



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-28
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes
RULE NAME: 133-28 West Virginia Engineering, Science and Technology Scholarship Program

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 18B-1-6

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

N/A

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/21/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/21/2023

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

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

E-mail notification sent to constituents.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

Clarifies and implements the West Virginia Engineering, Science and Technology Scholarship Program

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Guidance for the administration and operation of the West Virginia Engineering, Science and Technology Scholarship Program.

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 OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 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.

133CSR28
TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 28
WEST VIRGINIA ENGINEERING, SCIENCE AND TECHNOLOGY
SCHOLARSHIP PROGRAM

§133-28-1. General.

1.1. Scope. -- This rule clarifies and implements the West Virginia Engineering, Science and Technology Scholarship Program (WV STEM Program).

1.2. Authority. -- W. Va. Code §18C-6-1(b) ~~et seq.~~

1.3. Filing Date. -- ~~April 26, 2005.~~

1.4. Effective Date. -- ~~April 27, 2005.~~

1.5. ~~Modification of Existing Rule: Title 133, Series 28, Legislative Rule of the West Virginia Higher Education Policy Commission dated June 12, 2000. Sunset Provision. – This rule shall terminate and have no further force or effect on August 1, 2029.~~

§133-28-2. Purpose. Definitions.

~~2.1. The intent of the legislation creating the Engineering, Science and Technology Scholarship Program is to:~~

~~2.1.1. Attract talented students to West Virginia colleges and universities to major in engineering, science and technology, and~~

~~2.1.2. Help West Virginia retain its education infrastructure in order to maintain economic growth.~~

2.1. Unless the context in which used clearly requires a different meaning, the definitions contained in W. Va. Code §§ 18B-1-2 and 18C-6-2 apply to this rule in addition to the definitions set forth below:

2.2. “Applicant” means a student who has applied for an initial award or renewal award of a West Virginia Engineering, Science, and Technology Scholarship, but has not yet been awarded the scholarship.

2.3. “Commission” means the Higher Education Policy Commission established by W. Va. Code § 18B-1B-1.

2.4. “Recipient” means a student who met the criteria for and received or is receiving the West Virginia Engineering, Science, and Technology Scholarship as provided in W. Va. Code § 18C6-1, et seq. and this rule.

2.5. “Vice Chancellor” means the Vice Chancellor for Administration, as that term is defined by W. Va. Code § 18B-4-2, or his or her designee.

§133-28-3. Funding. [Reserved]

~~3.1. Special revenue fund known as the "Engineering, Science and Technology Scholarship Fund" will be created in the State Treasury to be administered by the Vice Chancellor for Administration of the West Virginia Higher Education Policy Commission solely for granting scholarships to students enrolling in qualifying educational programs in engineering, science and technology.~~

~~3.2. Monies appropriated by the Legislature, monies received from collections, interest earned on these monies, and monies received by the Vice Chancellor for Administration from other sources will be placed in this fund.~~

~~3.3. Monies remaining at the end of the fiscal year shall not expire or revert and will be used for future scholarships.~~

~~3.4. Additional funding may be received from gifts, grants, contributions, bequests, or endowments.~~

~~3.5. The Vice Chancellor for Administration shall make a reasonable effort to encourage external support for the scholarship program.~~

~~3.6. Fund balances shall be invested with the state's consolidated investment fund.~~

~~3.7. In order to encourage support for the Engineering, Science and Technology Scholarship Program, the Vice Chancellor for Administration may set aside up to one half of the funds appropriated by the Legislature to match non-state source contributions on behalf of a specific institution of higher education in this state. Such match shall be at the rate of two state dollars to each one dollar contributed by a private source.~~

~~§133-28-4. Administration. [Reserved].~~

~~4.1. The Engineering, Science and Technology Scholarship Program shall be administered by the Vice Chancellor for Administration or her/his designee.~~

~~4.2. The Vice Chancellor for Administration, in accordance with a rule promulgated by the West Virginia Higher Education Policy Commission, shall establish appropriate guidelines for program operation.~~

~~4.3. A scholarship selection panel shall be appointed by the West Virginia Higher Education Policy Commission to select the recipients of Engineering, Science and Technology Scholarship Program awards from among those applicants who meet the eligibility criteria set forth in this rule.~~

~~4.3.1. The panel shall consist of seven persons:~~

~~4.3.1.1. One member representing West Virginia engineering, science, and technology professionals;~~

~~4.3.1.2. One member representing community colleges, and~~

~~4.3.1.3. Five members representative of West Virginia engineering, science, and technology higher education administrators and educators.~~

~~4.4. The Vice Chancellor for Administration shall solicit the views of public and private engineering, science and technology agencies and institutions and other interested parties in developing the selection criteria and procedures to be used by the selection panel. These views may be solicited by means of written and published selection criteria and procedures in final form for implementation. Views may also be solicited by means of public hearings on the present and projected engineering, science and technology needs of the state.~~

~~4.4.1. Views may be solicited by such means as:~~

~~4.4.1.1. Contacting various engineering, scientific and technological organizations in the state with an invitation to contribute suggestions as to selection criteria.~~

~~4.4.1.2. Contacting educators in the fields of engineering, science and technology at state colleges and universities to solicit their views.~~

~~4.4.1.3. Inviting officials from selected industries to present their suggestions as to selection criteria.~~

§133-28-5. Number and Amount of Awards.

~~5.1. Engineering, Science and Technology Scholarship Program awards shall not exceed \$3,000 per year for a maximum of four academic years for a baccalaureate degree.~~

~~5.1.1. An award cannot may not exceed the actual cost of tuition and fees at the eligible institution the recipient is attending or \$3,000, whichever is less. If the recipient received other aid to be applied to tuition and fees, the student may use the Engineering, Science and Technology WV STEM Scholarship Program award may be used for other education related expenses so long as the award does not exceed the amount of tuition and fees or \$3,000, whichever is less.~~

~~5.2. An Engineering, Science and Technology WV STEM Scholarship Program award plus other financial assistance awarded to the recipient shall not exceed the cost of attendance as determined by the institution the student is attending. Cost of attendance will shall include the cost of tuition and fees, reasonable allowances for books, educational supplies, room and board, and other expenses necessitated by individual circumstances such as a physical disability.~~

~~5.2.1. Should the scholarship award plus the amount of other financial awards exceed the cost of attendance, the institution's financial aid officer, in consultation with the recipient will determine what aid is to be reduced. This adjustment should be to the best advantage of the recipient.~~

~~5.3. No more than three hundred new scholarships shall be awarded per academic year.~~

~~5.4. There shall be no more than a total of one thousand outstanding scholarships during any academic year.~~

~~5.5. Not less than 20 percent of money appropriated may be awarded to students enrolled in certificate and associate degree programs.~~

§133-28-6. Application Process.

~~6.1. Application forms will be made available to public and private high schools and institutions of higher education in the state and other locations convenient to potential applicants, parents and others. Also, application materials will be available on appropriate higher education websites. To apply for the WV STEM scholarship, students shall complete the application on a form and by a deadline prescribed by the Vice Chancellor.~~

~~6.2. Applications may be distributed and the program advertised to interested parties such as, but not limited to, the National Association for the Advancement of Colored People, the West Virginia Division of Rehabilitation Services, and the West Virginia Women's Commission in an effort to attract students from low income backgrounds, ethnic or racial minority students, students with disabilities, and women or minority students who show interest in pursuing careers in engineering, science, and technology and who are under-represented in those fields.~~

~~6.3. Applications will be submitted on an application form approved by Vice Chancellor for Administration.~~

~~6.4. Applications must be submitted by such deadline as may be designated by the Vice Chancellor for~~

Administration.

§133-28-7. Eligibility Criteria Scholarship Agreements.

7.1. Academic ability shall be the primary criteria for selecting scholarship recipients.

7.2. To be eligible to receive an Engineering, Science and Technology Scholarship, applicants must meet the following conditions:

~~7.2.1. Be a United States citizen or resident alien who meets the definition of an eligible non-citizen under federal Title IV student aid requirements.~~

~~7.2.2. Have a cumulative grade point average (GPA) of at least 3.0 on a 4.0 grading scale or its equivalent upon graduating from high school or have a cumulative average GPA of 3.0 on a 4.0 grading scale after completing two semesters of course work at an eligible institution of higher education.~~

~~7.2.3. Be enrolled or accepted for enrollment in an engineering, science or technology program leading to a certificate or an associate or baccalaureate degree at an eligible institution of higher education. The program must be:~~

~~7.2.3.1. An Accrediting Board of Engineering Technology (ABET) approved technology major~~

~~7.2.3.1.1. This is defined as a major approved by the Technology Accreditation Commission of the ABET;~~

~~7.2.3.2. An ABET approved engineering major;~~

~~7.2.3.2.1. This is defined as a major approved by the Engineering Accreditation Commission of the ABET;~~

~~7.2.3.3. A science major;~~

~~7.2.3.4. An engineering or technology program or major that has been approved by the Vice Chancellor for Administration; or~~

~~7.2.3.5. A program leading directly to specialized certification as established by appropriate industry standards.~~

~~7.2.4. Be enrolled or accepted for enrollment at an eligible institution of higher education.~~

~~7.2.4.1. Eligible institutions include all state institutions of higher education as defined in Section Two, Article One, Chapter Eighteen-b of the State Code of West Virginia, Alderson Broaddus College, Appalachian Bible College, Bethany College, Davis and Elkins College, Ohio Valley College, Salem International University, The University of Charleston, West Virginia Wesleyan College, Wheeling Jesuit University, all in West Virginia, and any other institution of higher education, public or private, approved by the Vice Chancellor for Administration.~~

~~7.2.4.1.1. Only those institutions that are regionally accredited shall be eligible to participate in the Engineering, Science and Technology Scholarship Program.~~

~~7.3. Awarding preference shall be given to applicants who are West Virginia residents.~~

~~7.4. Recipients must be willing to shall sign a scholarship agreement which shall fully disclose the terms and conditions under which an employment obligation, of one year's work in West Virginia for each full year~~

~~of scholarship award or community service relating to engineering, science or technology as approved in advance by the Vice Chancellor for Administration, must be met or repayment will be required as outlined in W. Va. Code § 18C-6-4 and on a form provided by the Vice Chancellor.~~

~~7.52. In addition to academic criteria, the Vice Chancellor for Administration, in consultation with parties as identified in Section 4.4 of these rules, may consider the following in the selection of Engineering, Science and Technology WV STEM Scholarship recipients: established statewide need for workers in engineering, science and technology STEM-related fields; student's current academic standing, standardized test scores, involvement in extracurricular activities, and financial need; a written essay in which the applicant expresses her/his interest in a career in engineering, science or technology STEM-related fields; and reference letters from former teachers or faculty members.~~

~~7.6. To be eligible for scholarship renewal, the recipient must be:~~

~~7.6.1. Enrolled as a full-time student in an eligible institution of education;~~

~~7.6.2. Pursuing a course of study leading to a certificate, an associate or baccalaureate degree in engineering, science or technology, or leading to specialized certification as established by industry-based standards;~~

~~7.6.3. Maintaining satisfactory progress as determined by the institution being attended; and~~

~~7.6.4. Maintaining a cumulative GPA of at least 3.0.~~

§133-28-8. Service Obligation.

~~8.1. Each recipient of the Engineering, Science and Technology WV STEM Scholarship shall enter into an agreement with the Vice Chancellor for Administration. This agreement shall disclose fully the terms and conditions under which the scholarship is provided and under which repayment of the scholarship may be required. Under this agreement, the recipient shall:~~ in accordance with W. Va. Code § 18C-6-4, which agreement shall be set forth on a form prescribed by the Vice Chancellor for Administration and contain at least the following:

~~8.1.1. Unless granted a deferment as set forth in Section 10, agree that within one year after ceasing to be a full-time student at an eligible institution in an eligible STEM program of engineering, science or technology for which the scholarship was awarded she or he will: shall~~

~~8.1.1.1. 8.1.1.a. Begin working full-time in an engineering, science or technology-related approved STEM field in this State for a duration of not less than one year for each year the scholarship was received, or~~

~~8.1.1.2. Begin a program of community service relating to engineering, science or technology as approved in advance by the Vice Chancellor for Administration, or~~

~~8.1.1.3. 8.1.1.b. Begin repayment of all or part of the Engineering, Science and Technology WV STEM Scholarship Program award(s) received plus interest and, if applicable, reasonable collection fees.~~

~~8.3. The obligation of this program shall be met within a ten-year period. If extenuating circumstances exist, as determined by the Vice Chancellor for Administration, the period for fulfilling the obligation may be extended to fifteen years.~~

~~8.4. 8.2. It is the responsibility of the recipient to provide the Vice Chancellor for Administration with evidence of compliance with the in-state employment or community service requirements.~~

§133-28-9. Monetary Repayment.

9.1. ~~If a recipient does not fulfill the service obligation, she/he will be required to make monetary repayment of the scholarship~~ who violates the service obligation or scholarship agreement shall repay the amount of any scholarship award received, plus interest, and, where applicable, reasonable collection fees on a schedule and at a rate as set forth below.

9.2. ~~In addition to the repayment of the scholarship, The Vice Chancellor for Administration shall charge interest will be charged at a rate prescribed by the Vice Chancellor for Administration rate of five percent (5%) per year- and Interest will begin to accrue at the time the repayment period begins.~~

9.3. As permitted by federal law, applicable State regulations, and the terms of the scholarship agreement, the Vice Chancellor may assess reasonable collection costs, late charges and attorney fees ~~may be assessed~~ in the collection of delinquent accounts.

9.4. ~~In instances where repayment of the scholarship is necessary, the length of the repayment period shall not exceed ten years; provided, however, if extenuating circumstances exist, the Vice Chancellor for Administration, upon receipt of appropriate documentation sufficient to demonstrate the circumstance, may extend the period for fulfilling the obligation to 15 years. Extenuating circumstances include, but are not limited to, a temporary disability, inability to secure a full-time position in an engineering, science or technology approved STEM field, or serious family illness.~~

9.5. ~~When, due to poor health, monetary hardship, or other acceptable reasons, a recipient is unable to make payments, a forbearance may be allowed if the Vice Chancellor for Administration or her/his designee has reason to believe, and so documents in the scholar's file, that the recipient does intend to fulfill the monetary obligation. At any time during the repayment period described in Section 9.4, the Vice Chancellor may grant forbearance to the recipient in order to prevent the recipient from defaulting on the repayment obligation or to permit the recipient to resume honoring the repayment obligation after default.~~

9.5.1. For purposes of this Section, "forbearance" means permitting the temporary cessation of payments, allowing an extension of time for making payments, or temporarily accepting smaller payments than previously were scheduled.

9.5.2. The Vice Chancellor may grant forbearance of payments of principal and interest under this Section only if he or she reasonably believes, based upon documentation or other evidence provided by the recipient, that the recipient intends to repay the obligation but, due to poor health or other extenuating circumstances, is currently unable to make the scheduled payments.

9.6. ~~If a recipient fulfils a portion of her/ or his employment obligation, but not the total obligation due, the Vice Chancellor shall pro-rate the repayment amount to be repaid will be pro-rated based upon number of full months the recipient worked. Interest will accrue from the day on which the recipient ceases to fulfill the obligation.~~

§133-28-10. Deferment Provisions.

10.1 ~~A recipient is not considered in violation of the agreement entered into and is eligible for consideration of deferment of fulfilling the obligation, including the cessation of interest accrual, provided she/he is:~~ In addition to the deferment conditions established in W. Va. Code § 18C-6-5, a recipient may be eligible for deferment of the repayment obligation based on extenuating circumstances, including disability, unemployment, or other economic hardship; Provided, That any such deferment granted by the Vice Chancellor shall be limited to no more than two years. The recipient's request for deferment shall be accompanied by documentation of the extenuating circumstance sufficient to show the nature and extent of the circumstance.

~~10.1.1. Pursuing a full-time course of study at an accredited institution of higher education. The student must provide documentation of enrollment on a semester basis. If the Vice Chancellor approves the deferment request, the recipient may defer making scheduled installment payments and shall not be liable for any interest that might otherwise accrue during the approved deferment period.~~

~~10.2.1.2. Serving on active duty, not in excess of four years, as a member of the armed services of the United States. The scholar must provide documentation from an authorized military official of the start date of active duty and discharge date. In the event of noncompliance with the deferment terms, the recipient shall repay the full scholarship award to the Higher Education Policy Commission within 60 days from the date of noncompliance.~~

~~10.2. Deferments may also be considered for other conditions and circumstances as may be approved by the Vice Chancellor for Administration.~~

§133-28-11. Cancellation of Obligation.

11.1. A recipient's service and monetary obligation is excused in the event the recipient:

11.1.1. Becomes permanently and totally disabled as established by sworn affidavit of a qualified physician qualified to make such a determination. ~~The Vice Chancellor for Administration may require additional evidence of the disability.~~

11.1.2. Is deceased. The administrator or executor of the decedent's estate shall submit A copy of the death certificate ~~must be submitted~~ to the Vice Chancellor in order to cancel the obligation.

§133-28-12. Appeal Process.

~~12.1. A recipient may appeal any determination of non-compliance with provisions of the scholarship agreement by submitting a written appeal of the specific complaint within 30 days of notification of non-compliance. Such appeal will be submitted to the Vice Chancellor for Administration of the West Virginia Higher Education Policy Commission or her/his designee for a decision. An applicant or institution may appeal in writing to the Vice Chancellor the denial of an application for an initial award or renewal award within 15 days of receiving notification to the Director of State Financial Aid Programs of the decision. The Director may consult with the appeals committee comprised of financial aid staff, and the Director Vice Chancellor shall issue a written decision upholding or reversing the initial decision within 15 days of receipt of the appeal. The decision of the Vice Chancellor is final.~~

§133-28-13. Collections.

13.1. Institutions and ~~Commission staff~~ the Vice Chancellor shall exercise due diligence in collecting monetary repayments from scholarship recipients.

13.2. Institutional due diligence means:

~~13.2.1. Conducting and documenting an entrance interview (individually or in groups) with the scholarship recipient before disbursing funds in an academic year. This requirement may be met by correspondence if the institution determines that a face-to-face meeting is not practical.~~

~~13.2.2. Conducting and documenting an exit interview with the scholarship recipient in which the institution provides the borrower recipient with information necessary to carry out the terms of repayment, reminds the recipient of the rights and responsibilities associated with the scholarship 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 ~~Commission~~ Vice Chancellor informed of his or her current address, and notifying the Vice Chancellor in writing of a recipient's separation date.~~

13.3. ~~Commission~~ Vice Chancellor due diligence means:

~~13.3.1.~~ 13.3.1. Conducting and documenting an entrance interview with the scholarship recipient before disbursing funds in an academic year.

~~13.3.1.~~ 13.3.2. Notifying the scholarship recipient of his or her obligations at least twice annually during any grace or deferment period.

~~13.3.2.~~ 13.3.3. Performing regular billing.

~~13.3.3.~~ 13.3.4. Following up past due payments with a series of at least four documented and reasonably spaced attempts to contact the ~~borrower~~ recipient using his or her last known contact information, at least three of which must be in writing at not more than 30 day intervals, before the obligation becomes 120 days past due, ~~provided that the Commission has a current address for the borrower.~~

~~13.3.4.~~ 13.3.5. Performing ~~address~~-searches for addresses and other contact information when necessary.

~~13.3.5.~~ 13.3.6. Referring defaulted scholarships more than 120 days past due to the Secretary of the Department of Administration or to a collection agent for collection of a claim due to the State in accordance with W. Va. Code § 14-1-1, et seq.

13.4. In place of one or more of the procedures outlined above, institutions and ~~Commission staff~~ the Vice Chancellor may substitute collection techniques that are equally or more effective, Provided, That those collection techniques are allowed by State and federal law.