



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF AN EMERGENCY RULE

AGENCY: Higher Education Policy Commission TITLE-SERIES: 133-06

RULE TYPE: Legislative Amendment to Existing Rule: Yes

RULE NAME: 133-06 Higher Education Future Workforce Grant
Program

CITE STATUTORY AUTHORITY FOR PROMULGATING EMERGENCY RULE:

18B-1-6

IF THE EMERGENCY RULE WAS PROMULGATED TO COMPLY WITH A TIME LIMIT ESTABLISHED BY CODE OR FEDERAL STATUTE OR REGULATION, CITE THE CODE PROVISION, FEDERAL STATUTE OR REGULATION AND TIME LIMIT ESTABLISHED THEREIN:

18C-5-7(e)

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THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY THE SECRETARY OF STATE OR THE 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST. THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

HB 5212 passed during 2026 Legislative Session requires revisions to the legislative rule also be filed as an emergency rule.

DOES THIS EMERGENCY RULE REPEAL A CURRENT RULE? Yes

HAS THE SAME OR SIMILAR EMERGENCY RULE PREVIOUSLY BEEN FILED AND OR EXPIRED? No

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 INPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 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
EMERGENCY RULE
HIGHER EDUCATION POLICY COMMISSION**

**SERIES 6
HIGHER EDUCATION ~~ADULT PART-TIME STUDENT (HEAPS)~~ FUTURE WORKFORCE
GRANT PROGRAM**

§133-6-1. General.

1.1. Scope. -- This rule establishes guidelines and procedures which will direct the operation of the Higher Education ~~Adult Part-time Student~~ Future Workforce Grant Program, hereinafter referred to as HEAPS Future Workforce Grant.

1.2. Authority. -- W. Va. Code §18C-5-7(e).

1.3. Filing Date. -- ~~February 29, 2024.~~

1.4. Effective Date. -- ~~March 29, 2024.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force of effect on August 1, 2032.

§133-6-2. Definitions.

2.1. Unless the context in which used clearly requires a different meaning, the definitions contained in W. Va. Code §§ 18B-1-2 and 18C-5-7 apply to this rule in addition to the definitions set forth below:

2.2. “Free Application for Federal Student Aid” or “FAFSA” means the form provided by the U.S. Department of Education and completed by current and prospective college students to determine their eligibility for student financial aid.

2.3. ~~“HEAPS Part Time program” means the grant awarded to students who demonstrate financial need and who desire to continue their education at the postsecondary level on a part-time basis.~~

2.43. ~~“HEAPS Future Workforce program Grant”~~ means the grant awarded to:

2.43.1. Students who demonstrate financial need and who are enrolled in short-term training programs of 12 months or less in a postsecondary certificate, industry-recognized credential, or other skill development programs in a demand occupation in the State; and

2.43.2. Community and technical colleges for noncredit and customized training programs.

2.5. ~~“Part time,” for the HEAPS Part-time Grant, means enrollment for not fewer than three nor more than 11 semester or term hours or the equivalent as determined by the Vice Chancellor. For the HEAPS Workforce Grant, “part time” means enrollment on such basis as is established for the program in which the student is enrolled.~~

2.64. “Student Aid Index” (formerly known as Expected Family Contribution) means the number calculated by the U.S. Department of Education for Title IV federal student aid that helps determine how much financial aid a student could receive for the upcoming academic year.

2.75. “Title IV” means Title IV of the federal Higher Education Act of 1965, which covers the administration of the federal student financial aid programs.

2.86. “Vice Chancellor for Administration” or “Vice Chancellor” means the person whose duties and authorities related to the administration of financial aid programs is established by W. Va. Code § 18B-4-2 or his or her designee.

§133-6-3. Funding.

~~3.1. For the HEAPS Part time Grant, up to 65 percent of each year’s appropriation shall be allocated to eligible institutions as defined in W. Va. Code § 18C-5-7(b)(4) based on prior year part time enrollment at said institutions. The Vice Chancellor shall distribute the pro rated share of funds directly to the individual institution.~~

~~3.1.1. The Vice Chancellor for Administration may redistribute to eligible institutions uncommitted funds within an award year.~~

~~3.1.2. Any funds not expended by the institution at the end of each fiscal year shall be returned to the Vice Chancellor for Administration for distribution in subsequent years.~~

~~3.21. For the HEAPS Workforce Grant, t~~The Vice Chancellor shall reserve not less than twenty five percent of ~~may use a portion of~~ each year’s appropriation for distribution to students enrolled in postsecondary certificate, industry-recognized credential, and other skill development programs of study.

~~3.2.1. Eligible institutions offering eligible programs or courses that would like to participate in the HEAPS Future Workforce Grant must apply to the Vice Chancellor for Administration.~~

~~3.2.2. If the Vice Chancellor determines that it is not feasible to award twenty five percent of the appropriation to the HEAPS Workforce Grant, then he or she may allocate less than twenty five percent of funds to the HEAPS Workforce Grants after giving written notice to the Legislative Oversight Commission on Education Accountability.~~

3.32. The Vice Chancellor ~~shall reserve ten percent~~ may use a portion of each year’s appropriation for distribution to State community and technical colleges for the delivery of non-credit and customized training programs to assist in meeting training and skills upgrade needs of employers and further the economic development goals of the State.

3.32.1. Eligible programs for funding reimbursement are those that provide non-credit skill upgrade programs that complement West Virginia Development Office or West Virginia Department of Commerce initiatives for targeted industries or targeted employers, promote job creation or retention, or assist in developing skills for new economy jobs or high performance workplaces. The West Virginia Council for Community and Technical College Education, with input from the West Virginia Development Office or West Virginia Department of Commerce, will annually set programmatic funding priorities. Funding will flow to community and technical colleges for the delivery of programs based on a methodology approved by the West Virginia Council for Community and Technical College Education and will not be utilized for those activities for which funds are available from other sources.

3.43. Up to four percent of the amount appropriated each year may be used by the Higher Education Policy Commission for administration expenses and ~~HEAPS Future Workforce Grant~~ information dissemination.

§133-6-4. Administration.

4.1. Each participating institution shall determine whether a ~~HEAPS Part-time~~ Future Workforce Grant applicant meets the eligibility criteria set forth in this rule and distribute grant funds to students in accordance herewith.

4.2. The Vice Chancellor for Administration shall determine an appropriate process for distribution of funds allocated under Section 3-2- of this rule for the ~~HEAPS~~ Future Workforce Grant. This may include allocations to educational entities or awards to students.

§133-6-5. Eligibility Criteria.

5.1. To assist an eligible institution in determining whether an applicant meets the eligibility criteria established in W. Va. Code § 18C-5-7(c), applicants must submit a completed FAFSA to the institution. *Provided*, That persons applying for ~~HEAPS~~ Future Workforce Grant funds to enroll in a postsecondary certificate, industry recognized credential, or other skill development program in a demand occupation may be required to submit an application form in addition to the FAFSA as approved by the Vice Chancellor for Administration.

5.2. Determination of financial need:

5.2.1. Financial need is defined as cost of education as determined by the institution less Student Aid Index (SAI).

5.2.2. Institutional financial aid officers may determine, using professional judgment under Title IV, whether the applicant has any personal hardship that should be taken into consideration in determining the applicant's eligibility.

5.3. Determination of satisfactory progress:

5.3.1. "Satisfactory progress" for a first-time award means being accepted for enrollment by the institution the applicant plans to attend.

~~5.3.2. For the HEAPS Part-time Grant, "satisfactory progress" for a student already enrolled in an institution means a recipient must maintain a cumulative grade point average of at least 2.0 on a 4.0 scale or its equivalent for the courses taken after a receipt of the Grant and meet the academic progress requirements of the institution he or she is attending.~~

~~5.3.3. For the HEAPS Workforce Grant, "satisfactory~~ Satisfactory progress" for a student already enrolled in an institution means continuous advancement toward completion of the program on the normal schedule established for that program.

5.4. Renewal:

~~5.4.1. For the HEAPS Part-time Grant, the institution may renew the grant until the student completes the program of study, but may not exceed an additional nine~~ three years beyond the first year of the award. Students may not receive funding for the same program more than once.

~~5.4.2. For the HEAPS Workforce Grant, the institution may renew the grant up to four years so long as the renewed grant is for the student to complete a different program than the program for which the grant was originally awarded.~~

§133-6-6. Additional Programs and Courses.

6.1. In addition to the eligible programs and courses described in W. Va. Code § 18C-5-7, the ~~Council for Community and Technical College Education~~ Vice Chancellor may approve additional courses or programs for grant funding based on industry need.

6.2. ~~For the HEAPS Workforce Grant, the~~ The Council Vice Chancellor shall identify “demand occupations”, as that term is defined in W. Va. Code § 18C-5-7, and prepare and update annually a list of occupations ~~if they~~ that determines meet the requirements of this definition.

6.3. The ~~Council~~ Vice Chancellor shall also approve “skill development programs,” as defined in W. Va. Code § 18C-5-7.

§133-6-7. Amount of Grant.

~~7.1. The HEAPS Part time Grant award for a student enrolled in an approved institution of higher education as defined in W. Va. Code § 18C-5-2 shall be based upon the actual cost of tuition and fees.~~

~~7.2. For students enrolled in any other eligible institution, program, or course, the HEAPS Part time award shall be no greater than the average amount charged for comparable training at institutions designated in Section 7.1.~~

~~7.3.1.~~ The maximum amount of the HEAPS Future Workforce Grant shall be set by the Higher Education Policy Commission and based upon available funding and the workforce demands of the State.

~~7.4. For the HEAPS Part time Grant, total aid may not exceed the recipient’s total cost of education as defined by the institution being attended.~~

~~7.5.2.~~ ~~For the HEAPS Workforce Grant, the~~ Total aid may not exceed the direct cost of the student’s academic program.

§133-6-8. Agreement to Participate and Reports.

8.1. In order for an institution to participate in the HEAPS Future Workforce Grant Programs, the president or the president’s designee and the financial aid officer of the institution shall sign an agreement to participate. ~~This agreement will outline duties of the institutions, including, but not limited to:~~

~~8.1.1. Developing policies and procedures for the operation of the HEAPS Future Workforce Grant Programs, covering at a minimum:~~

~~8.1.1.a. Methods to determine if students meet the eligibility criteria for an HEAPS award;~~

~~8.1.1.b. Guidelines for distribution of grant funds when such funds are insufficient to make distributions to all eligible applicants;~~

~~8.1.1.c. Delivering awards to eligible students;~~

~~8.1.1.d. Reporting the number of students who participated in the HEAPS Part time program and who participated in the HEAPS Workforce Grant program (for determining fund distribution for the coming year). The institutions shall report this information on a form and within a deadline prescribed by the Vice Chancellor for Administration;~~

~~8.1.2.1.e. Reporting~~ An institution shall report annually the number of HEAPS Part time and HEAPS

Future Workforce awards made, the total amount of dollars awarded, and such other information as is requested by the Vice Chancellor for Administration. The institutions shall report this information on a form and within a deadline prescribed by the Vice Chancellor for Administration.

8.23. The Vice Chancellor for Administration shall prepare an annual report on the status of the ~~HEAPS~~ Future Workforce Grant Program and present it to the Legislative Oversight Commission on Education Accountability no later than December 1 of each year.

§133-6-9. Audits; Grant Withdrawal and Penalty; Unexpended Funds.

9.1. Participating institutions are subject to such audits and program reviews as may be required by the Vice Chancellor for Administration.

9.2. The Vice Chancellor reserves the right to withdraw a grant from an institution or deny future grant applications upon determination of the institution's unsatisfactory compliance with either this rule or the specifications of the grant application.

9.3. An institution shall reimburse to the Vice Chancellor the total sum of a grant not properly used or accounted for pursuant to this rule.

9.4. An institution shall return any unexpended funds remaining at the end of the academic year to the Vice Chancellor.