



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

7/26/2023 10:18:17 AM

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: Community And Technical College Education TITLE-SERIES: 135-20
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 135-20 Initial Authorization of Degree-Granting Institutions

PRIMARY CONTACT

NAME: Angela S Kerns
ADDRESS: 1018 Kanawha Blvd East
Suite 700
Charleston, WV 25301
EMAIL: kerns@wvctcs.edu
PHONE NUMBER: 304-558-0265

CITE STATUTORY AUTHORITY: 18B-4-7

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:

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: 7/24/2023

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?

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

Revisions to this rule clarify guidelines for policy and procedure and bring the rule into compliance with W. Va. State Code.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule establishes the policy regarding the Council's approval of degree-granting institutions which offer degrees or other postsecondary credentials at or below the associate level.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

NA

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

NA

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

NA

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):

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 20
INITIAL AUTHORIZATION OF DEGREE-GRANTING INSTITUTIONS

§135-20-1. General.

1.1. Scope. -- This rule establishes the policy and procedure regarding ~~accreditation and~~ the Council's approval of degree-granting institutions which offer degrees not above or other postsecondary credentials at or below the associate level.

1.2. Authority. -- West Virginia Code § 18B-4-7

1.3. Filing Date. -- ~~March 29, 2019~~

1.4. Effective Date. -- ~~March 29, 2019~~

1.5. Sunset Date Provision. -- This rule shall terminate and have no further force or effect on ~~March 29, 2024~~ August 1, 2029.

§135-20-2. Purpose.

2.1. The West Virginia Council for Community and Technical College Education is ~~responsible for the authorization of any institution, association, or organization external to or within the State which offers credit-bearing courses or degree programs not above the associate level and which desires to offer such programs or courses of higher learning in the State of West Virginia charged by the Legislature with authorizing independent non-profit and for-profit institutions and out-of-state institutions to provide postsecondary academic credit or to confer degrees in this State.~~ Authorization is required for all postsecondary providers that offer degrees and postsecondary credentials at or below the associate degree level and that regardless of whether they use the term "academy," "college," "institution," "university" or similar title, hereafter referred to as institution verbiage in the name of the operation.

2.2. ~~Prior to offering any course or degree program not above the associate level in the State, the entity shall apply to the Council for authorization to operate in the State. The provisions of this rule shall also apply to any course or programs not above the associate level delivered in the State by an out-of-state institution via distance education based instruction if the institution will have a physical presence in the State. An out-of-state institution that solely delivers a course or program in the state via distance online instruction with no physical presence in the State, as defined in section 3, is exempt from the provisions of this rule. This rule provides institutions of higher education with guidelines and procedures for establishing operations and obtaining authorization to confer degrees in West Virginia. Compliance with the standards ensures that each institution operating in this State meets basic expectations for conferring postsecondary degrees or credentials or delivering instruction creditable toward such postsecondary degrees or credentials.~~

2.3. ~~This rule is designed to protect consumers and to ensure consumers are offered quality education by postsecondary education providers within the State of West Virginia prevent deception of the public resulting from the offering, conferring, or use of fraudulent or substandard degrees and to protect legitimate institutions and those holding degrees from them.~~

§135-20-3. Definitions.

135CSR20

3.1. “Academic credit” means the certification of a student’s successful completion of a unit of a course of study leading to a formal award granted by an institution approved to offer a ~~collegiate postsecondary~~ credential or degree such as an at or below the associate baccalaureate, masters or doctorate degree level.

3.2. “Accreditation” means a status attained by the institution through voluntarily meeting standards ~~set~~ established by a nongovernmental entity recognized by the U.S. ~~Secretary~~ Department of Education to assess and evaluate the quality of the institution and its programs. In this rule, such entity is referred to as “accreditor.”

3.3. “Authorization” means the status ~~attained by the institution~~ granted by the Council that allows the institution to offer programs and courses within the State of West Virginia that lead to conferral of a degree, earned. This status is granted by the WV Council for Community and Technical College Education when the institution demonstrates compliance with the requirements ~~for such status~~ of this rule.

3.4. ~~“Commission” means the West Virginia Higher Education Policy Commission.~~ “Chancellor” means the Chancellor for Community and Technical College Education as that term is defined by W. Va. Code § 18B-1-2 or his or her designee.

3.5. ~~“Council” means the West Virginia Council for Community and Technical College Education~~ “Contact hours” or “clock hours” means the amount of time in actual hours students spend in class under the instruction of and in the physical presence of faculty or instructional staff or in an interactive distance learning course.

3.6. ~~“Council” means the West Virginia Council for Community and Technical College Education as defined by W. Va. Code § 18B-2-1 and as created by W. Va. Code § 18B-2B-1, et seq.~~

~~3.6.~~ 3.7. “Course” means a formally organized, structured series of instructional activities open to the general public for which a fee is charged, and for which credit toward a degree either is awarded or may reasonably be understood to be applicable to a degree with the intent of imparting information or understanding at a level appropriate to a postsecondary audience. Instruction may be in face-to-face meetings or delivered electronically or by other means.

~~3.7.~~ 3.8. “Degree” means any ~~earned award conferred by a higher educational institution which represents satisfactory completion of the requirements of a program, or course of study, or any instruction beyond or apart from the secondary level of greater duration than eleven months of full-time study~~ any designation, appellation, series of letters or words, or other symbol that signifies or purports to signify that the recipient thereof has satisfactorily completed an organized academic program of study beyond the secondary school level.

~~3.8.~~ 3.9. “Degree program” means a ~~defined, integrated curriculum or course of study of greater duration than eleven months of full-time study in a discipline or field that leads to a degree in a discipline or interdisciplinary specialty.~~

~~3.9.~~ 3.10. “Distance education” means the delivery of any course or degree programs by synchronous or asynchronous technology. Asynchronous or synchronous technology via distance delivery includes all forms of internet, electronic, digital, online, video, and any other technology driven delivery system.

~~3.10.~~ 3.11. “Institution” means an educational facility maintained by any person, partnership, firm, public or private corporation, association, agency, institute, trust or other entity of any nature whatsoever offering education beyond the secondary level which: operating as a school, academy, institute, private junior college, college, university, or entity of whatever kind that furnishes or offers to furnish instruction leading toward or prerequisite to a credential or degree beyond the secondary school level, but below the baccalaureate level, and that requires that, in order to obtain a degree, the recipient thereof satisfactorily

complete a degree program. For purposes of this rule, this definition does not apply to any State institution of higher education, as that term is defined in W. Va. Code § 18B-1-2.

~~3.10.a. offers courses or programs of study or instruction which lead to or which may reasonably be understood to be applicable toward an associate degree; or,~~

~~3.10.b. operates a facility as a college or university or other entity which offers degrees or other indicia of a level of educational attainment beyond the secondary school level; or,~~

~~3.10.c. uses the term "college" or "university," or words of like meaning, in its name or in any manner in connection with its academic affairs or business.~~

~~3.11. 3.12.~~ “Physical Presence” means an actual presence in ~~the~~ this State, online or on-site, for the purpose of conducting activity related to a postsecondary educational institution, educational service, dissemination of educational credentials; operations as an institution, including enrollment, solicitation or advertising. Physical presence as ~~further outlined for purposes of authorization shall also~~ includes, but is not ~~be~~ limited to:

~~3.11.a. 3.12.1.~~ ~~An instructional~~ A physical site located within the State from which instruction originates or in which instruction is delivered;

~~3.11.b. 3.12.2.~~ Dissemination of an educational credential from a location within the State;

~~3.11.c. 3.12.3.~~ An agent, whether compensated or not, who is utilized for the purpose of administering, coordinating, teaching, training, tutoring, counseling, advising, recruiting, or any other activity on behalf of the ~~sponsoring~~ institution;

~~3.11.d. 3.12.4.~~ Advertising, promotional material, or public solicitation in any form ~~that targets specifically directed to~~ West Virginia residents through distribution or advertising in the State;

~~3.11.e. 3.12.5.~~ Instructional delivery that receives assistance from any other organization within the State ~~in that~~ to facilitate or provide such delivery.

~~3.11.f. 3.12.6.~~ Clinical experiences, internships, or other similar curricular ~~requirement~~ activity. ~~Activities exempt from this definition include:~~ This subsection does not apply to online instructors residing in West Virginia but having no direct, in-person contact with students, and or individuals participating in college fairs coordinated by the Council, and local school districts, or other providers of primary or secondary education.

~~3.12. 3.13.~~ “Preliminary status” means a six-month period of time that the Council grants to an institution ~~is granted by the Council~~ to satisfactorily complete preliminary information as required by ~~the regional or other appropriate, acceptable, accrediting association~~ accreditor. During this time period, the institution ~~shall~~ may not accept students, offer instruction, award credits toward a degree, or award a degree until granted further authorization by the Council.

~~3.13. 3.14.~~ “Probationary status” means that the Council has authorized an institution ~~has been authorized by the Council~~ to enroll students, offer instruction, graduate students, and award degrees or postsecondary credentials under the condition that the institution is continuously seeking and making satisfactory progress toward acquiring full accreditation and full State authorization.

~~3.14. 3.15.~~ “Reauthorization” is the process by which an institution annually renews its ~~status as an institution authorized to offer programs and courses for West Virginia residents~~ authorization by the Council. This status is granted by the WV Council for Community and Technical College Education when

~~the institution demonstrates compliance with the requirements for such status~~ process is governed by 135 C.S.R. 52, Annual Reauthorization of Degree-Granting Institutions.

~~3.15; 3.16.~~ “Religious, theological, or faith-based institution” means a postsecondary institution that offers no general degree programs other than those specifically related to the institution’s doctrine. Institutions that offer general degree programs cannot be exempted by this rule as religious, theological, or faith-based. and limits its course of instruction to religion, theology, or preparation for a religious vocation or is operated by a church or religious organization and limits its instruction to preparation for service to churches or other religious organizations.

~~3.16; 3.17.~~ “Unearned Tuition” means the portion of tuition paid for which the institution has not fulfilled its contractual agreement.

§135-20-4. Exemptions Authorization Required; Exceptions.

~~4.1. Institutions that clearly qualify as exemptions under this rule and after Council staff review shall be considered exempt from authorization. Institutional exemption is subject to annual review and/or revocation any time the activity deviates from the original determination factors for exemption. The following institutions shall be exempt from the provisions of this rule: No institution may advertise, solicit, recruit, enroll, or confer a degree or postsecondary credential or any object in evidence thereof in this State unless and until authorized by the Council to do so.~~

4.2. Religious, theological, or faith-based institutions are excepted from the requirement of Council authorization. However, any such institution that offers general degree programs shall seek authorization in accordance with this rule.

4.3. The following out-of-state institutions are excepted from the requirement of Council authorization:

~~4.1.a. Out of state institutions:~~

~~4.1.a.1. 4.3.1. Those offering courses through brokering a partnership or other collaborative arrangements with a West Virginia public State institution of higher education and through which it provides support for the State institution’s programmatic offerings of the state institution;~~

~~4.1.a.2. 4.3.2. Those offering a short course or seminar in which the instruction for the segment takes no more than twenty classroom 20 clock (contact) hours and is not for college credit; or~~

~~4.1.a.3. 4.3.3. Those offering courses or programs on a military installation solely for military personnel or civilians employed on such installation.~~

~~4.1.b. 4.4. Non-degree granting institutions whose programs are designed primarily for direct job entry or upgrading of job skills and are described in clock (contact) hours are excepted from the requirement of Council authorization. These programs typically prepare individuals for employment and do not require courses beyond those specific to the job or its field with program length sufficient to effect achieve outcomes.~~

~~4.2. 4.5. Each institution of higher education which that claims to be exempt under the provisions of excepted from authorization by this section must file with shall provide to the Council such any information as may be required requested by the Council to determine whether the institution is exempt exception applies. The Council shall receive the institution’s written request for an exemption must be received by the Council such determination at least 30 days prior to the proposed initiation date of the institution proposes to begin offering a course of instruction. The Council shall notify the institution of its determination in writing indicating whether or not the institution is exempt.~~

§135-20-5. Institutional Titles.

5.1. An institution shall use ~~within the state~~ a title appropriate to the program and degree it offers in ~~the~~ this State.

5.2. No person, firm, association, institution, trust corporation or other entity shall use in any manner ~~within West Virginia~~ the term “college” or “university” or any abbreviation thereof, or any words or terms tending to designate it as, or create the impression that it is, an authorized institution ~~of higher education~~, unless and until it ~~shall have obtained the appropriate~~ obtains authorization as provided in this rule.

5.3. This section ~~shall~~ does not apply to any institution which used the term “college” or “university” prior to ~~the effective date of this rule~~ July 1, 2006.

5.4. This section ~~shall~~ does not apply to individual proprietorships, associations, co-partnerships, or public or private corporations which use the words “college” or “university” in their branding of training programs ~~solely for the delivery of which is limited to their employees or customers~~, which do not offer degree programs, and whose name includes the word “college” or “university” in a context from which it clearly appears that such entity is not an educational institution.

§135-20-6. Authorization to Operate.

~~6.1. No institution may advertise, solicit, recruit, enroll, or operate a postsecondary education institution until it is authorized for operation in the State of West Virginia by the Council.~~

~~6.2. An institution locating in West Virginia must register with the Secretary of State’s office prior to making any application to the Council for authorization.~~

~~6.3. 6.2. All institutions and religious, theological, or faith-based colleges not excepted per Section 4 and offering any degree above or postsecondary credential at or below the associate degree level, as specified in section 7.4 of this rule, shall register with~~ apply for and receive from the Council, ~~shall meet the authorization criteria, and shall be granted initial~~ authorization prior to offering any program of instruction, credit, or degree; opening a place of business; soliciting students or enrollees; or offering educational support services.

~~6.4. 6.3. All institutions offering degrees at the associate level shall register with the Council, shall meet the its authorization criteria, and shall be granted authorization prior to offering any program of instruction, credit, or degree; opening a place of business; soliciting students or enrollees; or offering educational support services. Applicants for initial authorization shall demonstrate compliance with the Council’s standards for academic programs, which encompass institutional accreditation, mission and governance, institutional and program resources and facilities, academic policies, student support services, curriculum, faculty capacity, and credentialing and assessment as set forth in this rule.~~

~~6.5. All institutions offering degrees above the associate level shall register with Commission, shall meet the authorization criteria, and shall be granted authorization prior to offering any program of instruction, credit, or degree; opening a place of business; soliciting students or enrollees; or offering educational support services. Granting of authorization of such institution is the responsibility of the Higher Education Policy Commission.~~

~~6.6. Authorization of institutions offering associate degrees is the responsibility of the West Virginia Council for Community and Technical College Education.~~

~~6.7. Institutions and religious, theological or faith-based colleges shall be authorized under the provision of this rule.~~

~~6.8. Institutions which are formed, chartered, or established outside West Virginia and have been fully accredited by a regional accrediting association or by another accrediting body recognized by the U.S. Department of Education and which seek to offer courses and/or academic degree programs within West Virginia shall be authorized by the Commission to offer programs and courses within West Virginia under provisions of section 7.3 of this rule.~~

~~6.9. Newly established institutions located in West Virginia and those seeking accreditation by a regional accrediting association and/or by another accrediting body recognized by the U.S. Department of Education, may not offer courses or degree programs without Commission authorization to locate, relocate or establish a branch campus in West Virginia. The institution must seek Commission authorization to offer courses and/or academic programs within West Virginia per the provisions of section 7.2 of this rule.~~

~~6.10. 6.4. Institutions wishing seeking to exceed or change their approved programmatic mission must shall receive approval from the Council to offer each program that exceeds the level of academic degrees that the institution is authorized to grant. Documentation must be submitted Such institution shall submit documentation to the Council, signed and verified by the chief executive officer of the institution, that specifies the scope of the proposed change, including long-range plans for new degree programs and programs that exceed the level of academic degrees currently authorized for the institution. Requests The Council shall evaluate requests to exceed an institution's programmatic mission shall be evaluated based on the following criteria: objectives of proposed program; relationship of program to statewide mission and plan; demonstration of need; effect of new program on existing programs at other institutions; resource availability; qualified faculty and administrators; library holdings and support; facilities and equipment; and evidence of strength to offer the proposed program.~~

~~6.11. An out-of-state institution that seeks to offer online courses and programs in West Virginia and determined to have physical presence in West Virginia is subject to the provisions of section 8 of this rule.~~

~~6.12. 6.5. Before an institution of higher education can be authorized by the Council to operate within the State of West Virginia, Proprietary schools seeking initial authorization shall post a surety bond must be provided by the institution. The obligation of the bond will be that the institution, its officers, agents and employees will faithfully perform the terms and conditions of contracts for tuition and other instructional fees entered into between the institution and persons enrolling as students. The bond shall be issued by a company authorized to do business in the state. The bond shall be to the Council in such form as approved by the Council and is to be used only for payment of a refund of tuition and other instructional fees due a student or potential student. The amount of the bond shall be \$100,000 and shall be renewed annually. The Council, if it deems appropriate, may reduce the amount of the bond if an institution has less unearned tuition than \$100,000, but in no event shall be less than \$20,000 in accordance with W. Va. Code § 18B-2B-9 and 135 C.S.R. 35, Business, Occupational, and Trade Schools.~~

~~6.13. 6.6. If instruction is to be delivered at Institutions with a physical location within the State of presence in West Virginia, the applicant institutions must secure, from appropriate local agencies, documentation that shall meet all applicable health, safety, fire, and sanitation codes are met by the proposed instructional facilities. If such inspections are unavailable, the institution must present a copy of a recent letter from the local inspection agency indicating that such inspections are unavailable. Additionally, instructional delivery sites must be compliant with laws, including the Americans with Disabilities Act guidelines and provide documentation of such compliance to the Council upon request.~~

~~6.14. 6.7. Institutions seeking West Virginia authorization may withdraw from the authorization process at any time upon written notification to the Vice Chancellor for Academic Affairs of the West Virginia Council for Community and Technical College Education.~~

§135-20-7. Procedures for ~~Granting of~~ Applying for Initial Authorization.

7.1. ~~Process for securing authorization.~~

~~An institution which is interested in gaining authorization to operate within the State of West Virginia must follow the prescribed procedures outlined in this rule to be considered for the requested authorization. No institution shall operate until it meets the essential conditions established by the Council and defined in this rule. Institutional accreditation must be documented or its potential for accreditation established and accepted by the Council. Institutions authorized to operate pending full accreditation shall pursue full accreditation continuously and shall make reasonable and timely progress toward accreditation in order to retain authorization.~~

~~When a change in ownership occurs with an institution, the Council shall reassess the institution's authorization status within six (6) months of the notification of the change in ownership.~~

~~7.2. Newly established institutions in West Virginia and those seeking accreditation~~ Newly established institutions in West Virginia and those seeking accreditation by ~~an regional accrediting association and/or by another accrediting body~~ must accredit ~~shall~~ seek Council authorization to offer courses and/or academic programs within West Virginia. ~~Following is a description of the steps in the authorization process by submitting an application on a form prescribed by the Council, signed and verified by the chief executive officer of the institution, and accompanied by an application fee of \$6,000, which fee the Council may adjust from time to time as it deems necessary. Following are the steps to be taken by the institution and the Council to initially authorize an institution:~~

~~7.2.a. 7.1.1. It is the responsibility of~~ The applying institution to shall contact the Secretary of State's office to determine ~~if registration is required within the state~~ compliance with its requirements for starting or operating a business in West Virginia.

~~7.2.b. 7.1.2. A~~ The applying institution shall attend a preliminary conference shall be held between the institution's chief executive officer or designee of the institution seeking authorization to operate a degree granting institution in the State of West Virginia and the Vice Chancellor for Academic Affairs to the Council for Community and Technical College Education or designee. The agenda shall include a discussion of criteria ~~to be met by the institution~~ must meet and ~~procedures used in applying for requested~~ it must follow to obtain authorization.

~~7.2.c. 7.1.3. Following the preliminary conference, the institution shall submit~~ The applying institution shall submit a self-study report following the preliminary conference that including includes all requested documents and materials related to initial authorization, including ~~those which address the complete and accurate documentation demonstrating fulfillment of the essential conditions in Section § 9 of this rule, as may be requested.~~ An initial application fee of \$6,000 must accompany the submission of documentation for those institutions seeking authorization. The Council may adjust all fees charged as deemed necessary including evidence of a critical and compelling regional or Statewide need or demand for the specific academic degree program(s) in West Virginia.

~~7.2.d. 7.1.4. Upon receipt of the completed self study report and all documentation, the Council staff shall organize a compliance review committee to~~ The applying institution shall facilitate and participate in the Chancellor's visit to the site(s) of the institution seeking state authorization and any follow-up meetings requested by the Chancellor. At the discretion of the ~~Council staff~~ Chancellor, the Chancellor may form a compliance review committee, which may participate in the Chancellor's site visit may take place at the Council office or other appropriate locations. The principal task of the compliance review committee will be is to verify that the institution ~~complies with~~ meets the Council's standards for

preliminary authorization and to report its findings to the Council. The compliance review committee ~~shall~~ may be composed of any or all of the following:

~~7.2.d.1. 7.1.4.a.~~ Persons who are qualified by academic training or professional experience to verify the institution's compliance with Council standards for approval.

~~7.2.d.2. 7.1.4.b.~~ Members of the Council staff. ~~The Vice Chancellor for Academic Affairs or designee shall serve as chair of the committee as directed by the Chancellor.~~

~~7.2.d.3.~~ ~~The visit will be scheduled at a time which is mutually convenient to the institution and the Council. The institution shall pay the reasonable expenses associated with the compliance review visit.~~

~~7.2.e. 7.1.5.~~ Following the site visit and review of submitted documentation, the ~~compliance review committee will~~ Chancellor shall prepare an analysis of the findings and develop a recommendation for the Council regarding the ~~institutional~~ institution's application. ~~Only those institutions whose proposed offerings meet state standards of quality will be recommended for authorization. The report will contain:~~

~~7.2.e.1.~~ a report by the compliance review committee; and,

~~7.2.e.2.~~ a recommendation by the compliance review committee for action by the Council regarding granting preliminary authorization as provided for in section 7.2.h of this rule.

~~7.2.f. 7.1.6.~~ ~~A~~ The Chancellor shall provide to the applying institution a draft of a staff the report prepared in accordance with this ~~subsection will be provided to the institution~~ for correction of factual errors and comment. The institution may ~~provide the Council a response~~ respond to the draft report within ~~ten~~ (10) working days of ~~receipt of the report~~ receiving it. ~~The institutional~~ Chancellor shall include the institution's comments will be included with the compliance review committee in the report presented to the Council.

~~7.2.g.~~ ~~An out of state institution seeking to establish a campus in West Virginia that holds appropriate accreditation as determined by the Council and that meets the essential conditions as provided in section 9 of this rule may be granted full authorization by the Council.~~

~~7.2.h. 7.1.7.~~ Upon receipt and review of the ~~compliance review committee~~ Chancellor's recommendation, the Council ~~will consider~~ may grant the institution ~~for~~ Preliminary State Authorization effective for ~~a period of time~~ up to six (6) months. Within that period of time the institution shall satisfactorily complete ~~the preliminary information as process~~ required by the ~~regional and/or other appropriate accrediting association accreditor,~~ and shall During this time, the institution may not accept students, offer instruction, award credits toward a degree, or award a degree until granted further the Council grants full authorization by the Council. If the applying institution does not satisfactorily complete the preliminary accreditation process during its six-month Preliminary Authorization period, the Council may suspend or revoke its authorization.

~~7.2.i. 7.1.8.~~ If, at the time of applying for initial authorization, the institution ~~does not hold accreditation is not fully accredited by an accreditor,~~ the ~~Council staff~~ Chancellor shall request ~~submission of the institution to submit~~ information verifying its accreditation status and/or evidence of "reasonable and timely progress" toward achieving accreditation. "Reasonable and timely progress" toward accreditation ~~is understood to be means~~ a status with the ~~regional accrediting association or an acceptable alternative accrediting association recognized by the U.S. Department of Education~~ an accreditor, (recognition which status shall be documented), that indicates indicating that the accreditor has determined that the institution has been determined to hold has the potential for accreditation and is actively pursuing accreditation within the timetable established by the ~~regional accrediting association (unless an alternative timetable has been~~

~~presented to and accepted by the Council) accreditor: Provided, That the institution may submit an alternative timetable to the Council for approval.~~

~~7.2.j. 7.1.9.~~ Once the institution has been accepted for consideration for candidacy by the ~~regional accrediting organization and/or other appropriate accrediting association~~ accreditor and has submitted ~~evidence to this fact~~ documentation of the same to the Council, the Council may grant the institution shall be placed on Probationary Authorization status: *Provided, That the institution has met all other criteria for initial authorization.* The institution shall remain on Probationary Authorization status no longer than six ~~(6)~~ years.

~~7.2.k. If at the discretion of the Council, satisfactory evidence is not received within six (6) months of the granting date of Preliminary Authorization status, that authorization may be suspended or revoked.~~

~~7.2.l. 7.1.9.a.~~ An institution holding Probationary Authorization status shall ~~undertake the continuously pursue accreditation process immediately~~ and shall comply with ~~the all~~ accreditation requirements and procedures to achieve full ~~institutional~~ accreditation. If the applying institution does not continuously pursue accreditation during its period of Probationary Authorization, the Council may suspend or revoke its authorization.

~~7.2.m. Failure to pursue accreditation continuously, as provided in this rule, shall result in loss of state authorization.~~

~~7.2.n. 7.1.9.b.~~ Each institution ~~with holding~~ Probationary ~~State~~ Authorization status shall submit an annual report ~~in a format determined by Council staff. A~~ to the Council along with a nonrefundable fee of \$500 shall accompany the submission of the annual report while the institution is maintaining Probationary State Authorization status. The Council may adjust all fees charged as deemed necessary, which fee the Council may adjust from time to time as it deems necessary. The annual report ~~should~~ shall be in a form prescribed by the Council, signed and verified by the chief executive officer of the institution, and include the following:

~~7.2.n.1. 7.1.9.b.1.~~ Any changes or additions to information previously submitted as part of the ~~basis~~ application for Preliminary ~~State~~ Authorization;

~~7.2.n.2. 7.1.9.b.2.~~ A copy of or link to the institution's current catalog with major changes cited;

~~7.2.n.3. 7.1.9.b.3.~~ The ~~latest~~ institution's financial statement from the most recent ~~institutional~~ fiscal year;

~~7.2.n.4. 7.1.9.b.4.~~ ~~an~~ The institution's enrollment report from the most recent academic year;

~~7.2.n.5. 7.1.9.b.5.~~ A list of all institutional personnel including staff, instructors, administrators, and agents;

~~7.2.n.6. 7.1.9.b.6.~~ Summary data on student State and federal financial aid;

~~7.2.n.7. 7.1.9.b.7.~~ Data on student retention;

~~7.2.n.8. 7.1.9.b.8.~~ Program completion data, as applicable;

~~7.2.n.9. 7.1.9.b.9.~~ Status of progress toward receiving full accreditation ~~status~~ from ~~accrediting agency~~ the accreditor; and,

~~7.2.n.10. 7.1.9.b.10. such~~ Any other information or clarification ~~deemed necessary~~ requested by ~~Council staff~~ the Chancellor for determination of authorization recommendation.

~~7.2.o. 7.1.9.c.~~ Following the ~~on-site accreditation~~ accreditor's site visit and action by the Higher Learning Commission of the North Central Association of Colleges and Schools and/or other appropriate accrediting association granting the institution accreditation status, the institution shall immediately notify the Council, which will ~~may~~ then assign authorize the institution an ~~authorization status from among the following as follows:~~

~~7.2.o.1. 7.1.9.c.1. Fully authorized~~ Full Authorization, as a result of the decision by the ~~accrediting association~~ accreditor to accredit the institution, and the institution having demonstrated compliance with the essential conditions for Authorization as set forth in Section 9 below.

~~7.2.o.2. 7.1.9.c.2. Continuation of Continued~~ Probationary State Authorization. ~~An institution that holds candidacy for accreditation shall submit annual reports to the Council documenting its progress toward the achievement of accreditation consistent with policy of appropriate accreditation associations. Continuation of this status shall not extend beyond six (6) years pending the institution's appeal of an accreditor's denial of accreditation. The Council may only grant Continued Probationary Authorization upon a showing of good cause by the institution in its annual report or other submission to the Council that it is continuing to pursue accreditation and that it continues to meet the criteria for initial authorization set forth in this rule.~~

~~7.2.o.3. 7.1.9.c.3. Not Authorized as a result of denial of accreditation by the accrediting association~~ accreditor and the institution's loss of all available appeals of that denial or the institution's failure to meet the criteria for initial authorization set forth in this rule.

~~7.2.o.4. Continuation of Probationary State Authorization status pending an appeal of denial of accreditation by the Higher Learning Commission of the North Central Association. Continuation on these grounds shall only be granted upon showing good cause to the Council. An institution's final authorization status will be based upon the action taken by the accrediting association.~~

7.1.10. An institution that changes ownership while its application for initial authorization is pending shall immediately notify the Council of such change and update its application accordingly. Within six months of receiving written notification of such change of ownership, the Council shall reassess the institution's authorization status.

~~7.3.7.2.~~ Accredited, out-of-state institutions having their principal places of operation outside West Virginia and seeking to locate offer courses or degree programs at a physical location in West Virginia shall consult with the Secretary of State as required by Subsection 7.1.1. above. These out-of-state institutions shall also meet the following requirements:

~~Any higher education institution having its principal place of operation outside West Virginia which holds regional or other appropriate accreditation and which desires to offer courses and/or degree programs at a physical location within West Virginia must be authorized by the Council.~~

~~Following is a description of the steps in the authorization process:~~

~~7.3.a. It is the responsibility of the applying institution to contact the Secretary of State's office to determine if registration is required within the state.~~

~~7.3.b. 7.2.1.~~ The institution ~~must~~ shall submit an application ~~for approval to~~ on a form prescribed by the Council Chancellor for each course or degree program to be offered at the site and an application fee not to exceed \$500. The application ~~should~~ shall include written unconditional assurance certify that:

~~7.3.b.1. 7.2.1.a.~~ Each course or program of study proposed to be offered in West Virginia has been approved by the governing board of the institution, and if applicable, by the appropriate state agency in the state where the main campus of the institution is located.

~~7.3.b.2. 7.2.1.b.~~ The institution has been ~~approved~~ authorized to operate as necessary by the appropriate agency, if any, in the state where the main campus of the institution is located.

~~7.3.b.3. 7.2.1.c.~~ The institution offers degree programs at the level for which credit is proposed to be awarded in those programs in West Virginia.

~~7.3.b.4. 7.2.1.d.~~ The out-of-state institution is authorized by its ~~appropriate accrediting body~~ accreditor to offers degree programs outside the state where the main campus is located.

~~7.3.b.5. 7.2.1.e.~~ Any credit earned in West Virginia can be transferred to the institution's principal location outside West Virginia as part of an existing degree program offered by the institution.

~~7.3.b.6. 7.2.1.f.~~ The institution offers the same program at the same level at its principal location outside West Virginia that it seeks to offer at a physical location in West Virginia.

~~7.3.b.7. 7.2.1.g.~~ The institution ~~presents~~ provides data that projects market demand and availability of openings in the job market to be served by the new program ~~for which~~ that the institution is seeking authorization to offer in West Virginia.

~~7.3.e. 7.2.2.~~ In making its determination, the Council ~~will~~ shall consider whether the proposed degree programs or courses duplicate existing offerings of other institutions of higher education at the locations for which approval is requested.

~~7.3.d. 7.2.3.~~ ~~Authorization for~~ The Council may authorize degree programs ~~may be~~ for a period of up to four years at a specified location; ~~with~~ Provided, That the institution submits an application for renewal of the authorization required to be filed with the Council at least ninety 90 days prior to the initial authorization's expiration of the authorization. ~~Authorization for~~ The Council may authorize courses ~~may be granted~~ for a period of one year at a specified location; ~~with~~ Provided, That the institution annually submits an application for renewal of the authorization required to be filed annually with the Council at least ninety (90) days prior to the initial authorization's expiration of the authorization.

~~7.3.e. 7.2.4.~~ Accredited, out-of-state institutions authorized to deliver programs and/or courses in West Virginia for a specified period of time are not subject to the annual reauthorization provision of Section 14 of this rule.

~~7.3.f. 7.2.5.~~ The Council may waive or modify any or all of the reporting requirements ~~for institutions that are delineated in section 9 of~~ established in this rule.

~~7.3.g. 7.2.6.~~ ~~Any out of state or private accredited~~ The Council shall notify in writing all institutions that is granted authorization shall receive written notification of acceptable status of its final decision on their applications for authorization, and will be The Council shall assessed such institutions an initial authorization fee not to exceed \$500.

~~7.4. 7.3.~~ Religious, theological or faith-based institutions. -- To qualify as a religious, theological, or faith-based college excepted from initial authorization by the Council, an institution ~~must qualify both as~~

~~an institution as defined in section 3 of this rule and as a~~ shall submit an application for such exception on a form prescribed by the Chancellor, which shall be signed and verified by the chief executive officer of the institution. The application shall include documentation that the operation meets the definition of religious, theological or faith-based institution based on meeting provided in Section 3 of this rule and that it meets each of the following criteria:

~~7.4.a. 7.3.1. Be~~ The operation is a non-profit institution owned, controlled, and operated, and maintained by a bona fide church or religious denomination, lawfully operating as a non-profit religious corporation.

~~7.4.b. 7.3.2. Limit the~~ The operation limits its educational program to the principles of that church or denomination, and the diploma or degree is limited to evidence of completion of that education.

~~7.4.c. 7.3.3. Only grant~~ The operation grants degrees or diplomas only in areas of study that contain on their face, in the written description of the title of the degree or diploma being conferred, a reference to the theological or religious aspect of the degree's subject area.

~~7.4.d. 7.3.4. Not~~ The operation does not market, offer, or grant any general academic degrees or diplomas, which are represented as being linked to a church or denomination, but which, in reality, are degrees in secular areas of study but instead confers only degrees, diplomas, and other written evidence of proficiency or achievement that bear titles clearly signifying the religious, theological, or faith-based nature of the instruction offered by the institution.

~~7.4.e. 7.3.5. Have obtained exemption~~ The institution is exempt from ad valorem property taxation under State law and shall have submitted a copy of the certificate of this exemption to the Council.

~~7.4.f. 7.3.6. Additional~~ The operation may submit additional evidence may be provided by an institution seeking to substantiate substantiating that the institution it is a religious, theological, or faith-based, institution including:

~~7.4.f.1. 7.3.6.a. Evidence~~ Documentation that the institution holds at least pre-accreditation status with a nationally recognized accrediting association: an accreditor;

~~7.4.f.2. 7.3.6.b.~~ A statement of institutional mission clearly establishing the mission of the institution as solely religious, theological, or faith-based and curricula and degree, diploma, or certification programs that clearly support that mission singularly; and

~~7.4.f.3. 7.3.6.c. Other appropriate, substantial, documentary~~ evidence of qualification for state exception from the requirements of initial authorization as a religious, theological, or faith-based college institution.

~~7.4.g. 7.3.7.~~ An institution shall not be eligible for is not excepted from the requirement of initial authorization as a religious, theological, or faith-based college institution if it offers degrees appropriate only for academic institutions, such as, but not limited to, Associate of Arts, Associate of Science, or other degrees typically offered by academic institutions, regardless of curriculum of course content, unless the degree title includes the religious field of study (e.g., "Associate of Arts in Religious Studies"). Institutions authorized operating as religious, theological, or faith-based colleges also shall may not offer degrees associated with specific professional fields or endeavors not clearly and directly related to religious studies or occupations.

~~7.4.h. 7.3.8.~~ An authorized religious, theological, or faith-based college, its educational programs institution shall prominently disclose on any of its transcripts, degrees and diplomas, and its honorary degrees, or other written evidence of proficiency or achievement, and include in any promotional materials

~~or other literature intended for the public the statement: have no state approval or recognition status whatsoever. An institution operating under this authorization shall not state or imply by any means whatsoever that there exists any endorsement by the state or by any agency or agent of the state of the education, documents awarded by the institution, or the institution itself, other than the institution's authorization to operate "This institution is not authorized by the West Virginia Council for Community and Technical College Education or the State of West Virginia."~~

~~7.4.i. 7.3.9. An institution authorized operating as a religious, theological, or faith-based college institution pursuant to this rule is not subject to the annual reauthorization provisions of this rule governed by 135 C.S.R. 52, *Annual Reauthorization of Degree-Granting Institutions*, so long as it continues to meet the criteria established herein: *Provided*, That if, at any time after the Council's written determination that the institution is excepted from the requirement of initial authorization, the operation or mission of any religious, theological, or faith-based institution changes and it begins offering general academic degree programs or courses of study, such institution shall notify the Council immediately and submit an application for initial authorization in accordance with Subsection 7.1. or 7.2. of this rule.~~

§135-20-8. Authorization Procedures for Out-of-State Institutions with Physical Presence in West Virginia.

~~8.1. An out-of-state institution with physical presence in West Virginia, as defined in Section 3, but no physical location within the State, must abide by the following procedures for initial authorization shall apply to the Council for initial authorization by submitting a written application on a form prescribed by the Chancellor that is signed and verified by the chief executive officer of the institution and includes the following:~~

~~8.1.a. 8.1.1. Submit appropriate documentation to discern if physical presence is triggered as defined in Section 3 of this rule. Documentation that the institution has established a "physical presence" in West Virginia, as that term is defined in Section 3 of this rule;~~

~~8.1.b. 8.1.2. Submit d)Documentation of appropriate accreditation by an accreditor;~~

~~8.1.e. 8.1.3. If Council staff determines that the institution's activities constitute physical presence, the institution shall submit a)An initial application fee of \$500, which the Council may adjust or waive as it deems appropriate;~~

~~8.1.d. 8.1.4. The Council staff may, at its discretion, adjust or waive the application fee. Documentation that the institution is authorized to operate by the appropriate agency in its home state; and~~

~~8.2. 8.1.5. The Council staff, at its discretion, may request Any additional information from the institution to ascertain whether it meets the essential conditions provided in Section 9 of this rule in the determination of the conferral of initial authorization required by the Chancellor to determine whether to grant the institution's application for initial authorization.~~

~~8.3. 8.2. Once initial authorization is conferred by the Council, authorization for West Virginia physical presence may be for a period of The Council may authorize an institution with a physical presence, but not a physical location, in West Virginia for up to four years; with *Provided*, That the institution submits an application for renewal of the authorization required to be filed with to the Council at least ninety 90 days prior to the expiration of the initial authorization.~~

~~8.4. Any accredited institution seeking to retain authorized physical presence in West Virginia, will be assessed a reauthorization fee not to exceed \$500.~~

~~8.5- 8.3.~~ Institutions authorized under this section are not subject to the reauthorization provisions of ~~section 14 of this rule~~ process established in 135 C.S.R. 52, *Reauthorization of Degree-Granting Institutions*.

§135-20-9. Criteria for Authorization Essential Conditions.

9.1. Essential Conditions. -- An institution seeking initial authorization ~~to operate in West Virginia~~ must shall meet the following essential conditions ~~and accreditation standards established by the Council. To apply for Preliminary State Authorization the institution must provide to the Council full complete and accurate documentation that demonstrates fulfillment of the essential conditions including evidence of a critical and compelling regional or statewide need or demand for the specific academic degree programs(s) in the state.~~

9.1.a. ~~9.1.1.~~ Familiarity with accreditation and State authorization policies and procedures. The institution shall provide evidence that it is familiar with and understands its accreditor's accreditation procedures of the Higher Learning Commission of the North Central Association and/ or other appropriate body and State authorization ~~policies~~ rules and procedures. The statement ~~should~~ shall indicate perceived strengths and weaknesses with respect to accreditation criteria and assess the institution's capabilities of the institution in achieving ability to achieve accreditation status. It shall state the name of the ~~accrediting association(s)~~ accreditor from which the institution is seeking accreditation ~~will be sought~~. If the institution has secured full accreditation status, it shall submit a copy of the final accreditation report ~~shall be submitted~~ to the Council.

9.1.b. ~~9.1.2.~~ Statement of mission. ~~A statement of~~ The institution shall provide a copy of its mission shall have been developed statement, which has been formally adopted by the institution's governing body and made public, and which defines the basic character of the institution, including a brief description of the educational programs to be offered and their purposes, the students for which the programs are intended, the geographical area served by the institution (or the particular constituency it serves), and a description of how the institution will fit within the broader higher education community. The mission shall be appropriate to an institution of ~~higher education~~ and the institution must plan to award degrees.

9.1.c. ~~9.1.3.~~ Institutional organization, administration, and delivery sites.

9.1.c.1. ~~9.1.3.a.~~ ~~A~~ The institution shall have an established governing board that possesses and exercises necessary legal power to establish enact and review basic policies that govern the institution ~~shall have been formally established~~. The board shall include among its members ~~some people~~ who represent the public interest and are sufficiently autonomous from the administration and ownership to assure the integrity of the institution. ~~The Council shall be provided~~ institution shall submit a list of the members of the board with a brief resume of each.

9.1.c.2. ~~9.1.3.b.~~ ~~An~~ Documentation that the governing board has designated a chief executive officer shall be designated by the governing board to provide administrative leadership for the institution; ~~This including the chief executive officer's name, title, current vita, and the physical and mailing address of the administrative office, shall be provided to the Council if different.~~

9.1.c.3. ~~9.1.3.c.~~ If faculty members are employed at the time ~~the of~~ application is filed with the Council, ~~faculty members'~~ the institution shall submit their names, their academic credentials (degrees, previous experience, etc.), and their teaching fields ~~shall be identified~~. If no faculty members have been employed, the institution shall describe the qualifications of the faculty ~~that is to be recruited~~ it is recruiting and the procedures ~~that will be used~~ it is using to find and contract with faculty members.

9.1.c.4. ~~9.1.3.d.~~ The institution shall provide a description of the method of program delivery and/or the physical location of course delivery ~~shall be defined~~. If a program is designed for online delivery,

it shall meet best practice guidelines for distance education delivery as outlined by the ~~regional accrediting agency~~ accreditor. If the program is designed for traditional classroom delivery, the institution shall identify the proposed physical location shall be identified.

~~9.1.e.5. 9.1.3.e.~~ To assure that instructional delivery sites meet applicable State standards for health and safety, institutions ~~must shall~~ secure a certificate of occupancy and recent fire inspection report from the State Fire Marshal's office for each instructional delivery site. ~~These requirements are not applicable if delivery is in a public building that already has regular health, safety, and fire inspections, upon receipt of the institution may instead submit a copy of the building's last approved inspection report.~~ If the nature of the building is ~~changed~~ changes, the institution shall submit additional updated inspections will be required reports.

~~9.1.e.6. 9.1.3.f.~~ Instructional delivery sites ~~must be compliant~~ shall comply with the Americans with Disabilities Act guidelines.

~~9.1.d. 9.1.4.~~ Degrees and academic programs. – The institution shall provide:

~~9.1.d.1. 9.1.4.a.~~ A degree ~~shall be awarded upon successful completion of an educational program.~~ The institution shall provide a A list of the degrees it proposes to award.;

~~9.1.d.2. 9.1.4.b.~~ The A description of how the planned educational programs shall be are compatible with the proposed institutional mission.;

~~The relationship shall be described in documents provided to the Council.~~

~~9.1.d.3. 9.1.4.c.~~ The academic program proposed for offering shall be appropriately named and be based on fields of study recognized as appropriate for a postsecondary institution. Evidence shall be ~~provided to the Council that~~ A description of how the fields of study upon which the academic programs are to be based are, ~~in fact, so recognized as appropriate for a postsecondary institution and appropriately named.~~ Such recognition, for example, could This may be demonstrated by the existence of professional literature in the field; the offering of similar programs in already-accredited institutions, generally; and by the existence of professional organizations related to the field.;

~~9.1.d.4. 9.1.4.d.~~ The Documentation that the content and length of the proposed academic program shall follow practices common to institutions of higher education. The ~~commonly accepted minimum~~ maximum program length is 60 semester credits hours for associate's degrees, unless institutional or program accreditation requires otherwise.;

~~9.1.4.d.1. Academic Certification~~ that the institution shall award academic credit ~~shall be awarded~~ upon the student's completion of each unit of the course of study, ~~leading to and grant~~ a formal award ~~postsecondary credential granted by the institution upon the student's successful completion of the academic program~~.;

~~9.1.4.d.2. Documentation shall be provided to the Council that lists~~ A list of requirements for each degree program, including representative course syllabi specifying goals and requirements, course content, methods of evaluation, and bibliography.;

~~9.1.4.d.3. The Documentation that the~~ student-teacher ratio ~~shall be~~ is reasonable at all times in keeping with generally accepted teaching modes for the subject matter. ~~The and that the~~ institution ~~must will~~ employ at least one full-time faculty for each degree program.

~~9.1.4.5. 9.1.4.e.~~ Any Documentation that any proposed associate degree program shall include a coherent general education component that is consistent with the institution's mission and appropriate to

its educational programs. ~~The undergraduate general education component shall be documented.~~ General education is defined as follows:

~~9.1.4.e.1. General education is "general" in several clearly identifiable ways: it is curriculum may not be~~ directly related to a student's formal technical, vocational, or professional preparation; it is a part component of every student's course of study, regardless of ~~his or her~~ the area of emphasis the student is pursuing; and it is intended to impart common knowledge, intellectual concepts, and attitudes a diverse range of perspectives that every educated person should possess.

~~9.1.4.e.2. The minimum requirement for general education for all undergraduate programs delivered through the traditional distributed curricula is 15 semester credits for technical and applied associate's degrees and 24 for transfer-academic associate's degrees. If the general education component is delivered through integrated, embedded, interdisciplinary, or other accepted models, institutions must shall~~ demonstrate that the program meets minimum requirements equivalent to the distributed model.

~~9.1.d.6. 9.1.4.f. Student access to all necessary learning resources and support services shall be provided. Necessary resources and support services vary by type of program, but all require some use of library resources. Laboratories may be required for some programs. Support services such as academic advising, financial aid counseling, and support for special, targeted, constituencies may be needed. The institution shall describe A description of the learning resources and support services that it the institution will provide to students on a regular, dependable basis, including access to library and online resources; laboratories; and academic advising, financial aid counseling, and support for special, targeted constituencies and state how they will be provided to students on a regular, dependable basis.~~

~~9.1.d.7. 9.1.4.g. Distance learning instruction, when offered, should be considered part of the total program and be judged by criteria as used for sessions and courses offered by the institution in the regular academic year. Documentation shall be provided to the Council that shows demonstrating that academic standards for all programs or courses offered electronically or by other distance learning methods are the same as those for other courses delivered at the institution. Additionally, and that any programs that are offered primarily through asynchronous or synchronous technology shall meet the standards of good practice for distance education delivery as outlined-prescribed by the regional accrediting agency accreditor.~~

~~9.1.e. 9.1.5. Admission policies. -- Admission Documentation that the institution's admission policies shall be are consistent with the institution's its mission and appropriate to the educational program. The Council shall be provided with including a copy of the institution's admission policies (which shall require at least a high school diploma for equivalent for associate degree programs), tuition and fees policies regarding tuition and fees assessment, and refund policies. The policies shall define the minimum requirements for eligibility for admission to the institution and for acceptance at the specific degree level or into all specific degree programs. These policies and related publications shall provide a true and accurate representation of the institution and its programs when recruiting students.~~

~~9.1.e.1. Degree program admission policies must require at least a high school diploma or equivalency for associate degree programs.~~

~~9.1.e.2. These policies and related publications shall provide a true and accurate representation of the institution and its programs when recruiting students.~~

~~9.1.f. 9.1.6. Financial resources. -- The Documentary evidence that the institution shall have has financial resources adequate to support start-up activities and sources of funds sufficient to ensure that the institution can sustain itself operations once students have been are admitted, including. An institution shall continuously ascertain its financial requirements, determine its sources of revenue, plan for current and future needs, and budget its resources accordingly. The Council shall be provided with:~~

~~9.1.f.1. 9.1.6.a.~~ A current financial statement compiled or audited by an independent certified public accountant. ~~If the financial statement is unaudited or internally generated, or a copy of the most recent income tax return must also be submitted if the financial statement is unaudited or internally generated.;~~

~~9.1.f.2. 9.1.6.b.~~ A budget listing all sources of income and all Educational and General (E&G) expenditures and specifying the dollar amounts and percentages for each component of the budget for the preceding three fiscal years (including the current year). ~~A and a projection of expenditures and revenues for the upcoming year should be included.~~

~~9.1.f.3. 9.1.6.c.~~ ~~The institution shall demonstrate~~ Documentation that ~~it~~ the institution has the financial resources and planning sufficient to realize its mission over an extended period of time. ~~It shall demonstrate that it has adequate~~ including financial resources sufficient to meet the following: facility maintenance and overhead; staff and faculty payroll; books, supplies, and/or equipment utilized by students; and general operating costs, including printing and advertising.

~~9.1.g. 9.1.7.~~ Faculty credentials. --

~~9.1.g.1.~~ ~~The~~ A description of how the institution shall will ensure that each full-time, part-time or adjunct instructional faculty member holds appropriate academic credentials in the program area or discipline in which the faculty member teaches. Each instructional faculty member shall ~~either: (1) possess one or more degrees in an appropriate discipline; or (2) as an alternative to formal academic credentials, demonstrate competence by virtue of prior experience or academic training, or both, which are related to the field in which the instruction will be offered~~ meet qualifications as required by the accreditor.;

~~9.1.g.2.~~ ~~The institution shall ensure that each full-time, part-time or adjunct instructional faculty member holds academic credentials appropriate to the degree level of the programs or programs in which the faculty member teaches.~~

~~9.1.g.2.A.~~ All instructional faculty teaching in a terminal occupational/technical program leading to the Associate of Applied Science degree shall: ~~If teaching general education courses, hold a baccalaureate degree plus at least 18 graduate credit hours in the discipline taught. If teaching occupational/technical courses, hold either an associate degree or qualify for a faculty appointment by virtue of scholarly or professional achievements.~~

~~9.1.g.2.B.~~ All instructional faculty teaching in a college transfer program at the associate level shall hold a baccalaureate degree plus at least 18 graduate credit hours in the discipline being taught.

~~9.1.g.3.~~ ~~An institution must employ faculty members whose highest earned degree presented as the credential qualifying the faculty member to teach at the institution is from an institution accredited by an accrediting body recognized by the U.S. Department of Education. Exceptions may be made only with the prior consent of the Council.~~

~~9.1.h. 9.1.8.~~ Evaluation and assessment. -- ~~The institution must have a~~ Documentation explaining the clearly defined process by which the institution establishes, reviews, and evaluates its curriculum is ~~established, reviewed, and evaluated. The institution must as well as how it will~~ provide for appropriate and regular evaluation of ~~the institution and its program and course effectiveness, including assessment of student learning, retention, graduation rates and student, graduate, faculty, and employer satisfaction. The results must be used to ensure and improve quality of instruction.~~

~~9.1.i. 9.1.9.~~ Tuition policies. --

~~9.1.i.1.~~ 9.1.9.a. A copy of the institution's tuition policy, which shall be developed that provides at a minimum:

~~9.1.i.1.A.~~ 9.1.9.a. ~~The~~ That the total tuition for any specific program shall be is the same for all persons enrolled at the same time;

~~9.1.i.1.B.~~ 9.1.9.b. ~~Tuition~~ That tuition charges for programs shall be are objectively justifiable, effective on specific dates, and applicable to all who enroll thereafter;

~~9.1.i.1.C.~~ 9.1.9.c. ~~All extra~~ That additional charges and costs shall be revealed are provided to the prospective students before he or she is they are enrolled; and

~~9.1.i.1.D.~~ 9.1.9.d. ~~The~~ That true and accurate costs of courses and program completion must be are published and made readily available to all prospective and current students; and

~~9.1.i.2.~~ 9.1.9.e. ~~Institutions that the U.S. Department of Education has approved for eligibility for federal student financial aid must comply~~ That the institution has a tuition and fee refund policy that is available to all students. If the institution is Title IV eligible, the refund policy shall comply with the federal regulations governing institutional refunds. ~~An institution must develop criteria for refunds of tuition and fees and make them available to all students.~~

~~9.1.i.3.~~ ~~For institutions not participating in federal Title IV financial aid, criteria for refunds of tuition and fees must be developed and made available to all students and prospective students.~~

~~9.1.j.~~ 9.1.10. Financial Aid. -- A copy of the policy shall have been developed that provides prospective students and applicants with basic opportunities for student financial aid. This information shall include, but is not be limited to: (1) types of federal, State, local, private, and institutional aid offered to students at the institution offers; (2) description of the financial aid application process and the method for determining the institution uses to determine student eligibility for aid; (3) methods and schedules used the institution uses to determine and disburse financial aid to students; and (4) statement of the rights and responsibilities of financial aid recipients. ~~A copy of the policy must be attached to Council submission materials. Information related to including an explanation of student responsibility for repayment of loans and other financial aid must be readily available to students. Consequences relevant to and the consequences of non-payment and delinquent or default repayment of loans must be published and readily available to students.~~

~~9.1.k.~~ 9.1.11. Library Resources. -- ~~The~~ A description of how the institution shall maintains or ensures via current and formal written agreements with other libraries or from other resources that students have adequate reasonable and reliable access to a library with a collection, staff, services, equipment, and facilities that are adequate and appropriate for the purpose mission and enrollment of the institution. ~~The institution shall provide including clear and concise methods for on-campus and/or remote access of library electronic media resources and there shall be communication to students in a matter to minimize barriers to usage.~~

~~9.1.l.~~ 9.1.12. Institutional and student records.

~~9.1.l.1.~~ 9.1.12.a. ~~The~~ A detailed explanation of how the institution shall maintains accurate records on of all enrolled students. ~~These records minimally shall include~~ The institution shall maintain, at a minimum, the following student records:

~~9.1.l.1.A.~~ 9.1.12.a.1. Each student's application for admission and admissions records containing information regarding the educational qualifications of each regular student admitted which are relevant to the institution's admission standards. Each student record must shall reflect the requirements

and justification for admission of the student to the institution. ~~Admission~~ The institution shall retain admission records must be maintained for five years;

~~9.1.1.1.B. 9.1.12.a.2.~~ Transcript of the student's academic work at the institution and student financial aid records, which the institution shall be retained permanently in either hard copy forms or in a database with backup;

~~9.1.1.1.C. 9.1.12.a.3.~~ A non-transcript record of student academic progress at the institution including programs of study, dates of enrollment, courses taken and completed, grades, and indication of the student's status (graduated, probation, etc.) including, but not limited to, course evaluations, grade change documents, and advisor records, which the institution shall retain for five years after the student leaves the institution.

~~9.1.1.2. 9.1.12.b.~~ Financial The institution shall retain its financial records of the institution must be maintained and open for inspection by properly authorized officials of the Council pursuant to compliance with confidentiality laws and produce them to the Chancellor for inspection upon request in accordance with Section 10.2. of this rule.

~~9.1.1.3. 9.1.12.c.~~ Institutions administering financial aid programs must shall maintain a ledger and a record of financial aid administered which includes a chronological record of debits and credits which is understandable to the enrollee financial aid recipient.

~~9.1.1.4. 9.1.12.d.~~ The institution must shall have policies a policy concerning retention, and disposal, and of records and information-release policies which respect the rights of individual privacy, the confidentiality of records and the best interests of the student and institution of student records that is compliant with the Family Educational Rights and Privacy Act (FERPA).

~~9.1.1.5. 9.1.12.e.~~ The institution shall have a written plan for the preservation of students' transcripts by another institution or agency, as well as for access to the transcripts, in the event of institutional closure, for the retention, custody, and retrieval of student records, including but not limited to academic transcripts, financial aid documents, international student forms, and tax information, in the event of closure of the institution or discontinuance of service. The plan shall include a method by which students and alumni of the institution will be able to retrieve such records upon request in accordance with Section 12 of this rule.

~~9.1.m.~~ 9.1.13. Catalog and official publications. -- A copy of or link to the institution's official catalog, which shall conform to the standards established by the institution's accreditor, and certification by the institution's chief executive officer that the institution's official publications are and will be true and accurate and otherwise comply with applicable consumer protection laws;

~~9.1.m.1.~~ Official publications of the institution shall reflect the institution's integrity, commitment, and reputation and convey its sense of mission, character, goals and objectives to the public. All information released by the institution must be true and accurate.

~~9.1.m.2.~~ Official catalogs must describe the institutional mission, requirements for satisfactory completion of degree programs, student policies, information on enrollment, tuition and fees, faculty credentials, academic calendar, student grievance procedure, transferability of credit, and other information specifically applicable to students.

~~9.1.n.~~ 9.1.14. Student grievances. -- An institution shall publish and make available to all students A copy of the institution's student grievance policies and procedures regarding policy addressing the receipt, investigation, and resolution of student complaints. These policies must policy shall include, at a minimum:

~~9.1.n.1.~~ 9.1.14.a. An appropriate time frame for investigating and resolving the complaint;

~~9.1.n.2.~~ 9.1.14.b. ~~Safeguards~~ A requirement that those persons charged with resolving the complaint are ~~capable of making a fair and impartial judgment~~ and authorized to resolve the complaint;

~~9.1.n.3.~~ 9.1.14.c. Procedures to ensure that a student will not be subject to unfair actions as a result of ~~an initiation of a submitting a complaint proceeding or participating in an investigation of a student complaint;~~ and

~~9.1.n.4.~~ 9.1.14.d. ~~The maintenance of~~ A requirement that the institution retain the records related to student complaints, including the disposition of the matter and other pertinent information ~~concerning institutional complaints~~ for at least five (5)-years; and

~~9.1.o.~~ 9.1.15. ~~Other criteria deemed to be pertinent.~~ Any additional information or data deemed necessary by the Chancellor to determine whether an institution meets the essential conditions to receive initial authorization.

§135-20-10. Termination, Revocation, Suspension, or Withdrawal of State Initial Authorization.

~~10.1. Termination of state authorization for those institutions not subject to annual reauthorization. The Council may, for good cause shown, suspend, withdraw, revoke, or terminate the initial authorization of an institution to confer degrees or otherwise operate in this State. The Council also may place an institution on probation, order refunds to students, forfeit a proprietary school's surety bond in accordance with 135 C.S.R. 35, Business, Occupational, and Trade Schools, or take any other appropriate action against an institution violating the provisions of this rule. "Good cause" to take adverse action against an institution's initial authorization status includes, but is not limited to, the following:~~

~~10.1.a.~~ 10.1.1. ~~An institution shall~~ Failure to provide the Council with a copy of any notice of warning, suspension, revocation or other adverse action received from any national or regional accrediting agency accreditor within five (5) days of receipt of such notice; ;

~~10.1.b.~~ 10.1.2. ~~The Council may for good cause, suspend, withdraw, or revoke the authorization of an institution to generate or solicit students within the state, place an institution on probation, order refunds to students, or forfeit the institution's surety bonds, or take any other appropriate action. Good cause shall consist of any one or more of the following:~~

~~10.1.b.1.~~ 10.1.2. The institution is no longer making reasonable and timely progress toward accreditation while assigned Preliminary or Probationary State Authorization status;

~~10.1.b.2.~~ 10.1.3. Loss of accreditation by a ~~nationally or regionally recognized accrediting agency~~ an accreditor;

~~10.1.b.3.~~ 10.1.4. Cancellation of ~~the institution's~~ a proprietary school's bond by the bonding company and the proprietary school's failure to secure a replacement in accordance with this rule and 135 C.S.R. 35, Business, Occupational, and Trade Schools;

~~10.1.b.4.~~ 10.1.5. Providing false, misleading, or incomplete information to the Council;

~~10.1.b.5.~~ 10.1.6. Presenting information or documents about the ~~school which~~ institution that is false, fraudulent, misleading, deceptive, or inaccurate in a material respect ~~to students or prospective students;~~

~~10.1.b.6. 10.1.7.~~ Refusal to allow reasonable inspection by or to supply reasonable requested information after a written request by to the Council has been received;

~~10.1.b.7. 10.1.8.~~ A final determination that the institution has engaged Repeatedly engaging in conduct prohibited by this rule; and any specified failure to take corrective action has not been taken directed by the Council within the required time;

~~10.1.b.8. 10.1.9.~~ ~~Closure of~~ Closing the institution without adequately providing for the completion of students' classes or course work, without refunding students' unearned tuition, or otherwise ~~discharged~~ failing to discharge the institution's contractual or quasi-contractual obligations to the students;

~~10.1.b.9. 10.1.10.~~ Conviction of the owner of an institution ~~for~~ of a felony or crime involving administration of the institution or ~~involving~~ State or Federal student assistance financial aid programs;

~~10.1.b.10. 10.1.11.~~ Repeated and/or consistent violations of the guidelines found in this rule, particularly in areas such as advertising, fair consumer practices, or operational standards; ~~and;~~

~~10.1.b.11. 10.1.12.~~ Exclusion from eligibility to participate in ~~the West Virginia Higher Education Grant Program due to one~~ State or Federal student financial aid programs based on any of the following reasons:

~~10.1.b.11.A. 10.1.12.a.~~ The institution does not have a signed participation agreement in place; or,

~~10.1.b.11.B. 10.1.12.b.~~ The institution has been deemed ineligible to participate in Federal student financial aid programs by the United States Department of Education; or

~~10.1.b.11.C. 10.1.12.c.~~ The Council has determined, based upon audits and/or administrative site visits ~~by Council staff,~~ that the institution has ~~seriously~~ mismanaged ~~higher education grant or other~~ State financial aid funds or lacks adequate institutional controls to manage such funds properly.

~~10.1.b.12. 10.1.13.~~ Failure to submit ~~an acceptable annual report, an incomplete or unsatisfactory annual report, as determined by Council staff and as referenced~~ in accordance with Section 14 7 of this rule.

~~10.1.e. 10.2.~~ ~~An institution authorized as a religious, theological or faith-based college that fails to continue to meet the criteria for a religious institution shall have its authorization terminated. The institution shall be so notified in writing. A phase-out period of not more than one additional academic term shall be permitted. An appeal to the Council may be filed within ten (10) working days. In the absence of a timely appeal the termination shall be final. The Chancellor may make all necessary audits or surveys of or site visits to all institutions that have been initially authorized by the Council, whether the institution's initial authorization status is Preliminary, Probationary or Full, to ensure the institution's compliance with this rule. The Chancellor may also investigate consumer complaints that an initially authorized institution is, may be, or has been violating this rule. The Chancellor shall note and describe all violations of this rule and report the same to the Council in writing, contemporaneously furnishing a copy to the institution concerned.~~

10.2.1. Within 10 business days of receiving the Chancellor's report, the institution may schedule a meeting with the Chancellor to discuss the contents of the report and any remedial action the institution plans to take to address the issues outlined therein. If the institution does not request a meeting within the prescribed timeframe, the Chancellor shall furnish the report to the Council, along with a recommendation for what action described in Section 10.1., if any, the Council should take regarding the institution's initial authorization status.

10.2.2. If the institution requests the meeting within the appropriate timeframe, the Chancellor may amend the report based on additional information or documentation provided by the institution that was not provided or available to the Chancellor during the audit, survey, site visit, or investigation described in Section 10.2. Within five business days of the meeting, the Chancellor shall furnish the original or amended report to the Council in accordance with Subsection 10.2.1.

10.2.3. The Council's decision to terminate, withdraw, suspend, or revoke an institution's initial authorization or to take any other action specified in Section 10.1. above, shall be made in a meeting of the Council subject to the *West Virginia Open Governmental Proceedings Act*, W. Va. Code § 6-9A-1, et seq.

~~10.2.~~ 10.3. Institutions that are not authorized but offer degrees and/or degree credits in West Virginia shall be notified by certified mail that they shall cease immediately to offer degrees and/or degree credits. The Council shall initiate appropriate legal action if institutions fail to comply. Within five business days of the Council's decision, the Chancellor shall issue and furnish to the institution a written decision on the action taken, including the specific reasons therefor.

~~10.3.~~ 10.4. The provisions of section 8 of this rule are only applicable to accredited, out-of-state institutions offering only online instruction in West Virginia and accredited, out-of-state institutions authorized to deliver program and/or courses for a specified period of time. An institution adversely affected by a decision of the Council pursuant to this Section may file an appeal in accordance with the provisions of Section 11 below within 10 business days after receipt of the written decision. The filing of an appeal does not suspend the effect of the Council's decision.

§135-20-11. Notification:-Appeals.

~~11.1. Once the Council has received and verified the accuracy of information constituting any of the grounds identified in section 10 or denial of preliminary authorization, the Council shall notify the institution and its owner in writing of its intent to recommend denial, suspension, withdrawal, revocation, or other adverse action and the grounds for such recommendation. An institution adversely affected by an order made and entered by the Council in accordance with Section 10 of this rule or aggrieved by a decision denying an application for initial authorization as set forth in Sections 7 and 8 of this rule may appeal such order or decision in accordance herewith: *Provided*, That the institution shall submit its written appeal to the Chancellor within 10 business days of receiving the decision giving rise to the complaint.~~

~~11.1.a. 11.2. The owner of the institution may, within ten (10) work days of receipt of such notice, request a hearing upon the recommended action. Such hearing, if requested, shall be commenced within twenty (20) work days of such request at the Chancellor's office or at such other location convenient to the parties and witnesses as may be designated by the Chancellor.~~

~~11.1.b. The Chancellor shall conduct the hearing shall be conducted by the Chancellor of the Council or his/her designee, pursuant to the procedures set forth in Chapter 29A, Article 5 of the Code of West Virginia in accordance with the West Virginia Administrative Procedures Act, W. Va. Code § 29A-5-1, et seq.~~

~~11.1.e. 11.3. The Chancellor or his/her designee may continue the hearing at the request of the institution for good cause shown. Continuance shall not be granted as a matter of right. The Council shall establish a procedural rule in accordance with W. Va. Code § 29A-3A-1, et seq. for the regulation and conduct of all proceedings in appeal before it.~~

~~11.1.d. 11.4. If the owner or a representative of the institution does not request a hearing within the requisite time period, the recommendation of the Chancellor or his/her designee shall be deemed unchallenged by the institution and reported to the Council for final action. The Chancellor may retain, on~~

an as-needed basis, individuals to serve as hearing examiners, court reporters, or other such personnel to assist the Council with hearing and administering such appeals.

~~11.2. 11.5. At the hearing, the grounds for denial, suspension, withdrawal, or revocation of authorization to operate the institution or other adverse action must be established by clear and convincing evidence. Nothing in this rule in any way affects or limits the due process protections or other protections afforded to proprietary schools pursuant to either W. Va. Code § 18B-2B-9 or 135 C.S.R. 35, *Business, Occupational, and Trade Schools*.~~

~~11.3. Irrelevant, immaterial, or unduly repetitious evidence may be excluded from the hearing. Formal rules of evidence as applied in civil cases in the circuit courts of this state shall not be applied. When necessary to ascertain facts not reasonably susceptible of proof under those formal rules of evidence not admissible there under may be admitted, except where precluded by statute. If it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.~~

~~11.4. The rules of privilege recognized by the law of this state shall be followed.~~

~~11.5. Objections to evidentiary offers shall be noted in the record. Any party to the hearing may vouch the record as to any excluded testimony or other evidence.~~

~~11.6. Any party to a hearing may appear with witnesses to testify on his or her behalf; may be heard in person, by counsel or both; may present such other evidence in support of his or her position as deemed appropriate by the Chancellor or his/her designee; and, may cross-examine witnesses called by the Council in support of the charges.~~

~~11.7. The hearing shall be open to the general public.~~

~~11.8. A record of the hearing, including the complaint(s), if applicable, the notice of hearing, all pleadings, motions, rulings, stipulations, exhibits, documentary evidence, evidentiary depositions and the stenographic report of the hearing, shall be made and a transcript thereof maintained in the Council's files. All recorded materials shall be transcribed. The Council shall have the responsibility to make arrangements for the transcription and provision of the reported testimony and evidence to the parties. Upon request, a copy of the transcript shall be furnished to any party at his or her expense.~~

~~11.9. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.~~

~~11.10. The Council may call witnesses to testify in support of charges and may present such other evidence to support its position; and, may cross-examine witnesses called by the charged party in support of its position.~~

~~11.11. All parties shall have the right to offer opening and closing arguments.~~

~~11.12. Hearings may be continued or adjourned to a later date or different place by the Chancellor or his/her designee by appropriate notice to all parties.~~

~~11.13. All motions related to a case set for hearing, except motions for continuance and those made during the hearing, shall be in writing and shall be received in the office of the Chancellor at least ten (10) days before the hearing. Pre-hearing motions shall be heard at a pre-hearing conference or at the hearing prior to the commencement of testimony.~~

~~11.14. Any party may submit proposed findings of fact and conclusions of law at a time and manner designated by the Chancellor or his/her designee.~~

~~11.15. At any time prior to the hearing or thereafter, the Chancellor or his/her designee may hold conferences for the following purposes:~~

~~11.15.a. To dispose of procedural requests, pre-hearing motions or similar matters;~~

~~11.15.b. To simplify or settle issues by consent of the parties; or,~~

~~11.15.c. To provide for the informal disposition of cases by stipulation or agreement.~~

~~11.16. The Chancellor or his/her designee may cause such conferences to be held on its own motion or by the request of a party.~~

~~11.17. Evidentiary depositions may be taken and read or otherwise included into evidence as in civil actions in the circuit courts of this state.~~

~~11.18. Subpoenas to compel the attendance of witnesses and subpoenas duces tecum to compel the production of documents may be issued by the Chancellor pursuant to West Virginia Code section 29A-5-1(b).~~

~~11.19. Written requests by a party for the issuance of subpoenas duces tecum as provided in Section 11.20 of this rule must be received by the Council no later than ten (10) days before a scheduled hearing. Any party requesting the issuance of subpoenas duces tecum shall see that they are properly served in accordance with West Virginia Code section 29A-5-1(b).~~

~~11.20. Any final order entered by the Council following a hearing conducted pursuant to these rules shall be made pursuant to the provisions of West Virginia Code section 29A-5-3. Such orders shall be entered within sixty (60) days following the submission of all documents and materials necessary for the proper disposition of the case, including transcripts, and shall contain findings of fact and conclusions of law unless good cause exists to extend such time or by agreement of the parties.~~

~~11.21. Findings of fact and conclusions of law shall be recommended to the Council by the Chancellor or his/her designee and must be approved by a majority of the Council by vote at a regular meeting, before a final order is entered. A copy of the final order approved by a majority of the Council shall be served upon the institution and/or his or her attorney of record, if any, within ten (10) days after entry by the Council by personal service or by registered or certified mail.~~

~~11.22. The final order may deny preliminary authorization; may suspend, withdraw or revoke the authorization of the institution; place an institution on probation; order refunds to students; order forfeiture of the institution's surety bond and disbursement of the funds forfeited disbursed to students injured by the institution's violation of this rule or its enabling statute; or order any other action deemed appropriate by the Council, up to and including payment of loans, interest and other charges in connection with institution loans, caused a student by the institution's violation of this rule.~~

~~11.23. All proceedings pursuant to this rule shall be conducted pursuant to and comply with applicable statute, including, but not limited to, West Virginia Code section 29A-5-1, et seq.~~

~~11.24. Any relief a student believes he or she was not rightfully awarded by the Council pursuant to this rule may be pursued in any other appropriate forum.~~

§135-20-12. Notification and Deposit of Records Upon Discontinuance of a Program or Institution.

12.1. If an authorized institution, branch campus, or extension program of an authorized institution discontinues operation in this State, its chief executive officer shall notify the Council of the date of discontinuance and the name, telephone number, physical address, and email address of the agency entity where records will be maintained.

12.2. ~~Records shall be~~ Institutions shall permanently maintained ~~and their records so that authorized parties may obtain copies may be obtained by authorized parties thereof.~~ Such records shall include, but not be limited to, information pertaining to the admission of each student and former student and the educational record of each student and former student, Financial as well as financial aid records of each student and former student ~~shall be retained~~ consistent with State and federal regulations law.

12.3. When an institution decides to cease postsecondary education operations, it must assist students to find alternative means to complete their studies with a minimum of disruption, and inform the Council of the following:

~~12.3.a.~~ 12.3.1. The planned date of termination of postsecondary education operations;

~~12.3.b.~~ 12.3.2. The planned date for the transfer of student records;

~~12.3.c.~~ 12.3.3. ~~Confirmation of~~ The name and address of the organization to receive and hold the student records, if different from the institution itself; and

~~12.3.d.~~ 12.3.4. The ~~official~~ designated records custodian at the organization receiving the student records who ~~is designated to~~ will provide official copies of records or transcripts upon request.

12.4. Any institution that fails to comply with the requirements of this Section forfeits consideration by the Council of any future application for authorization or reauthorization to operate in this State.

§135-20-13. Advertisements, Announcements and Other Promotional Materials.

13.1. An institution seeking initial authorization shall adhere to the following principles:

~~13.1.a.~~ 13.1.1. “Advertising” includes any form of public notice however distributed. ~~Within this definition would be~~ including virtually all publications and promotional items and efforts that could normally be expected to be seen by significant numbers of prospective students or their sponsors. Examples include catalogs, bulletins, brochures and other institution publications, signs, mailing pieces, radio, television, newspaper, electronic or social media, or any other form of public notice designed to aid in the institution’s recruiting and promotional activities.

~~13.1.b.~~ 13.1.2. An institution shall use its name as shown in its letter of approval from the Council, together with a complete physical and mailing address, if different, for all advertising and promotional purposes within the State.

~~13.1.c.~~ 13.1.3. All advertisements, announcements and promotional material of any kind which are distributed in West Virginia shall be free from statements that are untrue, deceptive or misleading with respect to the institution, its personnel, its services or the content, accreditation status, and transferability of its courses or degree, diploma or certificate programs.

~~13.1.d.~~ 13.1.4. Reference in advertising to accreditation shall name the agency accreditor and shall be limited to accreditation currently held by the institution through ~~nationally recognized accrediting agencies as defined and listed by the United States Department of Education~~ the accreditor.

~~13.1.e.~~ 13.1.5. No advertisement, announcement or any other material produced by or on behalf of an institution of higher education shall in any way indicate that the institution is supervised, recommended, endorsed or accredited by the Council or the State of West Virginia; neither shall it include the name of the Council except to ~~assert~~ say that the Council has authorized the institution to operate in the State.

§135-20-14. Annual Reauthorization Penalties; Injunctive Relief.

14.1. The Council shall monitor institutional academic quality, an institution's financial viability, and compliance with the provisions of this rule and West Virginia laws with respect to consumer protection and other matters of state oversight. A reauthorization application must be submitted to the West Virginia Council for Community and Technical College Education by November 1 according to the guidelines outlined in Series 52, Annual Reauthorization of Degree-Granting Institutions. Any person, firm, corporation, partnership, association, degree-granting institution, or other entity making any false statement in any application or documentation submitted to the Council pursuant to this rule is guilty of perjury pursuant to W. Va. Code § 39-1-10a, and the Council may refer the matter to the prosecuting attorney of the county in which the institution operates.

14.2. The Council may seek an injunction against any institution and its officers and directors, as appropriate, in violation of any provision of this rule or condition of its authorization to compel compliance with and enjoin violations of this rule or conditions of authorization. The venue of any such action shall be the county in which the violation or noncompliance exists or is taking place. The circuit court may issue a temporary or preliminary injunction pending a decision on the merits of the petition for injunctive relief.

14.2.1. In seeking an injunction, it is not necessary for the Council to post a bond or to allege or prove at any stage of the proceeding that irreparable damage will occur if the injunction is not issued or that the remedy at law is inadequate.

14.2.2. The Council may file a petition for injunctive relief and the circuit court may grant the relief requested notwithstanding the fact that the Council did not exhaust or invoke against the institution all available administrative remedies, if any.