



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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Office of West Virginia  
Secretary Of State

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**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL  
RULE**

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-11

RULE TYPE: Procedural Amendment to Existing Rule: Yes Repeal of existing rule: Yes

RULE NAME: Standards and Procedures for Approval of New  
Academic Programs

CITE STATUTORY AUTHORITY: 18B-1-6

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

September 2, 2022

**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  
PROCEDURAL RULE  
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 11  
STANDARDS AND PROCESSES FOR APPROVAL OF NEW ACADEMIC PROGRAMS

**§133-11-1. General.**

1.1. Scope. -- This rule delineates the procedure by which the State's public four-year institutions of higher education must seek approval from the West Virginia Higher Education Policy Commission (Commission) of new academic programs and discontinuance of existing academic programs.

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

1.3. Filing Date. -- August 2, 2022.

1.4. Effective Date. -- September 2, 2022.

1.5. Former Rule. -- Amends Title 133, Series 11, dated February 13, 2020.

**§133-11-2. Background.**

2.1. The Commission is charged by statute with general authority for academic program approval for West Virginia regional public universities. The Commission is further required to use institutional missions as a template in assessing the appropriateness of new programs and to avoid unnecessary duplication in program approvals. To facilitate the discharge of these responsibilities, the institutions of higher education shall use the following procedures and format in submitting to the Chancellor for consideration by the Commission proposals to establish new academic programs and for notifying the Commission of the consolidation or discontinuance of existing academic programs.

**§133-11-3. Definitions.**

3.1. "Area of emphasis" means a specific subject area of study which has defined course offerings within an approved degree program and major. Normally, a minimum of 12 and no more than 18 hours would be expected for an area of emphasis within a baccalaureate degree program and a minimum of six and no more than 12 credit hours would be expected for an area of emphasis within a graduate degree. Typically, a minimum of six and no more than nine credit hours would be expected for an area of emphasis within an associate degree program. Areas of emphasis completed would appear on the student's transcript.

3.2. "Certificate programs" (as distinguished from the one-year Certificate Degree Program offered by the community and technical colleges) means a coherent, specialized curriculum designed for students in search of a specific body of knowledge for personal or career development or professional continuing education. The certificate program is not attached to a degree program, although credit hours earned in a certificate program may be applied to a degree if they are deemed appropriate by the institution. The awarding of a certificate upon completion of the program is not contingent upon completion of a degree program. The certificate would appear on the student's transcript and an institution may issue an official certificate of completion. Normally, a minimum of six and no more than nine credit hours would constitute a certificate program at the associate level, and a minimum of 12 and no more than 21 credit hours would constitute a certificate program at the baccalaureate or graduate level.

3.3. “Chancellor” means the Chancellor for Higher Education as that term is defined in W. Va. Code § 18B-1-2 or his or her designee.

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

3.5. “Degree program” means an area of study approved as such by the institution and the Commission and listed on the official Commission inventory of degree programs, e.g., English, Social Work, Physical Education. The degree, which is an award signifying a rank or level of educational attainment and which is conferred on students who have successfully completed a degree program, is represented by the official degree designation, e.g., B.A. - Bachelor of Arts, B.S. - Bachelor of Science, A.S. - Associate of Science, etc. The degree program completed would be listed on the student’s diploma.

3.6. “Joint degree program” means one common degree program offered jointly by two participating institutions in which the student takes courses from both institutions and, upon graduation, receives a degree listing both institutions on the diploma or certificate.

3.7. “Major” means a field of study within an approved degree program having its own curriculum. A degree program may have more than one major. An institution may elect to include the major(s) on the student’s diploma.

3.8. “Minor” means a secondary area of specialization beyond a college major that is earned in a specific subject area of study and must be composed of at least 12 credit hours of course work. A student may not earn a baccalaureate minor in a subject area in which he or she is earning a baccalaureate major.

3.9. “New academic program” means any prescribed course of study at a State university that constitutes a major, minor, concentration, or certificate leading to a recognized degree or specific employment situation that was not in effect as of the effective date of this rule and that has not been previously approved by the Commission.

3.10. “State university” or “institution” means those public four-year institutions not affiliated with or under the administrative umbrella of West Virginia University, Marshall University, or the West Virginia School of Osteopathic Medicine. Those institutions are Bluefield State University, Concord University, Fairmont State University, Glenville State University, Shepherd University, West Liberty University, and West Virginia State University: *Provided*, That pursuant to W. Va. Code § 18B-1C-2(i), West Virginia University and West Virginia University Institute of Technology, as it relates to providing academic programming at the Beckley campus, shall be subject to the provisions of this rule; *Provided further*, That pursuant to W. Va. Code § 18B-1-1f(e)(3), the provisions of this rule shall not apply to the administratively exempted schools.

#### **§133-11-4. Submission Guidelines and Timelines.**

4.1. Proposals for Commission approval of new academic undergraduate degree programs are not required unless the degree is intended to offer a new teaching specialization at a State university. If the proposal is to add a new teaching specialization, such proposal shall be submitted to the Chancellor a minimum of 90 days prior to the intended implementation date.

4.2. Proposals to add new baccalaureate, graduate or professional degree programs shall be submitted to the Chancellor a minimum of 90 days prior to the intended date of implementation.

4.3. Proposals to add majors within a degree program require approval of the State university's board of governors. Upon such approval by the board of governors, the State university shall report the newly approved majors to the Commission's Division of Academic Affairs.

4.4. Decisions to establish areas of emphasis, certificate programs, or baccalaureate minors may be made at the institutional board of governors' level or may be delegated to the institutional president by the board of governors and do not require Commission approval.

4.5. Institutions shall submit notices of intent to offer existing bachelor's or master's degree programs at new locations to the Chancellor at least 90 days prior to the date of implementation. The Chancellor shall render a decision regarding whether the institutions can proceed to develop and submit a proposal prior to the intended date of implementation of any program change. The Chancellor may approve exceptions to the requirement of 90 days' notice upon request by an institution and for good cause shown.

4.6. If an institution is statutorily authorized to offer associate degree programs, it must submit its proposals to offer existing associate level degree programs at new locations to the Chancellor not less than 45 days prior to the date for intended implementation. The Chancellor shall render a decision regarding whether the institutions can proceed to develop and submit a proposal prior to the intended date of implementation of any program change. The Chancellor may approve exceptions to the requirement of 90 days' notice upon request by an institution and for good cause shown. New associate programs must also have the approval of the West Virginia Council for Community and Technical College Education.

4.7. An institution planning to offer existing academic programs or courses at sites outside West Virginia must have the approval of the appropriate out-of-state agency which regulates such offerings, as well as the approval of the Commission. Any program, once approved, may continue, as long as the institution has the continuing approval of the appropriate out-of-state agency.

4.8. Unless exempted by the Commission, duplication of academic program delivery at the same location by different institutions is not permitted. Any exemption will require Commission approval based upon written justification and documentation of need submitted to the Commission.

4.9. The Commission reserves the right to modify any program action which affects the mission of the institution or otherwise has statewide impact.

#### **§133-11-5. Notice of Intent to Plan.**

5.1. Notice of Intent to Plan: An institution must provide a notice of intent to plan a new baccalaureate or graduate or professional degree program to the Chancellor and the Vice Chancellor for Academic Affairs a minimum of 45 days prior to the submission of a full program proposal. This is required only for programs that are not included on the institutional program plan submitted to the Commission as provided in 133 C.S.R. 10, *Policy Regarding Program Review and Planning*. Early notice of intent to plan allows assistance to the institutions in such fundamental areas as needs analyses, consistency with institutional mission, resource requirements, possible duplication of programs, available resources that can be leveraged by the institution with Commission staff help, and the possible cooperation or merger with other similar programs in the State.

5.1.1. The notice of intent to plan shall be submitted electronically to the Chancellor and Vice Chancellor for Academic Affairs. The email shall be sent from the institutional president or provost or contain a letter from either office indicating official approval of the notice of intent to plan.

5.1.2. Once received at the Commission office, the notice of intent to plan is to be posted electronically for comment among the State universities.

5.2. A notice of intent to develop a plan shall indicate the projected date of submission of the full proposal and the projected date of implementation. It shall also include the following:

5.2.1. A statement describing the educational objectives, the relationship of the objectives to the mission of the institution, and accreditation status of the proposed new program;

5.2.2. A brief description of the program;

5.2.3. A statement describing compliance with the standards for academic programs established in 133 C.S.R. 10, *Policy Regarding Program Review and Planning*;

5.2.4. A statement listing other institutions in West Virginia that offer similar programs and any collaboration, coordination, or program duplication with those other institutions;

5.2.5. A statement regarding evidence of workforce need and student interest in the proposed new program;

5.2.6. A statement on projected financial needs to support the program and the adequacy of expected subsidy and other income to meet program needs;

5.2.7. A statement describing the instructional delivery methodologies to be employed to deliver the program, i.e., on-site or by technology-based delivery; and

5.2.8. Any other information that may be requested by the Chancellor or the Vice Chancellor for Academic Affairs to ensure that each State university meets basic expectations for academic degrees or instruction creditable toward such degrees.

#### **§133-11-6. Submission Requirements for New Program Proposals.**

6.1. Once the institution has submitted a notice of intent to plan it may develop the program proposal, which must be approved by the institutional board of governors before submission to the Commission. The institutions shall submit new program proposals on a form provided by the Commission.

#### **§133-11-7. Commission Review of New Program Proposals.**

7.1. A copy of the new program proposal is to be electronically submitted by the president or provost, to the Chancellor and the Vice Chancellor for Academic Affairs with documentation of the institutional board of governor's approval.

7.1.1. The Vice Chancellor for Academic Affairs will review the proposal confirming the submission's compliance with proper format requirements. Any format deficiencies shall be reported to the institution within ten working days of the date of submission.

7.1.2. The Commission shall consider all relevant factors in the program approval process but shall focus in particular on the following policy concerns:

7.1.2.a. New programs should not be implemented which change the institutional mission unless the institution also receives approval for expanding the institutional mission.

7.1.2.b. New programs which require significant additional expense investments for implementation should not be implemented unless the institution demonstrates that expenses shall be addressed by effective reallocation of existing resources or the expenses can be legitimately spread out over future years and will be covered by anticipated net revenues from new enrollments.

7.1.2.c. A new undergraduate program which is significantly similar to an existing program already in the geographic service area should not be implemented unless the requesting institution demonstrates a compelling need in the service area that is not being met by the existing program. Academic programs at the statutorily exempted schools are not to be taken into consideration except as it relates to academic programs offered at West Virginia University at Beckley and West Virginia University Institute of Technology at Beckley.

7.1.2.d. New program that constitutes a substantive change and/or change of mission for the institution may require consultation with an independent expert in the field prior to confirming format and issuing a recommendation to the Chancellor. This may extend the time needed for a final decision.

7.2. Once a recommendation by the Vice Chancellor for Academic Affairs is submitted to the Chancellor, the Chancellor has five working days to forward a copy of relevant documents, including the program proposal and recommendation, to the Commissioners.

7.2.1. Commissioners have five working days to review the program proposal and address any concerns.

7.2.1.a. If no concerns are reported by the Commissioners to the Chancellor, a recommendation for approval will be forwarded by the Chancellor to the president and provost of the institution.

7.2.1.b. If there are concerns by any Commissioner, that Commissioner may request a special meeting to address the program concerns and consider the program for approval or rejection or modification.

7.3. Programs approved prior to a regularly scheduled meeting of the Commission shall be included as a public information item in the Chancellor's report at the next regularly scheduled meeting of the Commission.

7.4. Once implemented, the institution shall evaluate the new program as part of the comprehensive program review process prescribed in 133 C.S.R. 10, *Policy Regarding Program Review and Planning*.

#### **§133-11-8. Termination of a Program.**

8.1. An institution with the approval of its board of governors may discontinue a degree or certificate program. In seeking the board of governors' approval the president shall provide the reason for the proposed action (e.g. lack of enrollment, high cost), the institution's plan for assigning the positions and workload of faculty who are involved in the program, the impact on students who are already enrolled, and the teach-out plan(s) for those affected students. The request to the board of governors shall also describe any plans that may have been made to transfer students, library holdings, equipment, etc. to another institution and indicate any financial savings that would accrue to the institution as a result of the termination. The institution shall also report to the Chancellor any termination that is approved by the board of governors.

8.2. Pursuant to Series 10, *Policy Regarding Program Review and Planning*, every institution is to perform a comprehensive review of all academic programs at least once every five years. At the conclusion of the review, which examines external demand, quality of outcomes, and delivery cost, the board of governors will report to the Chancellor, by May 31, the results. The report shall include recommendations and actions to be pursued by the institution regarding underperforming or low-performing programs. The Commission, through its staff or other appropriate entities, shall receive an annual update from institutions describing the progress achieved toward implementation of those recommendations and actions for such programs.

§133-11-9. [Reserved]

**§133-11-10. Guidelines for Joint Degree Programs.**

10.1. Institutions desiring to offer a joint degree are to contact the Commission's Division of Academic Affairs prior to beginning negotiations to offer the degree. Negotiations shall commence prior to a joint degree program being placed on the institutions' program plans submitted to the Commission. Once negotiations are complete, the institutions shall enter into a memorandum of agreement (MOA) dealing with the courses to be offered by each institution, facilities to be provided by each institution, the administrative structure of the program, the financial obligation of each institution, and other details necessary for the successful implementation of the joint degree.

10.2. For reporting purposes, the MOA shall denote the percentage of credit for program completers each institution shall receive in state generated graduation reports. It is presumed institutions will split the number of completers in a 50/50 reporting split. However, should there be a significant enrollment disparity between the institutions, the institutions may agree to other mutually agreeable reporting percentages. Each institution shall use enrollment numbers in their own courses as part of their headcount reporting.

10.3. Each institution must contribute coursework to the degree or certificate program with the minimum curricular contribution being 25 percent of the total number of credit hours necessary for completion of the degree or certificate.

10.4. The student shall be admitted to both institutions. However, the institutions shall identify a "home institution" for the student that is responsible for advising, fee and tuition collection, course registration, and administrating other processes necessary to allow the student to successfully complete the course requirements.

10.5. Once the cooperating institutions have executed the MOA, they shall submit a joint program proposal as outlined in section 6 of this document to the Commission for approval.