



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

10/8/2021 3:20:12 PM

Office of West Virginia  
Secretary Of State

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**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Community And Technical College Education TITLE-SERIES: 135-08  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: West Virginia Invests Grant Program  
CITE STATUTORY AUTHORITY: §18B-1-6 and §18C-9-4

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 11/09/2021 4:30 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Sarah Armstrong Tucker, Chancellor

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Charleston, WV 25301

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

this rule establishes guidelines and procedures that will direct the operation of the West Virginia Invests Grant Program.

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

drug tests to be taken prior to each academic year instead of each semester and verified by the Senior Director of Financial Aid or his/her designee and not by the eligible institution.

Approved academic fees are also now covered by West Virginia Invests.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

NA

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

NA

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

NA

D. FISCAL NOTE DETAIL:

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

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

NA

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

Yes

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

TITLE 135  
LEGISLATIVE RULE  
WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION  
SERIES 8  
WEST VIRGINIA INVESTS GRANT PROGRAM

**§135-8-1. General.**

1.1. Scope. -- This rule establishes guidelines and procedures that will direct the operation of the West Virginia Invests Grant Program.

1.2. Authority. -- West Virginia Code §18B-1-6 and §18C-9-4.

1.3. Filing Date. -- ~~June 2, 2020~~

1.4. Effective Date. -- ~~July 2, 2020~~

1.5. Sunset Provision. -- This rule shall be terminated and have no further force or effect on ~~July 2, 2025~~

**§135-8-2. Administration.**

2.1. The Vice Chancellor for Administration shall administer the West Virginia Invests Grant Program under the general direction of the Chancellor for Community and Technical College Education and the West Virginia Council for Community and Technical College Education (Council).

2.2. The Higher Education Student Financial Aid Advisory Board shall provide financial aid expertise and policy guidance to the Vice Chancellor for Administration.

**§135-8-3. Institution Eligibility.**

3.1. Only West Virginia public community and technical colleges and West Virginia public baccalaureate institutions that have a signed program participation agreement are eligible to participate in the West Virginia Invests Grant Program.

3.2. Beginning with the 2021 fiscal year, only those eligible institutions in Section 3.1. of this rule that have one or more partnerships that establish Advanced Career Education (ACE) programs and pathways are eligible to participate in the West Virginia Invests Grant Program.

**§135-8-4. Student Eligibility.**

4.1. To be eligible for a West Virginia Invests Grant Program award, an applicant must:

4.1.1. Be a citizen or legal resident of the United States who meets the residency requirements for Federal Student Aid to receive Title IV funds;

4.1.2. Have been a resident of West Virginia for at least one year immediately preceding the date of application for a grant or renewal of a grant;

4.1.2.a. For dependent students, the legal residence of the parent(s) or legal guardian(s) on the Free Application for Federal Student Aid (FAFSA) shall be prima facie evidence of the student's legal residence.

4.1.2.b. Students may provide documentation that is approved by the Higher Education Student Financial Aid Advisory Board to determine a student's eligibility as a resident of West Virginia.

4.1.3. Have earned a high school diploma or passed a state approved high school equivalency exam;

4.1.4. Have not been previously awarded a post-secondary degree; or reached ninety attempted credit hours;

4.1.5. Be enrolled in at least six credit hours per semester in an eligible post-secondary program, as defined by West Virginia Code §18C-9-3 at an eligible institution;

4.1.5.a. Recipients enrolled in an eligible post-secondary program can continue to receive West Virginia Invests Grant Program funds if during the recipient's program of study, the post-secondary program is no longer considered an eligible post-secondary program, as long as the student maintains all other eligibility criteria and maintains continuous enrollment.

4.1.6. Submit both a completed FAFSA and any application form required by the Council by the deadline established by the Council;

4.1.6.a. Must complete verification if selected on the FAFSA by the U.S. Department of Education or the institution.

4.1.7. Have, prior to the start of each ~~semester~~ academic year or prior to the initial period for which the student is enrolled if that period for which the student is enrolled is not the beginning of the academic year and in which funds are received, satisfactorily passed taken an approved drug test that is verified by the ~~eligible institution~~ Senior Director of Financial Aid, or his/her designee; provided, that the applicant shall be responsible for the actual cost of the drug test;

4.1.7.a. The Council shall approve ~~on an annual basis~~ the drug screening policy and requirements necessary to receive West Virginia Invests Grant Program funds.

4.1.8. Not be in default on a federal student loan;

4.1.9. For initial awards, an applicant must be accepted for enrollment by the institution and meet the institution's Satisfactory Academic Progress policy. Eligibility for the West Virginia Invests Grant Program does not guarantee admission to an eligible institution or eligible post-secondary program.

#### **§135-8-5. Awards.**

5.1. The maximum amount of a West Virginia Invests Grant Program at a West Virginia public community and technical college shall be the cost of tuition and mandatory fees charged to all students and academic fees approved by the Council for an associate or certificate program less all other federal and state scholarships and grants and institutional tuition waivers for which the student is eligible.

5.1.1 Academic fees include fees charged to students for specific courses or programs to support such expenses as, but not limited to, lab, equipment costs, and assessments. Academic fees do not include

textbooks, post-graduation expenses, or anything the student would keep or use after the course ends, for example tools, uniforms, or equipment.

5.1.4.2. A West Virginia public baccalaureate institution shall not charge students who are enrolled in an eligible program more than the average cost of tuition and mandatory fees at West Virginia public community and technical colleges.

5.1.42.a. The maximum amount of a West Virginia Invests Grant at a West Virginia public baccalaureate institution shall be the average cost of tuition and mandatory fees at West Virginia public community and technical colleges less all other federal and state scholarships and grants and institutional tuition waivers for which the student is eligible.

5.1.23. Students are required to apply for and utilize all federal and state scholarships and grants for which they may be eligible before the West Virginia Invests Grant Program award amount is determined.

5.1.34. Federal and state scholarships and grants include the Pell Grant, the Supplemental Educational Opportunity (SEOG) Grant, the PROMISE Scholarship, the West Virginia Higher Education Grant, and the Higher Education Adult Part-Time Student (HEAPS) Grant.

5.1.45. If scholarships and grants exceed tuition, ~~and mandatory fees,~~ and academic program fees approved by the Council in any given term, then the student shall not be eligible for a West Virginia Invests Grant Program award in that term.

5.1.56. West Virginia Invests Grant Program funds can only be used toward courses that apply to an eligible post-secondary program.

5.2. No West Virginia Invests Grant Program funds will be disbursed until a signed agreement has been received from the applicant.

5.3. The Council shall establish criteria to be used in award selection each year based on the amount of funding expected to be available to use for awards. In determining to whom to award, the Council may consider applicants' relative levels of financial need, application filing dates, academic program, and/or state policy priorities.

5.4. If a West Virginia Invests Grant Program recipient transfers from one participating institution to another participating institution, the grant is transferable with the approval of the Vice Chancellor for Administration or his or her designee.

5.5. Awards may be made for summer terms. Any summer award under this provision is dependent upon the availability of funds as determined by the Council.

#### **§135-8-6. Renewal.**

6.1. A West Virginia Invests Grant may be renewed until an applicant has met the requirements for an associate's degree or until the applicant has reached ninety attempted credit hours as determined by the institution.

6.2. To renew a West Virginia Invests Grant, an applicant must maintain a 2.0 cumulative grade point average at the end of each academic year;

6.3. Meet the institution's Satisfactory Academic Progress policy;

6.4. Make satisfactory progress in completing at least two hours of verified community service each term for which the student is receiving West Virginia Invests Grant Program funds as approved and verified by the institution;

6.4.1. Recipients who do not complete at least two hours of verified community service in a term ~~may will~~ lose funding for that term ~~or will not be eligible for any disbursement in subsequent terms until the community service requirement is met.~~

6.5. Must meet all the eligibility criteria in Section 4.1. of this rule.

**§135-8-7. Post Award Changes.**

7.1. If a West Virginia Invests Grant Program recipient terminates enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the Council by the institution in accordance with the refund policy associated with Title IV funds.

7.2. If a recipient does not meet the renewal requirements for any reason, they may ~~reapply~~ renew as soon as the next term if all eligibility and renewal requirements are met.

**§135-8-8. Monetary Repayment.**

8.1. Each recipient of the West Virginia Invests Grant Program shall enter into an agreement with the Vice Chancellor for Administration agreeing to the following:

8.1.1. Once a recipient completes their program of study or is no longer enrolled at least half-time, they must provide acceptable documentation as determined by the Council that they are continually residing in West Virginia for at least two years from the time the recipient drops below half-time.

8.1.2. Recipients who are serving as a member of the armed services of the United States and maintaining legal residency in West Virginia while stationed for military purposes will be considered as meeting the residency requirement for the West Virginia Invests Grant Program.

8.2. A recipient will be required to make monetary repayment if:

8.2.1. The recipient does not continually reside in West Virginia for two years upon completion of their program of study and after dropping below half-time enrollment; or

8.2.2. It is determined that the recipient fraudulently obtained West Virginia Invests Grant Program funds; or

8.2.3. The recipient does not provide acceptable documentation of continually residing in West Virginia in a timely manner.

8.3. In addition to the repayment of the grant, interest will be charged at a rate determined by the Vice Chancellor for Administration and will begin to accrue at the time the repayment period begins.

8.4. If a recipient fulfills a portion of the residency obligation, interest will accrue from the day on which the recipient ceased to be a resident of West Virginia.

8.4.1. The monetary repayment may be prorated based upon a percentage of the two years that the recipient resided in West Virginia.

8.5. As permitted by federal law, applicable state regulations, and the terms of the grant agreement, reasonable collection costs, late charges and attorney fees may be assessed in the collection of delinquent accounts.

8.6. Recipients have a ten-year period to repay the West Virginia Invests Grant Program funds. If extenuating circumstances exist, the Vice Chancellor for Administration, upon receipt of appropriate documentation, may extend the period of repayment to fifteen years.

8.7. A recipient may request a deferment for pursuing a half-time course of study at an accredited institution of higher education or while serving on active duty as a member of the armed services of the United States.

8.8. A recipient may request a forbearance due to monetary hardship, sickness, or other acceptable reasons as approved by the Vice Chancellor for Administration if a recipient is unable to make payments but does intend to fulfill the monetary obligation.

8.9. A recipient's obligation is excused in the event the recipient:

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

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

#### **§135-8-9. Collections.**

9.1. Institutional and Council staff shall exercise due diligence in collecting monetary repayments from grant recipients.

9.2. Institutional due diligence means:

9.2.1. Conducting counseling with the student both at entrance and exit providing the student with information necessary to carry out the terms of repayment, reminds the recipient of the rights and responsibilities associated with the grant funds, and updates the recipient's personal information to assist in locating the recipient if he or she fails to keep the institution or the Council informed of his or her address.

9.3. Council due diligence means:

9.3.1. Notifying the grant recipient of his/her obligations annually during any grace or deferment period.

9.3.2. Performing regular billing.

9.3.3. Following up past due payments with a series of documented and reasonably spaced attempts to contact the student before the obligation becomes 120 days past due, provided the Council has a current address for the student.

9.3.4. Referring defaulted grants more than 150 days past due to the Secretary of the Department of Administration or to a collection agent.

#### **§135-8-10. Appeals.**

10.1. An applicant may appeal in writing, the decline of an initial award or renewal award or any other decision within fifteen (15) days of receiving notification, to the ~~Director of State Financial Aid Programs~~ Senior Director of Financial Aid. The Director, or his/her designee, may consult with the appeals committee comprised of financial aid staff and shall issue a written decision upholding or reversing the initial decision.

10.1.1. An applicant must follow the Council's policy on drug screening to appeal a failed drug test.

10.1.2. Any applicant appeal of a decision concerning satisfactory academic progress shall be referred to the institution for resolution consistent with the institution procedures established for this purpose.

10.2. The applicant may appeal the Director's decision to the Higher Education Student Financial Aid Advisory Board. Any appeal to the Advisory Board must be filed within fifteen (15) days of notification to the applicant that his or her appeal was denied. The appeal must be in writing and detail, with specificity, the grounds supporting the appeal. The Advisory Board may require additional evidence or materials be submitted. If the Advisory Board 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 Advisory Board is final.

**§135-8-11. Accounting, Reporting, and Auditing Requirements.**

11.1. Before the end of each fiscal year, each institution's financial aid office must reconcile its West Virginia Invests Grant Program records with:

11.1.1. The Council's records of West Virginia Invests Grant Program awards and disbursements;

11.1.2. The institution's business office records of West Virginia Invests Grant Program disbursements.

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

11.3. All participating institutions may be required to provide reports, which may include student level data, to the Council on recipients of the West Virginia Invests Grant Program.