

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

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2004 OCT 15 P 3:43

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Higher Education Policy Commission TITLE NUMBER: 133

RULE TYPE: Legislative CITE AUTHORITY: WV Code § 18B-1-6 and 18B-1B-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 2

TITLE OF RULE BEING AMENDED: Higher Education Finance Policy

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON November 15, 2004 AT 3:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:


Office of the Chancellor

Higher Education Policy Commission

1018 Kanawha Blvd. East

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SUMMARY

**Title 133
Legislative Rule
West Virginia Higher Education Policy Commission**

**Series 2
Higher Education Finance Policy**

This rule establishes the principles to guide the development of financing and resource allocation policies and procedures to be utilized by the Higher Education Policy Commission and the Council for Community and Technical College Education.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 133-2: Higher Education Finance Policy

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Higher Education Policy Commission

Address: 1018 Kanawha Boulevard East

Charleston, WV 25301

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	-0-	-0-	-0-	-0-	-0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

There are no direct costs associated with this policy.

3. Objectives of These Rules:

This rule establishes the principles to guide the development of financing and resource allocation policies and procedures to be utilized by the public higher education systems.

Rule Title: 133-2: Higher Education Finance Policy

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None

C. Economic Impact on Citizens/Public at Large.

None

Date: October 15, 2004

Signature of Agency Head or Authorized Representative:

Dennis C. Taylor

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TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION

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SERIES 2
HIGHER EDUCATION FINANCE POLICY

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§133-2-1. General.

- 1.1. Scope. -- This joint rule establishes the principles to guide the development of financing and resource allocation policies and procedures to be utilized by the Higher Education Policy Commission and the Council for Community and Technical College Education.
- 1.2. Authority -- ~~W. Va.~~ West Virginia Code §18B-1B-4(a)(8).
- 1.3. Filing Date. -- ~~June 7, 2001.~~
- 1.4. Effective Date. -- ~~July 1, 2001.~~
- 1.5. Modification of Existing Rule: Title 133, Series 2, Legislative Rule of the West Virginia Higher Education Policy Commission dated July 1, 2001.

§133-2-2. Purpose.

- 2.1. The primary purpose of this rule is to establish guidelines to be used by the Higher Education Policy Commission and the Council for Community and Technical College Education in:
 - 2.1.1. Allocating state-appropriated unrestricted resources to the institutions.
 - 2.1.2. Setting targets for shares of institutional revenues to be contributed from education and general unrestricted revenues.
 - 2.1.3. Reviewing tuition and fee schedules approved by the individual colleges and universities for consistency with Policy Commission, Council and West Virginia Code guidelines and parameters.
 - 2.1.4. Establishing policies that address student financial aid decisions.
 - 2.1.5. Establishing policies regarding the role of all educational and general unrestricted revenue in calculating institutional eligibility for equity funding.
 - 2.1.6. Establishing procedures and schedules for institutions to identify budget plans for auxiliary enterprise, ancillary support, grants and contracts, and associated revenues, as well as establishing the guidelines for review of these requests by the Policy Commission and Council.
 - 2.1.7. Establishing procedures for submitting appropriation requests.

§133-2-3. Guidelines.

- 3.1. The following will guide the further development of the policies and procedures to be utilized

in financing and resource allocation within the West Virginia system of public higher education:

- 3.1.1. All data reported will be based on national uniform and consistent definitions as adopted or established by the Higher Education Policy Commission and/or the Council for Community and Technical College Education. If no national standard exists, the Policy Commission and/or Council may adopt appropriate standards.
- 3.1.2. Institutional requirements for additional recordkeeping and reporting will be minimized.
- 3.1.3. A schedule for reporting of information and for decision making will be established by the Commission and/or Council.
- 3.1.4. Information from peer institutions as determined by the Commission and/or Council will be utilized in various ways. The most recently available IPEDS data will form the basis of any comparisons.
- 3.1.5. The president ~~or administrative head~~ of each public college, university, regional campus, or community and technical college shall be responsible for ensuring that all requested information is submitted in a timely fashion to the Policy Commission and/or Council and shall certify that the information submitted has been reviewed for accuracy.

§133-2-4. Principles.

4.1. Operating Budget.

4.1.1. Base Budget.

- 4.1.1.1. The base budget amount for each community and technical college will be determined by the Council in consultation with each institution.
- 4.1.1.1.2. The base budget amount for each institution not under the jurisdiction of the Council for each budget request year will be determined by the Commission in consultation with each institution.
- 4.1.1.1.3. ~~This~~ base budget includes ~~unrestricted~~ educational and general revenues from all sources. ~~Unrestricted~~ Educational and general revenues are defined as all audited ~~unrestricted~~ current fund revenues, expenditures, transfers, and other changes; minus auxiliary revenue, hospital revenue, and independent operations.
- 4.1.2. State resources and associated non-state fund sources will be allocated to institutions in the following categories:
 - 4.1.2.1. Continuation—base amount from previous year.
 - 4.1.2.2. Sustained quality support.
 - 4.1.2.3. Peer equity.
 - 4.1.2.4. Research challenge.
 - 4.1.2.5. Independently accredited community and technical college development.

- 4.1.2.6. Incentives for contributions to state priorities.
- 4.1.3. Funds from all these categories will be released to institutions in whole or part when the Policy Commission and/or Council certifies that the institution is meeting the objectives established in its compact.
- 4.1.4. The Policy Commission and/or Council will establish the amount to be included in its budget request for each category annually with the conditions that:
- 4.1.4.1. Funds will be requested for each category.
- 4.1.5. Sustained Quality Support.
- 4.1.5.1. Funds designated for sustained quality support will be allocated to all institutions in proportion to institutions' base budgets in accordance with W. Va. West Virginia Code §18B-1A-5(b)(6)(E). Funds that ensure sustained quality but that are designated for a specific purpose (e.g., funds for salary or fringe benefit adjustments), will be allocated equitably consistent with the purpose for which the funds are being provided.
- 4.1.5.2. Each year's allocations will be added to the institutions' base budgets for subsequent years unless the Policy Commission or Council determines that substantial change in institutional mission or structure has occurred requiring a change in the base budget.
- 4.1.6. Peer Equity.
- 4.1.6.1. The Policy Commission and Council shall ~~establishes~~ benchmark funding amounts for each institution each year.
- 4.1.6.2. Funds designated for peer equity support shall be a~~Allocated to institutions in~~ accordance with W. Va. West Virginia Code §18B-1A-5(b)(6)(A).
- 4.1.6.3. Each year's allocations will be a~~Added to an institution's base budget for~~ subsequent years unless the Commission or Council determines that substantial change in institutional mission or structure has occurred requiring a change in the base budget.
- 4.1.6.4. ~~Continued until~~ It is the goal of the Commission and Council for all institutions to achieve at least ninety (90) 100-percent of benchmark amounts, as a measure of external equity. It is the goal of the Commission and Council to first attain internal equity among institutions by raising the minimum value until all institutions reach the same level. External equity goals will be addressed only after internal equity has been accomplished. Further, it is the intention of the Commission and Council that institutions should not lose ground relative to peer attainment. As used herein, "external equity" is the funding of the institution relative to its peers, and "internal equity" is leveling of differences in peer funding among the West Virginia institutions.
- 4.1.6.5. The Policy Commission and Council may adjust peer equity funds based upon imputation of assumed tuition funds consistent with peer averages.

4.1.7. Independently Accredited Community and Technical College Development.

- 4.1.7.1. Funds designated to support independently accredited community and technical college development will be allocated in accordance with ~~W. Va.~~ West Virginia Code §18B-1A-5(b)(6) (B).
- 4.1.7.2. Funds allocated for this purpose must be separately controlled and accounted for either by the host institution, the community college component or as otherwise determined by the Commission. Community and technical college incentive funds will not be added to an institution's base budget for subsequent years.

4.1.8. Research Challenge.

- 4.1.8.1. Funds designated for research challenge support will be allocated in accordance with ~~W. Va.~~ West Virginia Code §18B-1A-5(b)(6)(C).
- 4.1.8.2. Amounts awarded must be matched by the institution, on at least a one-for-one basis at the discretion of the Commission.
- 4.1.8.3. Research challenge funds will not be added to an institution's base budget for subsequent years.
- 4.1.8.4. Research projects, centers and activities are expected to attain self-sufficiency within five (5) years of initial funding.

4.1.9. Incentives for Institutional Contributions to State Priorities.

- 4.1.9.1. The Commission and Council jointly will establish the method of allocation for these funds. The allocation mechanisms will be based on demonstrated contribution toward achievement of state priority goals in accordance with ~~W. Va.~~ West Virginia Code §18B-1A-5(b)(6)(D).
- 4.1.9.2. State priority funds will not be added to ~~the an~~ institution's base ~~allocation~~ budget for subsequent years.
- 4.1.9.3. Amounts awarded must be matched by the institution, on at least a one-for-one basis at the discretion of the Commission and Council.

4.1.10. Use of Funds Once Allocated.

- 4.1.10.1. These uses must be in accordance with a budget approved annually by the institution's Governing Board.

4.2. The Capital Budget.

- 4.2.1. The Commission will utilize necessary funds from the state appropriation or ~~tuition and fee revenues~~ educational and general fees, institutional educational and general capital fees, or auxiliary enterprise capital fees, or designated appropriations for capital purposes to cover annual repayment of bonded indebtedness ~~incurred prior to July 1, 2001.~~ The provisions of both system and institutional outstanding bond issues shall determine the limitations on such funds and fees, as well as the use of such funds.

4.2.2. The Council will develop procedures for creating an approved ranked list of capital projects for institutions under its jurisdiction to be submitted to the Commission. The list shall contain at least ten (10) projects.

4.2.23. The Commission will develop procedures for creating an approved list of capital projects to be submitted to the legislature with provisos that:

4.2.3.1. The Commission will select a minimum of three projects from the list submitted by the Council to be included on its ranked list of capital projects.

4.2.23.12. Only projects on the approved list will be eligible for state funding -- either through direct state appropriation for construction or for repayment of debt.

4.2.23.23. All capital projects, subject to dollar limits in Commission policy, will be brought to the Commission for approval regardless of source of funding or method of acquisition.

4.2.23.34. In the event of an emergency, an institution may make a special request for unanticipated capital funding needs.

4.2.4. The Commission shall assure a fair distribution of funds for capital projects between Commission and Council institutions.

4.2.5. Deferred maintenance and minor repair projects generally will be excluded from bond issuances. The Commission and/or Council shall recommend an appropriate funding source and priority for such projects.

4.3. Tuition and Fees.

4.3.1. The Board of Governors of each institution will establish tuition and fee schedules within guidelines promulgated by the Commission or in West Virginia Code.

4.3.2. All tuition and fee revenues will remain at the campuses except as may be provided for by Higher Education Policy Commission or Council for Community and Technical College Education action or statutory provisions.

4.3.3. Guidelines for Establishing Tuition Rates.

4.3.3.1. Differentiation by level (e.g., graduate vs. undergraduate) and by program (e.g., law and medicine vs. other fields) is permissible.

4.3.3.2. Tuition rates should be near the medians for peer institutions or other appropriate comparison standard. However, the intent is to relate tuition to "ability to pay" rather than to an absolute level.

4.3.3.3. Student tuition as a share of revenue (tuition and fees and state appropriation), should be graduated so that students pay the highest share of revenue at the research universities, a lower share at the four-year colleges, and the lowest share at community colleges, ~~as defined by the Policy Commission~~. It is the intent of the Policy Commission and Council to define tuition ranges with the specific tuition to be set by the governing board of each institution.

- 4.3.3.4. It is the goal of the Council for Community and Technical College Education for Community and technical college tuition should to approximate peer medians. Without the express approval of the Policy Commission, tuition at component or administratively-linked community colleges will not be increased where such tuition exceeds the peer average tuition for West Virginia's stand alone community colleges as calculated by the Policy Commission. In accordance with W. Va. §18B-10-1(h)(3), tuition and fee rates for all component Each administratively-linked community and technical colleges shall submit a plan to ensure that their tuition and fees "will be commensurate with the tuition and fees charged by their peer institutions", within a time frame agreed upon between the institution and the CommissionCouncil. Each institution with a component administratively-linked community college will submit, as part of its Compact, a plan to the commission-Council regarding the progress toward this goal. In accordance with the Policy Commission guidelines, eCommunity colleges offering upper division courses may charge tuition for such courses consistent with the tuition charged for similar courses at West Virginia public four-year institutions.
- 4.3.3.5. The Policy Commission and Council shall set guidelines for out-of-state tuition levels which take into account the cost of instruction and an appropriate relationship between in-state and out-of-state tuition levels, with out-of-state tuition and fees covering at least the full costs of instruction. The cost-of-instruction comparison shall not consider capital fees or non-educational and general required fees. -It is the intention of the Commission and Council that there be no disincentives for the enrollment of non-resident students unless their admission results in a lack of opportunities for qualified West Virginia residents.
- 4.3.3.6. The Commission or Council may authorize institutions to utilize market-based pricing for out-of-state students with the understanding that no state funds will be provided to replace any foregone revenues. Institutions are encouraged to set market-based tuition rates in excess of incremental cost, but each Board of Governors can determine the appropriate charges to meet institutional goals.
- 4.4. Student Financial Aid.
- 4.4.1. Each institution shall develop explicit student financial aid policies that address such issues as:
- 4.4.21.1. The manner in which tuition and fee increases are offset by financial aid.
- 4.4.31.2. The balance of need-based and merit-based aid.
- 4.4.41.3. The balance of loan versus scholarship/grant awards.
- 4.4.2. Institutions must obtain approval from the Commission or Council to use tuition and fee revenues to fund any scholarship or fellowship except as authorized in section 4.5.1 or state statute.
- 4.5. Tuition Pricing and Discounts.
- 4.5.1. The Commission and Council reserves the right to limit discounts or adjustments to

tuition revenue. The extent to which tuition and fee pricing is offset or reduces tuition and fee revenue through various discounts such as tuition waivers, reciprocal agreements and metro fees will be a consideration in the Commission's and Council's decision regarding allocation of state appropriations to each institution.

4.6. Other Revenues.

4.6.1. Institutions are expected to acquire unrestricted and restricted revenues from educational and general sources other than tuition and fees and state appropriations.

4.6.2. Consistent with this intent:

4.6.2.1. The peer group median of the per student revenues from sources other than tuition and fee or state appropriations will be established as a target for each institution. State appropriation support for institutions exceeding such targets would not normally be reduced as a result of institutional success in this area.

4.6.2.2. Institutions are expected to seek approval from the Policy Commission or Council for any supplemental budget requests or Budget Digest funding before seeking such funds.

4.6.3. The availability of endowment funds shall not be considered in determining the appropriate funding requirements or the state funds allocated to an institution.

5.0 Auxiliary Enterprise and Grants and Contracts Financing Policies.

5.0.1. Each institution shall prepare separate budgets for auxiliary enterprises and grants and contracts based on estimated current revenue and expenditures.

5.0.2. Direct charges for services and required auxiliary fees should be sufficient to enable the auxiliary enterprises to operate on a self-supporting basis for both direct and indirect costs.

6.0 Appropriation Requests.

6.0.1. The Commission shall submit an appropriation request, including the budget request developed by the Council, before the first day of September annually.

6.0.2. The Council shall approve and provide its appropriation request to the Commission within sufficient time for it to be incorporated within the Commission request.

6.0.3. In developing appropriation requests, the Commission and Council will confer in an effort to identify common issues and to explore possible common requests.