



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

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

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-03
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes
RULE NAME: 133-03 Higher Education Accountability System

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 18B-1-6

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

N/A

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

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

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/14/2024

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/15/2024

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?

Email message sent to constituent groups.

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

Provides accountability system for WV public higher education institutions. Revisions align the rule more closely with statutory requirements.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Institutional accountability measures are prescribed for public reporting through internet based data tools.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

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

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Cindy L Anderson -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

SERIES 3
HIGHER EDUCATION ACCOUNTABILITY SYSTEM

§133-3-1. General.

1.1. Scope. -- This rule sets forth an accountability system for West Virginia public higher education institutions under the jurisdiction of the West Virginia Higher Education Policy Commission (Commission).

1.2. Authority. -- W. Va. Code §§ ~~18B-1-1a, §18B-1-6, §18B-1B-4(a)(36), §18B-1D-46, and §18B-1D-8.~~

1.3. Filing Date. -- ~~June 2, 2020.~~

1.4. Effective Date. -- ~~July 2, 2020.~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect ~~upon July 2, 2025~~ August 1, 2030.

§133-3-2. Purpose.

~~2.1. This rule describes the responsibilities of the Commission and public higher education institutions under its jurisdiction to West Virginia taxpayers for the performance of the state public higher education system.~~

~~2.1.~~ 2.21. The rule sets forth an accountability system for the Commission and the State's public four-year institutions under its jurisdiction.

~~2.32.~~ 2.32. The rule defines requirements for a public reporting system that facilitates the dissemination of higher education accountability data through internet-based data tools and published reports. At a minimum, the public reporting system ~~must~~ shall:

2.32.1. Provide thorough and consistent data and other relevant information to be used in assessing progress of the Commission and ~~its member~~ the State's public four-year institutions toward the goals and objectives as stated in W. Va. Code §18B-1-1a;

2.32.2. Provide a basis for comparing institutional and system performance with regional and national norms toward accomplishing the goals and objectives as stated in W. Va. Code §18B-1-1a;

2.32.3. Provide information to assist the Commission in assessing institutional and system progress toward statewide and institutional higher education goals;

2.32.4. Provide additional information to assist the Commission in assessing institutional and system progress relative to historical, regional, and national trends; and

2.32.5. Serve students, parents, faculty, staff, ~~state~~ policymakers, and the public as a neutral and credible source of information about the overall quality and performance of public higher

education in West Virginia.

§133-3-3. Definitions.

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

~~3.42.~~ “Accountability System.” All research, reports, documents, data and any other materials, the collection, analysis, and dissemination of which are necessary to accomplish the purpose of this rule. The system includes goals, objectives and priorities, public policy agendas, implementation plans, institutional mission statements and master plans, the Statewide Annual Report, and the Statewide data reporting system.

~~3.23.~~ “Goal.” A long-term public purpose that is a desired and expected result for which public higher education is established.

~~3.3. “Higher Education Institution” or “Institution.” Bluefield State University College, Concord University, Fairmont State University, Glenville State University College, Marshall University, Shepherd University, West Liberty University, West Virginia School of Osteopathic Medicine, West Virginia State University, and West Virginia University, including Potomac State College and West Virginia University Institute of Technology.~~

3.4. “Key Performance Indicator.” A quantifiable measure used to evaluate the success of an organization in meeting objectives for performance.

3.5. “Objective.” End to be accomplished or attained within a specified period of time for the purpose of meeting established goals.

3.6. “Priority.” The order in which objectives are to be addressed for the purpose of achieving State goals.

3.7. “State Compact.” A formal written agreement between the Commission and at least one other external entity to achieve State goals and objectives where significant collaboration and commitment of resources between the partners to the agreement is required in order to achieve the desired results.

3.8. “Statewide Annual Report.” A report or series of reports that outlines significant trends, identifies major areas of concern, and assesses the progress of Commission and the State’s public four-year institutions under its jurisdiction toward achieving State, system, or institution goals or objectives.

3.9. “Statewide Data Reporting System.” A collection of information management tools that provide public access to data on the performance of the Commission and institutions under its jurisdiction.

3.10. “Chancellor.” The Chancellor for higher education as defined in W. Va. Code § 18B-1-2 or his or her designee.

3.11. “Commission.” The Higher Education Policy Commission established by W. Va. Code § 18B-1B-1.

§133-3-4. General Guidelines for Data Collection and Reporting.

4.1. The following will guide the further development of the existing higher education database and the collection of data which will comprise the Statewide Data Reporting System and the Statewide

Annual Report:

4.1.1. All data reported ~~will by institutions shall be~~ based on uniform and consistent definitions as established by the Commission.

4.1.2. ~~Institutional requirements for additional record keeping and reporting will be minimized.~~ The Commission shall minimize, to the extent allowed by stature, institutional requirement for additional record keeping and reporting.

4.1.3. ~~Data element collection procedures and report timelines will be established by the Commission.~~ The Commission shall establish data element collection procedures and report timelines.

4.2. ~~All detailed background data used in compiling the Statewide Annual Report shall be maintained on file at the Commission for a reasonable time.~~ The Commission shall maintain for a reasonable time, as determined by best practices, all detailed background data used in compiling the Statewide Annual Report.

§133-3-5. Key Performance Indicators and Goal Setting.

5.1. ~~For the institutions under its jurisdiction, and not the exempted schools,~~ The Commission shall adopt a set of key performance indicators to measure institutional and system progress toward achieving State, system, and institutional objectives. These indicators will focus on institution- and system-level performance in the areas of finance, admissions, enrollment, academics, student outcomes, and other areas as deemed appropriate by the Commission.

5.2. In cooperation with the State's public four-year institutions ~~under its jurisdiction~~, the Commission shall set State, system, and institutional goals for each of the adopted key performance indicators.

5.3. ~~Higher education central office staff~~ The Commission shall develop and update at least annually a public internet-based data tool that will display system and institutional progress toward meeting established goals.

5.4. ~~Higher education central office staff~~ The Chancellor shall present an annual report to the Commission about progress made toward meeting established goals.

§133-3-6. Statewide Annual Report and Statewide Data Reporting System.

6.1. Purpose.

6.1.1. A primary purpose of the Statewide data reporting system and Statewide Annual Report is to make information available to students, parents, faculty, staff, State policymakers, and the public on the quality and performance of public higher education.

6.1.2. A primary purpose of the Statewide Annual Report is to provide a mechanism to evaluate the annual progress of the Commission and the State's public four-year institutions ~~under its jurisdiction~~ in achieving State and system goals and objectives.

6.2. Contents.

6.2.1. The Statewide Annual Report shall provide information on the performance of the

State's ~~higher education~~ public four-year institutions, including health sciences education, in relation to the State and system goals, objectives, and priorities.

6.2.2. When possible, the Statewide Annual Report shall be based upon information for the current ~~school~~ academic year or for the most recent ~~school~~ academic year for which information is available, in which case the year shall be clearly noted.

6.2.3. When possible, the Statewide Data Reporting System shall break down data by institution, including West Virginia University Potomac State College and West Virginia University Institute of Technology, ~~and by system.~~

6.2.4. When possible, the Statewide Annual Report shall provide regional and/or national comparison data.

6.2.5. When possible, the information contained in the Statewide Annual Report and the Statewide Data Reporting System shall allow for easy comparison with higher education-related data collected and disseminated by the Southern Regional Education Board, the United States Department of Education, and other education data-gathering and data-disseminating organizations.

6.2.6. The information contained in the Statewide Annual Report and the Statewide Data Reporting System shall be consistent and comparable between and among higher education institutions.

6.2.7. To the extent practicable, the Statewide Annual Report shall be analysis-driven, rather than solely data-driven, and present information in a format that will help inform education policymaking.

6.3. Implementation.

6.3.1. The ~~higher education central office staff, under the direction of the Vice Chancellor for Administration,~~ shall provide technical assistance to each institution and governing board in data collection and reporting.

6.3.2. The president or chief executive officer of each higher education institution shall prepare and submit all requested data to the Commission at the times established by the Commission.

6.3.3. The ~~higher education central office staff, under the direction of the Vice Chancellor for Administration,~~ is responsible for Commission shall maintaining the Statewide Data Reporting System and developing the Statewide Annual Report using data and information submitted by each institution.

6.3.4. The Commission shall complete the Statewide Annual Report ~~shall be completed~~ no later than January 1 annually with printed copies provided to the ~~Commission~~ public and the Legislative Oversight Commission on Education Accountability. The Commission shall also publish the report ~~shall also be published~~ in electronic format ~~to the Commission's~~ on its official website.

6.3.5. ~~An executive summary highlighting specifically the trends, progress toward meeting goals and objectives and major areas of concern for public higher education, including medical education, shall be presented annually to the Legislative Oversight Commission on Education Accountability during interim meetings in January.~~ The president or chief executive officer of each higher education institution shall prepare and submit all requested data to the Commission at the times established by the Commission.

§133-3-7. Health Sciences and Rural Health Data Collection and Reporting.

7.1. In addition to ~~applicable~~ the information required by Section 4 of this rule, each health sciences school ~~shall be~~ is responsible for ensuring that all requested information is submitted to the ~~Vice-Chancellor for Health Sciences~~.

7.2. The ~~Vice-Chancellor for Health Sciences~~ shall make available to the public through the Statewide Data Reporting System or through the annual Health Sciences and Rural Health Report Card information specific to each of the State's health sciences schools, including:

7.2.1. Historical trend information for medical students, tuition and fees, specialization of graduates, passage rates on licensing examinations, and in-state retention of graduates.

7.2.2. The number and dollar value of loans made through the medical student loan program as well as default rates for the most recent year.

7.2.3. The number and dollar value of aid awarded through the Health Sciences Service Program for the most recent year.

133-3-8. ~~State Compacts~~ Collaborative Agreements.

8.1. The Commission may identify important State and system goals, objectives, and priorities that it and the State's public four-year institutions under its jurisdiction acting alone ~~will~~ would be unable to accomplish. In such cases, the Commission may authorize the Chancellor to enter into ~~State compacts collaborative agreements~~, or contracts, with external entities.

8.2. In determining whether a ~~State compact~~ collaborative agreement may be appropriate, the Chancellor shall consider:

8.2.1. Whether significant collaboration with an external entity or entities is necessary or advantageous to increase the likelihood of accomplishing a goal, objective, or priority;

8.2.2. Whether an external entity or entities would need to make a significant commitment of resources to accomplish a goal, objective, or priority; and

8.2.3. Whether an external entity is or entities ~~is~~ are receptive to entering into a ~~State compact~~ collaborative agreement.

8.3. At a minimum, a ~~State compact~~ collaborative agreement shall:

8.3.1. Identify the parties to the ~~compact~~ collaborative agreement;

8.3.2. Identify the term of the ~~compact~~ collaborative agreement;

8.3.3. Set forth measurable outcomes the parties seek to achieve by entering into the ~~compact~~ collaborative agreement;

8.3.4. Identify what each party will contribute in terms of resources as part of the ~~compact~~ collaborative agreement;

8.3.5. Set forth a system for evaluating the success or failure of the ~~compact~~ collaborative agreement to achieve the outcomes sought; and

8.3.6. Provide that the failure of one party to the ~~compact~~ collaborative agreement to perform excuses the Commission or any of the State's four-year institutions from performance thereunder ~~the compact~~.

8.4. ~~For the institutions under its jurisdiction, and not the exempted schools,~~ The Commission shall approve a proposed ~~State compact~~ collaborative agreement before it becomes operative and binding on the Commission ~~and or the State's public four-year institutions under its jurisdiction~~.

~~8.5. The Chancellor shall provide a copy of any approved state compact to the Legislative Oversight Commission on Education Accountability.~~