



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

2/28/2024 11:55:07 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Community And Technical College Education TITLE-SERIES: 135-32  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: Tuition and Fees  
CITE STATUTORY AUTHORITY: §18B-10-1(d)

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) SB547

Section §18B-17-3(jj) Passed On 2/12/2024 12:00:00 AM

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

February 28, 2024

This rule shall terminate and have no further force or effect from the following date:

August 01, 2029

**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.**

135CSR32

TITLE 135  
LEGISLATIVE RULE

WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION

SERIES 32  
TUITION AND FEES

**§135-32-1. General.**

1.1. Scope. -- This rule governs the fixing, collection, and expenditure of tuition and other fees by the governing boards of the State's public community and technical colleges and establishes the processes by which the Council for Community and Technical College Education approves tuition and fee increases at those institutions.

1.2. Authority. -- West Virginia Code §18B-10-1(d)

1.3. Filing Date. -- February 28, 2024

1.4. Effective Date. -- February 28, 2024

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

**§135-32-2. [Reserved]**

**§135-32-3. Definitions.**

3.1. Unless the context in which used clearly requires a different meaning, the definitions contained in W. Va. Code §18B-10-1c and §18B-19-2 apply to this rule in addition to the definitions set forth below.

3.2. Chancellor. -- The Chancellor for Community and Technical College Education, as that term is defined by W. Va. Code §§ 18B-2-1 and 18B-2B-2(d), or his or her designee.

3.3. Community and Technical College System. -- The total of the nine public community and technical colleges under the jurisdiction of the Council for Community and Technical College Education (Council).

3.4. Deferred Payment Plans. -- Payment plans approved by each board of governors to allow for payment of tuition and fees at less than full payment prior to the start of classes.

3.5. Full Cost of Instruction. -- The amount, excluding State appropriation, established by a board of governors to pay all costs associated with teaching a course.

3.6. Full-Time Equivalent Students or Annualized Full-Time Equivalent Students (AFTES). -- A calculation that translates student credit hours into an equivalent number of full-time, full-year students.

3.7. Higher Education Price Index (HEPI). -- A measurement for inflation designed specifically for use by institutions of higher education to track the main cost drivers in higher education and to measure the change in the price of the goods and services purchased by colleges and universities as measured by the Commonfund Institute, a branch of Commonfund, a nonprofit organization devoted to the management of college and university endowments.

3.8. Program Fees. -- Charges levied to all students who take classes in a specific degree program to

offset some of the higher, direct, instructional costs of these programs and minimize required tuition charged to all students.

3.9. Reduced Nonresident Tuition and Fees. -- A special tuition and required educational and general fees rate charged to a specific group of nonresident students typically in counties that border the West Virginia institution.

3.10. Supplemental Fees. -- Operational charges or user fees charged to offset the specific costs for providing a particular service. These fees include, but are not limited to, course, lab, late payments, drug testing, instrument fees, and other services provided to students.

**§135-32-4. [Reserved]**

**§135-32-5. Tuition and Fee Increases.**

5.1. Approval of In-State or Resident Tuition and Required Fee Increases.

5.1.1. The Council shall communicate to institutions by February 28 annually the benchmarks and guidelines for consideration of any tuition and fee increase above 10 percent in one year or above seven percent per year averaged over a rolling three-year period calculated by averaging the proposed increase with the increase for the immediate two previous years. Tuition and fee increases for online courses are not subject to approval by the Council. The benchmarks and guidelines may include, but are not limited to:

5.1.1.a. The HEPI, or other appropriate inflationary benchmarks, which was not offset by any new appropriation to the institution's base budget for the corresponding fiscal year;

5.1.1.b. Institutional and State funding per annualized full-time equivalent student;

5.1.1.c. Most recent three-year history of tuition and fee increases;

5.1.1.d. Institutional implementation of new, high cost programs as defined by the Council;

5.1.1.e. Total sources of student generated revenue, including supplemental and program fees; and,

5.1.1.f. Other factors as requested or deemed relevant by the Council.

5.1.2. A governing board may approve without Council approval tuition and required fee increases for resident students each fiscal year up to 10 percent or not above seven percent over a three-year rolling period calculated as described in W. Va. Code § 18B-10-1(k)(1) and Subsection 5.1.1. above.

5.1.2.a. For the purposes of this rule, the tuition and fee increases that do not require Council approval shall be based on the institution's tuition and required fee rates charged to all in-state, resident students.

5.1.2.b. The Council shall approve any supplemental fee if it is a new fee or an increase in an existing fee that is charged to 50 percent or more of the students and if the new or increased fee causes resident tuition and fee increases to exceed ten percent in one year or seven percent over a three-year rolling period calculated as described in W. Va. Code § 18B-10-1(k)(1) and Subsection 5.1.1. above. An institution shall calculate whether the new or increased fee affects 50 percent or more of students by comparing its most current, unduplicated, fall headcount enrollment with its reported projected student population to be charged. Institutions shall include these new or increased fees in the reports required by Subsections 5.1.3. and 5.1.4. below.

5.1.2.c. The governing boards shall approve all program fees, which do not require Council's approval. However, institutions shall include these fees in the reports required by Subsections 5.1.3. and 5.1.4. below.

5.1.3. By August 31 annually, each institution shall provide the Council with a report that details the following information from the most recent academic year:

5.1.3.a. All tuition and required educational and general fee rates, program fees, and supplemental fees charged to resident, nonresident, and reduced nonresident students;

5.1.3.b. The total number of students charged resident, nonresident, and reduced nonresident tuition and required educational and general fees, program fees, and supplemental fees; and

5.1.3.c. The total revenue generated from resident, nonresident, and reduced nonresident tuition and required educational and general fees, program fees, and supplemental fees.

5.1.4. By April 1 annually, each institution shall provide to the Council a report of any board-approved or proposed new tuition and required educational and general fees, program fees, and supplemental fees for the next academic year. This report shall specify:

5.1.4.a. Current and proposed tuition and required educational and general fee rates, program fees, and supplemental fees for resident, nonresident, and reduced nonresident students;

5.1.4.b. The estimated number of students who will be charged any new or proposed changes to existing supplemental fees; and

5.1.4.c. The revenue increases projected to be generated from any proposed increases to tuition and required educational and general fees, program fees, and supplemental fees for resident, nonresident, and reduced nonresident students; and

5.1.4.d. The justification for tuition and fee increases that exceed a total of 10 percent in one year or seven percent over a three-year rolling period calculated as described in W. Va. Code § 18B-10-1(k)(1) and Subsection 5.1.1. above.

## 5.2. Review of Nonresident Tuition and Fees.

5.2.1. Each institution shall report to the Council annually the number of nonresident students enrolled and its nonresident tuition and fee rates. At no time should the admission of nonresident students to any institution or specific program of study within the institution unreasonably impede the ability of resident students to attend the institution or participate in the programs of the institution.

5.2.2. Full cost of instruction at each institution is based on the functional schedule from the institution's most recent financial statements and is calculated for each institution by dividing the total instruction and student services expenses by the institution's full-time equivalent students. The Council shall determine the average full cost of instruction for the community and technical college system by totaling the instruction and student services expenses for all institutions and dividing that sum by the full-time equivalent students enrolled at all the institutions. The Council shall provide to the institutions annually its calculations of both the institutional and system average full cost of instruction. The Chancellor shall review nonresident tuition and fees to determine if current proposed nonresident total tuition and fees fall below the lesser of the most recently reported system average or the applicable institutional full cost of instruction.

5.2.3. Institutional governing boards may choose to set nonresident tuition based on the lesser of the respective institution's full cost of instruction or the system average full cost of instruction.

5.2.4. To provide additional educational opportunities to West Virginia residents, governing boards may enter into reciprocity agreements with nearby out-of-state higher education institutions whereby the out-of-state institution makes available programs and courses that are not available at the West Virginia institution and vice versa.

5.2.4.a. Governing boards may enter into reciprocal regional and interstate agreements, including agreements with the Southern Regional Education Board, that allow nonresident students to be charged resident tuition and fee rates when the agreements are mutually beneficial to the students of the participating states.

5.2.4.b. Reciprocity agreements may not go into effect until they are approved by the Council and approved as to form by the Attorney General's Office. An institution's request for approval of a proposed reciprocity agreement shall include an estimate of the total number of participating students from West Virginia and other states over the life of the agreement.

5.2.4.c. Tuition and required fees for nonresident students subject to reciprocity agreements shall be consistent with the fully approved reciprocity agreement.

5.3. Review of Reduced, Nonresident Tuition and Fees.

5.3.1. Each governing board shall provide clear, specific criteria in its determination of which students will be charged the reduced, nonresident tuition rate, such as the out-of-state counties bordering the West Virginia institution.

5.3.2. Each institution shall report to the Council any proposed or changes to the reduced, nonresident tuition rates along with the submission of resident and nonresident tuition and fee rates as required by subsection 5.1.4. above.

**§135-32-6. Refunds.**

6.1. Each board of governors shall establish a refund policy for students who officially withdraw during a semester that complies with the requirements that the United States Department of Education prescribes for the return of Title IV student financial aid funds.

**§135-32-7. Deferred Payment Plans.**

7.1. Each board of governors shall establish a policy that provides for implementation of deferred payment plans for students allowing them to pay their tuition and required fees in installments. The deferred payment plan(s) shall provide for full payment prior to the end of the academic term. All deferred payment policies shall address:

7.1.1. The type of installment plans available either institutionally or through a third-party provider; and

7.1.2. The interest rates, if any, that will be charged during the term of the plan.

**§135-32-8. Expenditure.**

8.1. Institutions may expend auxiliary fees on the operations of food services, student unions,

bookstores and other service centers.

8.2. Institutions may spend auxiliary capital fees on debt service; information technology projects; capital projects; operation and maintenance of the physical plant; and repair, maintenance, and renewal of capital facilities.

8.3. Institutions may expend educational and general fees on instruction, research, academic support, student services, institutional support, operation and maintenance of the physical plant, scholarships and fellowships, and debt service on bonds. Education and general expenditures do not include expenditures for auxiliary enterprises or independent operations. An institution may create a category within Tuition and Required Education and General Fees named Tuition to classify a fee or group of fees charged for instructional services.

8.4. Institutions may charge supplemental fees to offset the cost of providing services such as, but not limited to, courses, labs, late payments, drug testing, musical instruments, art supplies, and other services provided to students.