board of Trustees.

- 8.3.2 One representative from the public four-year colleges and community colleges appointed by the Chancellor of the State College System Board of Directors.
- 8.3.3 One representative from the public vocational technical schools appointed by the State Superintendent of Schools.
- 8.3.4 One representative from the independent colleges and schools appointed by the President of the West Virginia Foundation for Independent Colleges.
- 8.3.5 One representative from the proprietary business colleges and schools appointed by the President of the West Virginia Association of Independent Colleges and Schools.
- 8.3.6 One representative from the barber and cosmetology schools appointed by the Executive Director of the West Virginia Board of Barbers and Cosmetologists.
- 8.3.7 One representative from the medical programs licensure boards appointed by the Executive Director of the West Virginia Board of Examiners for Registered Professional Nurses in consultation with the Executive Directors of the Board of Examiners for Licensed Practical Nurses and the Board of Examiners for Radiologic Technology.
- 8.3.8 Two representatives from the general public representing the consumers of postsecondary education in the state appointed by the Senior Administrator.
- 8.4 Appointment to the SPRE Advisory Council shall be for terms of up to three years at the discretion of the appointing official. Representatives may be reappointed one time. Replacements will be appointed, as necessary, by the appropriate appointing official.
- 8.5 The SPRE Advisory Council will review any appeals of SPRE findings resulting from institutional reviews and other matters of concern to the SPRE that may arise as a result of complaints or other issues.

SECTION 9. CONSUMER COMPLAINTS

- 9.1 Pursuant to the Federal Higher Education Act of 1965, as amended in 1992, the West Virginia SPRE, in consultation with the institutions of higher education in the State, shall establish and publicize the availability of

procedures for receiving and responding to complaints from students, faculty, and others about institutions of higher education and shall keep records of such complaints in order to determine their frequency and nature for specific institutions of higher education. [HEA § 494C(j)]

- 9.2 Pursuant to Federal regulations, the receipt of complaints from students regarding institutional management or conduct of Title IV, Higher Education Act, programs or regarding misleading or inappropriate advertising and promotion of the institution's educational programs must be reported by the SPRE to ED.
- 9.3 The West Virginia SPRE Consumer Complaint Procedures shall be developed in consultation with the postsecondary education institutions in the State.
- 9.4 Each postsecondary education institution in West Virginia eligible for Federal Title IV funding must complete the following actions to ensure publication of the SPRE Complaint Procedures:
 - 9.4.1 Information regarding the institution's internal complaint procedures for students, faculty/employees, and others should be published in the catalog, student handbook, employee handbook, and other appropriate document(s), provided these documents are published by the institution. It must be readily available, upon request.
 - 9.4.2 The published information must advise complainants that they have the option of lodging a complaint with the SPRE, if the complaint is related to the institution's management of Federal student financial assistance programs, or to misleading or inappropriate advertising and promotion of the institution's programs.

DEPARTMENT OF EDUCATION AND THE ARTS
Office of the Secretary

State Capitol Bldg. 1, R-151
Charleston, West Virginia 25305
Telephone: (304) 558-2440
Fax No.: (304) 558-1311

Gaston Caperton
Governor

Barbara Harmon-Schamberger
Cabinet Secretary

16 June 1996 5

The Honorable Ken Hechler
Secretary of State
State Capitol Building
Charleston, WV 25305

Dear Secretary Hechler,

I hereby grant consent as required pursuant to WV Code §5F-2-2 for the promulgation of the following legislative rule of the State College System Board of Directors:

Title 131, Series 19: State Postsecondary Review Program

A copy of the rule is attached.

Sincerely,



Barbara Harmon-Schamberger
Secretary

BHS:mc

Attachment

cc: Dr. Clifford Trump
Dr. John Thralls