



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

**NOTICE OF AN EMERGENCY RULE**

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-02  
RULE TYPE: Legislative Amendment to Existing Rule: Yes  
RULE NAME: Higher Education Finance Policy

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

18B-1-6

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

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

House Bill 4008 passed during the 2022 Legislative Session authorized the promulgation of an Emergency Rule to establish a performance-based funding formula to be used beginning with the Fiscal Year 2024 budget cycle for four-year public institutions of higher education.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? Yes

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 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):

N/A

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS 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 133  
LEGISLATIVE RULE  
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 2  
~~HIGHER EDUCATION FINANCE POLICY PERFORMANCE-BASED FUNDING FORMULA~~

**§133-2-1. General.**

1.1. Scope. – This rule governs development, implementation, and administration of the performance-based funding formula for West Virginia public four-year colleges and universities.

1.2. Authority. – W. Va. § 18B-1B-4(a)(2).

1.3. Filing Date. –

1.4. Effective Date. –

1.5. Sunset Provision. – This rule shall terminate and have no further force or effect upon the expiration of 5 years from its effective date.

1.6. Repeal and Replace. – This legislative rule repeals and replaces Title 133CSR2 filed June 7, 2001 and effective July 1, 2001.

**§133-2-2. Purpose.**

2.1. The purpose of this rule is to define the parameters governing the establishment and administration of a performance-based funding formula (funding formula or formula) to be used in the development of annual base budget requests, beginning with the 2024 fiscal year budget cycle, for Bluefield State University, Concord University, Fairmont State University, Glenville State University, Marshall University, Potomac State College of West Virginia University, Shepherd University, West Liberty University, West Virginia State University, West Virginia University, and West Virginia University Institute of Technology.

**§133-2-3. Definitions.**

3.1. “Academically Underprepared Student” means a West Virginia resident student, pursuing an associate or bachelor’s degree, who has at least one of the following risk factors:

3.1.1. Cumulative high school grade point average below 2.50; or

3.1.2. Admitted to the institution based on standardized test scores (ACT, SAT, or ACCUPLACER) that would qualify the student for developmental or remedial placement in mathematics or English based on placement criteria established by 133 C.S.R. 21, *Freshman Assessment and Placement Standards*.

3.2. “Adults or Adult Students” means West Virginia Resident students with an approximate age of 25 and older, calculated by subtracting the individual’s year of birth from the submission year for those data used in the calculation of model outcomes.

3.3. “Awards per 100 Full-Time Equivalent (FTE) Students” means the combined total number of unique students earning at least one associate or bachelor’s degree within an academic year for every 100

full-time equivalent (FTE) undergraduate degree-seeking students.

3.4. “Base Appropriation” means the amount of funding that an institution receives through a state appropriation for its operations and for which there are no significant restrictions on expenditure, and excluding funds appropriated specifically to support the schools of medicine, and related health sciences functions, at Marshall University and West Virginia University.

3.5. “Chancellor” means the Chancellor for Higher Education, as that term is defined by W. Va. Code § 18B-1B-5, or his or her designee.

3.6. “Classification of Instructional Programs (CIP) Code” means a numerical identifier assigned by the National Center for Education Statistics to an academic discipline to support tracking and reporting data at the field-of-study level.

3.7. “Commission” means the West Virginia Higher Education Policy Commission as established by W. Va. Code § 18B-1B-1, et seq.

3.8. “Degrees Awarded” means the combined total number of students earning associate degrees, bachelor’s degrees, master’s degrees, post-master’s certificates, doctoral degrees or law degrees during an academic year. Students earning multiple degrees within an academic year shall be counted as a single outcome for model calculations. In such cases, the outcome score will be calculated based on the degree that yields the institution the highest possible total score with all premium multipliers applied.

3.9. “Focus Population” means West Virginia resident students identified as academically underprepared, adults, and/or low-income based on the criteria defined by this Rule.

3.10. “Full-Time Equivalent (FTE) Student” is an enrollment metric calculated by dividing the total number of credit hours generated by an undergraduate degree-seeking student in credit-bearing classes during the summer, fall, and spring semesters of an academic year by 30.

3.11. “Higher Education Price Index (HEPI)” is an inflation index designed specifically to track the main cost drivers in higher education and to measure the change in the price of the goods and services purchased by colleges and universities as measured by the Commonfund Institute.

3.12. “Hold-Harmless Provision” means a safeguard in the funding formula designed to provide stability and predictability in the formula by preventing an institution’s outcomes-based funding allotment from decreasing by more than five percent (5%) from one academic year to the next.

3.13. “Low-Income Student” means a West Virginia resident student who, based on current and historical records, is identified as having received financial assistance through the Federal Pell Grant program for at least one semester at any State institution of higher education.

3.14. “On-Time Completion” refers to a graduate who completed a bachelor's degree within four academic years, based on the year and semester in which they were reported as a first-time freshman and the year and semester in which they were reported as completing a bachelor's degree. The bachelor's degree must be completed at the same institution at which the student was first identified as a first-time freshman.

3.15. “Premium” is a mathematical weighting factor applied to certain formula calculations for West Virginia resident students identified as belonging to one or more focus populations, to associate or bachelor’s degrees awarded in fields identified as State Priority Fields, and/or to bachelor’s degrees completed within four years, as defined in Section 3.14 of this rule.

3.16. “Progression Outcomes” means the number of full-time and part-time associate or bachelor’s degree-seeking students whose cumulative credits earned at the institution at the beginning of a semester are less than the established credit hour threshold benchmarks of 30, 60, or 90 student credit hours and whose cumulative credit hours earned at the end of the semester are equal to or greater than the credit hour threshold benchmarks during the academic year. Credits transferred in from other institutions are not included in the calculations.

3.17. “Research and Development Metrics” means the amount of funding expended on research and development activities as reported on the institution’s audited financial statement under the Operating Expenses category within both the natural and functional classifications.

3.18. “Residual Funds” means funding that is not obligated through formula calculations as a result of a decline from one year to the next in the total number of outcomes across all institutions.

3.19. “Scaling Factor” is a mathematically derived value used in formula calculations for the purpose of adjusting outcome values across different metrics to values of comparable magnitude.

3.20. “State Priority Programs” means associate degree or bachelor’s degree programs identified by the West Virginia Department of Commerce as being aligned with occupations in high or critical demand statewide.

3.21. “West Virginia Resident” or “Resident” means an individual enrolled at a public college or university with an in-state tuition and fee status as defined by 133 C.S.R. 25, *Residency Classification for Admission and Fee Purposes*.

#### **§133-2-4. Formula Development, Implementation, and Administration.**

4.1. The Chancellor shall develop, in consultation with the Funding Formula Advisory Committee, as defined in section 4.3 of this Rule, a funding formula for public four-year institutions that will serve as a broad framework for efforts to improve student outcomes and institutional efficiency. The Commission shall use the funding formula to determine the annual base budget request for each institution, beginning with the fiscal year 2024 budgeting cycle. The formula shall, at a minimum:

4.1.1. Apply to thirty percent (30%) of each institution’s base appropriation, referred to herein as the Outcomes-Based Funding Pool;

4.1.2. Set aside seventy percent (70%) of each institution’s base appropriation, referred to herein as the Base Operating Budget, which shall be exempt from outcomes-based funding calculations;

4.1.3. Hold institutions accountable for increasing the educational attainment levels of West Virginia citizens by addressing the State’s economic development and workforce needs and promoting increased degree production, with a particular emphasis on degrees awarded in academic programs aligned with State Priority Fields;

4.1.4. Acknowledge the unique mission of each institution;

4.1.5. Be based on a set of objective performance metrics that reflect and support the State’s higher education goals and priorities;

4.1.6. Incorporate safeguards to ensure stability of the funding formula, including, but not limited to:

4.1.6.a. A Hold Harmless Provision; and

4.1.6.b. To the extent possible, employment of a three-year rolling average for all data metrics; and

4.1.7. Apply an annual inflation adjustment, calculated utilizing the Higher Education Price Index, to each institution's Base Operating Budget, Outcomes-Based Funding Pool, and the system-wide rate per weighted outcome.

4.2. Nothing in this rule shall be interpreted as prohibiting an institution from submitting requests for special appropriations to support capital projects or other projects or initiatives.

4.3. Funding Formula Advisory Committee

4.3.1. The Chancellor shall appoint a Funding Formula Advisory Committee (Advisory Committee) whose membership shall be comprised of the president of each institution or a president's designee and additional members with relevant expertise as deemed appropriate and necessary by the Chancellor.

4.3.2. The Chancellor or his or her designee shall serve as the chair of the Advisory Committee.

4.3.3. The Advisory Committee shall meet at least annually at a time and place determined by the Chancellor.

4.3.4. The Advisory Committee shall review the funding formula components and identify needed revisions, additions, or deletions to the formula.

4.3.5. The Chancellor shall not be bound by the advice of the Advisory Committee.

4.4. Amendments or Revisions to the Funding Formula. – The Chancellor, in consultation with the Advisory Committee and upon approval by the Commission, may revise the metrics comprising the funding formula outlined in Subsection 4.5 below as necessary based on changes in State priorities.

4.5. Funding Formula Elements.

4.5.1. Funding Formula calculations shall, at a minimum, be based on the following data metrics:

4.5.1.a. Progression Outcomes.

4.5.1.b. Completion Outcomes.

4.5.1.b.1. Associate degree completers;

4.5.1.b.2. Bachelor's degree completers;

4.5.1.b.3. Master's degree and post-master's certificate completers;

4.5.1.b.4. Doctoral and/or law degree completers;

4.5.1.c. Workforce Outcomes

4.5.1.c.1. Graduates earning wages in West Virginia; and

4.5.1.c.2. Graduates enrolled in continued postsecondary education.

4.5.1.d. Institutional investments in research and development, as defined by this Rule.

4.5.1.e. Efficiency Outcomes, based on the number of students earning associate and/or bachelor's degrees per 100 full-time equivalent (FTE) undergraduate students.

4.5.1.f. Other metrics as defined by the Chancellor, in consultation with the Commission and the Advisory Committee.

#### 4.5.2. Mission Weighting

4.5.2.a. The Funding Formula shall incorporate mathematical factors to provide for differential weighting of data metrics based on institutional mission.

4.5.2.b. Mission weights shall be established in consultation with institutional leadership, within parameters established by the Chancellor, and must be approved by each institution's board of governors. The boards of governors shall notify the Chancellor of such institutional mission weights by letter from the board's chair or the chair's designee.

4.5.2.c. Should a board of governors fail to adopt institutional mission weights and submit notification of the same to the Chancellor prior to the established deadline, the Chancellor shall determine that institution's mission weights on the board's behalf.

4.5.2.d. Mission weights shall be finalized at the beginning of each five-year funding cycle and may not be amended or adjusted prior to the end of the cycle; *Provided*, that the Chancellor may grant exceptions for good cause shown.

#### 4.6. Data Collection Requirements

4.6.1. Each institution is responsible for the timely submission to the Commission of all data necessary for the administration of the funding formula.

4.6.2. On or before July 1 of each year, the Commission shall publish and distribute a calendar specifying due dates for the submission of data elements required for the administration of the funding formula.

4.6.3. Should an institution fail to submit all necessary data prior to the deadline prescribed by the Commission, the institution's budget request shall be based on the recommended funding level from the most recent fiscal year in which all data were provided, with the Outcomes Based Funding Pool amount reduced by five percent (5%) and no adjustment for inflation applied.

4.6.4. Each institutional board of governors shall adopt a policy pursuant to W. Va. Code § 18B-1-6 establishing procedures and internal controls that ensure the integrity and validity of data submitted in support of the funding formula. The boards shall submit their initial policies to the Commission no later than June 30, 2023 and any subsequent amendments thereto in accordance with statutory rulemaking procedures.

4.6.5. The Commission may conduct periodic audits of institutional data submissions, institutional processes and procedures governing the collection and submission of data, any source data

upon which submitted data files are based, and any other funding formula related data determined necessary by the Chancellor. The cost of such audits shall be borne by the Commission.

#### 4.7. State Priority Degree Fields

4.7.1. The funding formula shall incentivize associate and bachelor's degree production in certain fields identified by the West Virginia Department of Commerce as State Priority Programs.

4.7.2. As the State's workforce needs are everchanging, the Department of Commerce may recommend designating a new State Priority Program at any point in the funding cycle.

4.7.3. Once identified as a State Priority Program, a program shall maintain the Priority designation for a period of at least five full academic years.

4.7.4. State Priority Programs shall be identified by the Classification of Instructional Programs (CIP) Code associated with the program of study in the Commission's official inventory of degree programs.

4.7.5. An institution may request to change the CIP Code of an existing program to a code on the State Priority Programs list but must provide sufficient documentation demonstrating that the coursework and content delivered through an approved program of study align with the proposed new CIP discipline.

4.7.6. For any new academic program assigned a CIP Code on the State Priority Programs list, the Chancellor may require an institution to submit documentation demonstrating that the coursework and content delivered through an approved program of study align with the proposed new CIP discipline.

4.7.7. The Chancellor may disqualify any new or existing academic program from being identified as a State Priority Program if it is determined that the coursework and content delivered through an approved program of study do not align sufficiently with the proposed new CIP discipline.

4.7.8. An institution may appeal any decision by the Chancellor to disqualify a State Priority Program. Such appeal shall be made in writing to the Commission for consideration at the Commission's next regular meeting; *Provided* that such appeal is submitted no less than thirty (30) days prior to the scheduled meeting date. Changes to the State Priority Program inventory resulting from an appeal shall have no retroactive effect on model calculations.

#### §133-2-5. Formula Calculations

5.1. The funding formula shall operate on a five-year cycle, beginning with fiscal year 2024 budgeting cycle.

#### 5.2. Benchmarking

5.2.1. In the first year of each funding cycle, abbreviated herein as year zero ( $y_0$ ), the Commission shall establish baseline values for each metric based on an average of the three most recent full academic years of available data. The baseline data shall provide a basis of comparison upon which institutional performance shall be gauged in subsequent years of the funding cycle (years one through four).

5.2.2. In each year following  $y_0$ , each institution's recommended funding level shall be calculated based on the increase or decrease of the institution's total outcomes score as compared to the  $y_0$  benchmark value.

### 5.3. Funding Formula Calculations

5.3.1. At the beginning of each annual budget cycle, the following values shall be calculated and used in the determination of each institution's recommended base appropriation request:

5.3.1.a. The number of outcomes achieved within each data metric, with weighting factors applied where appropriate for:

5.3.1.a.1. Students representing Focus Populations;

5.3.1.a.2. Associate and bachelor's degrees awarded in State Priority Programs; and

5.3.1.a.3. On-time bachelor's degree completion;

5.3.1.b. The Total Outcomes Score based on an average of the three most current years of data for each of the metrics established in Section 4.5 of this rule;

5.3.1.c. The net increase or decrease in outcomes score between the current year and the benchmarking year ( $y_0$ );

5.3.1.d. The inflation-adjusted rate per outcome;

5.3.1.e. The Base Operating Budget, adjusted for inflation; and

5.3.1.f. The prior year's Outcomes Based Funding level, adjusted for inflation.

5.3.2. Each institution's base appropriation request shall be determined by the following calculations:

5.3.2.a. The net increase or decrease in outcomes score is multiplied by the system-level rate per outcome to determine the net change in Outcomes Based Funding. This value is added to the inflation-adjusted Outcomes Based Funding level from the prior year.

5.3.2.b. The prior year's Base Operating Budget is adjusted for inflation and added to the Outcomes Based Funding pool, calculated in paragraph 5.3.2.a of this rule.

5.3.2.c. Any annual reduction to an institution's Outcomes Based Funding pool shall not exceed five percent (5%).

#### ~~§133 2 1. General.~~

~~— 1.1. Scope. — This rule establishes the principles to guide the development of financing and resource allocation policies and procedures to be utilized by the Higher Education Policy Commission.~~

~~— 1.2. Authority — W. Va. Code §18B-1B-4(a)(8).~~

~~— 1.3. Filing Date. — June 7, 2001.~~

~~— 1.4. Effective Date. — July 1, 2001.~~

#### ~~§133 2 2. Purpose.~~

~~— 2.1. The primary purpose of this rule is to establish guidelines to be used by the Higher Education Policy Commission in:~~

~~— 2.1.1. Allocating state appropriated~~

~~unrestricted resources to the institutions.~~

~~2.1.2. Setting targets for shares of institutional revenues to be contributed from education and general unrestricted revenues.~~

~~2.1.3. Reviewing tuition and fee schedules approved by the individual colleges and universities for consistency with Policy Commission and West Virginia Code guidelines and parameters.~~

~~2.1.4. Establishing policies that address student financial aid decisions.~~

~~2.1.5. Establishing policies regarding the role of all educational and general unrestricted revenue in calculating institutional eligibility for equity funding.~~

### ~~§133-2-3. Guidelines.~~

~~3.1. The following will guide the further development of the policies and procedures to be utilized in financing and resource allocation within the West Virginia system of public higher education:~~

~~3.1.1. All data reported will be based on national uniform and consistent definitions as adopted or established by the Higher Education Policy Commission. If no national standard exists, the Policy Commission may adopt appropriate standards.~~

~~3.1.2. Institutional requirements for additional recordkeeping and reporting will be minimized.~~

~~3.1.3. A schedule for reporting of information and for decision making will be established by the Commission.~~

~~3.1.4. Information from peer institutions as determined by the Commission will be utilized in various ways. The most recently available IPEDS data will form the basis of any comparisons.~~

~~3.1.5. The president or administrative head of each public college, university, regional campus, or community and technical college~~

~~shall be responsible for ensuring that all requested information is submitted in a timely fashion to the Policy Commission and shall certify that the information submitted has been reviewed for accuracy.~~

### ~~§133-2-4. Principles.~~

~~4.1. Operating Budget.~~

~~4.1.1. Base Budget.~~

~~4.1.1.1. The base budget amount for each budget request year will be determined by the Commission in consultation with each institution.~~

~~4.1.1.2. This base budget includes unrestricted educational and general revenues from all sources. Unrestricted educational and general revenues are defined as all audited unrestricted current fund revenues, expenditures, transfers, and other changes, minus auxiliary revenue, hospital revenue, and independent operations.~~

~~4.1.2. State resources will be allocated to institutions in the following categories:~~

~~4.1.2.1. Continuation base amount from previous year.~~

~~4.1.2.2. Sustained quality support.~~

~~4.1.2.3. Peer equity.~~

~~4.1.2.4. Research challenge.~~

~~4.1.2.5. Independently accredited community and technical college development.~~

~~4.1.2.6. Incentives for contributions to state priorities.~~

~~4.1.3. Funds from all these categories will be released to institutions in whole or part when the Policy Commission certifies that the institution is meeting the objectives established in its compact.~~

~~4.1.4. The Policy Commission will establish the amount to be included in its budget~~

~~request for each category annually with the conditions that:~~

~~4.1.4.1. Funds will be requested for each category.~~

~~4.1.5. Sustained Quality Support.~~

~~4.1.5.1. Funds designated for sustained quality support will be allocated to all institutions in proportion to institutions' base budgets in accordance with W. Va. Code §18B-1A-5(b)(6)(E).~~

~~4.1.5.2. Each year's allocations will be added to the institutions' base budgets for subsequent years unless the Policy Commission determines that substantial change in institutional mission or structure has occurred requiring a change in the base budget.~~

~~4.1.6. Peer Equity.~~

~~4.1.6.1. Policy Commission establishes benchmark funding amounts each year.~~

~~4.1.6.2. Allocated in accordance with W. Va. Code §18B-1A-5(b)(6)(A).~~

~~4.1.6.3. Added to base.~~

~~4.1.6.4. Continued until all institutions achieve at least 90-100 percent of benchmark amounts, as a measure of external equity. It is the goal of the Commission to first attain internal equity among institutions by raising the minimum value until all institutions reach the same level. External equity goals will be addressed only after internal equity has been accomplished. Further, it is the intention of the Commission that institutions should not lose ground relative to peer attainment. As used herein, "external equity" is the funding of the institution relative to its peers, and "internal equity" is leveling of differences in peer funding among the West Virginia institutions.~~

~~4.1.6.5. The Policy Commission may adjust peer equity funds based upon imputation of assumed tuition funds consistent with peer averages.~~

~~4.1.7. Independently Accredited Community and Technical College Development~~

~~4.1.7.1. Allocated in accordance with W. Va. Code §18B-1A-5(b)(6)(B).~~

~~4.1.7.2. Funds allocated for this purpose must be separately controlled and accounted for either by the host institution, the community college component or as otherwise determined by the Commission.~~

~~4.1.8. Research Challenge.~~

~~4.1.8.1. Allocated in accordance with W. Va. Code §18B-1A-5(b)(6)(C).~~

~~4.1.8.2. Amounts awarded must be matched by the institution, on at least a one-for-one basis at the discretion of the Commission.~~

~~4.1.9. Incentives for Institutional Contributions to State Priorities.~~

~~4.1.9.1. The Commission will establish the method of allocation for these funds. The allocation mechanisms will be based on demonstrated contribution toward achievement of state priority goals in accordance with W. Va. Code §18B-1A-5(b)(6)(D).~~

~~4.1.9.2. State priority funds will not be added to the institution's base allocation.~~

~~4.1.9.3. Amounts awarded must be matched by the institution, on at least a one-for-one basis at the discretion of the Commission.~~

~~4.1.10. Use of Funds Once Allocated.~~

~~4.1.10.1. These uses must be in accordance with a budget approved annually by the institution's Governing Board.~~

~~4.2. The Capital Budget.~~

~~4.2.1. The Commission will utilize necessary funds from the state appropriation or tuition and fee revenues to cover annual repayment of bonded indebtedness incurred~~

prior to July 1, 2001.

~~4.2.2. The Commission will develop procedures for creating an approved list of capital projects to be submitted to the legislature with provisos that:~~

~~4.2.2.1. Only projects on the approved list will be eligible for state funding— either through direct state appropriation for construction or for repayment of debt.~~

~~4.2.2.2. All capital projects, subject to dollar limits in Commission policy, will be brought to the Commission for approval regardless of source of funding or method of acquisition.~~

~~4.2.2.3. In the event of an emergency, an institution may make a special request for unanticipated capital funding needs.~~

~~4.3. Tuition and Fees.~~

~~4.3.1. The Board of Governors of each institution will establish tuition and fee schedules within guidelines promulgated by the Commission or in West Virginia Code.~~

~~4.3.2. All tuition and fee revenues will remain at the campuses except as may be provided for by Higher Education Policy Commission action or statutory provisions.~~

~~4.3.3. Guidelines for Establishing Tuition Rates:~~

~~4.3.3.1. Differentiation by level (e.g., graduate vs. undergraduate) and by program (e.g., law and medicine vs. other fields) is permissible.~~

~~4.3.3.2. Tuition rates should be near the medians for peer institutions. However, the intent is to relate tuition to “ability to pay” rather than to an absolute level.~~

~~4.3.3.3. Student tuition as a share of revenue (tuition and fees and state appropriation), should be graduated so that students pay the highest share of revenue at the research universities, a lower share at the four-~~

~~year colleges, and the lowest share at community colleges, as defined by the Policy Commission. It is the intent of the Policy Commission to define tuition ranges with the specific tuition to be set by the governing board of each institution.~~

~~4.3.3.4. Community college tuition should approximate peer medians. Without the express approval of the Policy Commission, tuition at component or administratively linked community colleges will not be increased where such tuition exceeds the peer average tuition for West Virginia’s stand alone community colleges as calculated by the Policy Commission. In accordance with W. Va. §18B-10-1(h)(3), tuition and fee rates for all component community colleges “will be commensurate with the tuition and fees charged by their peer institutions” within a time frame agreed upon between the institution and the Commission. Each institution with a component community college will submit, as part of its Compact, a plan to the commission regarding the progress toward this goal. In accordance with the Policy Commission guidelines, community colleges offering upper division courses may charge tuition for such courses consistent with the tuition charged for similar courses at West Virginia public four-year institutions.~~

~~4.3.3.5. The Policy Commission shall set guidelines for out-of-state tuition levels which take into account the cost of instruction and an appropriate relationship between in-state and out-of-state tuition levels, with out-of-state tuition and fees covering at least the full costs of instruction. It is the intention of the Commission that there be no disincentives for the enrollment of non resident students unless their admission results in a lack of opportunities for qualified West Virginia residents.~~

~~4.4. Student Financial Aid.~~

~~4.4.1. Each institution shall develop explicit student financial aid policies that address such issues as:~~

~~4.4.2. The manner in which tuition and fee increases are offset by financial aid.~~

~~4.4.3. The balance of need based and merit based aid.~~

~~4.4.4. The balance of loan versus scholarship/grant awards.~~

~~4.5. Tuition Pricing and Discounts.~~

~~4.5.1. The Commission reserves the right to limit discounts or adjustments to tuition revenue. The extent to which tuition and fee pricing is offset or reduces tuition and fee revenue through various discounts such as tuition waivers, reciprocal agreements and metro fees will be a consideration in the Commission's decision regarding allocation of state appropriations to each institution.~~

~~4.6. Other Revenues.~~

~~4.6.1. Institutions are expected to acquire unrestricted and restricted revenues from educational and general sources other than tuition and fees and state appropriations.~~

~~4.6.2. Consistent with this intent:~~

~~4.6.2.1. The peer group median of the per student revenues from sources other than tuition and fee or state appropriations will be established as a target for each institution. State appropriation support for institutions exceeding such targets would not normally be reduced as a~~

~~result of institutional success in this area.~~

~~4.6.2.2. Institutions are expected to seek approval from the Policy Commission for any supplemental budget requests or Budget Digest funding before seeking such funds.~~