

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER**

ADMINISTRATIVE LAW DIVISION

Form #2

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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: Procedural CITE AUTHORITY: WV Code §18B-1-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: Series 4

TITLE OF RULE BEING PROPOSED: Rules, Guidelines and Other Policy Statements by Governing Boards

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 September 10 AT 10:00 AM 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 Boulevard 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

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parties, and solicit comments and suggestions regarding the determination. Any curricular changes must be processed at the institution-level involving appropriate faculty governance and administrative bodies. If the President or governing board of an institution is unsure whether this rule applies to any contemplated rule, guidelines or policy they shall contact the Chancellor, or his/her designee, for guidance.

- 3.2 Any rule, guideline or policy statement subsequently drafted and considered for adoption will be circulated in draft form to the same individuals and parties and a date noted when comments on the draft are to be returned to the President or his/her designee.
- 3.3 A final draft of the rule, guidelines or policy statement being considered shall be sent to the same individuals and parties with an explanation of any changes and a summary of comments received.
- 3.4 The proposed rule, guideline, or policy statement shall then be presented to the appropriate committee of the governing board unless the governing board has delegated, in writing, authority to the President, to adopt, amend, or repeal the rule, guidelines, or policy statement. If authority has been delegated to the President, he/she may proceed to final adoption, amendment, or repeal. If authority has not been delegated, the committee of the governing board may endorse the adoption, amendment, or repeal and make a recommendation to the governing board for final adoption, amendment, or repeal.
- 3.5 Upon request by the affected constituencies, individuals, or parties, the governing board or President may schedule a public hearing regarding adoption, amendment, or repeal of the rule, guidelines, or policy statement.
- 3.6 The President or governing board of each institution shall designate at least one physical location on each of its campuses where all proposed and approved rules, guidelines and other policy statements can be accessed by the public at no cost and shall notify its employees, students and the public of the location. Each institution shall also develop a process whereby Internet access is available to all its proposed and approved rules, guidelines, and policy statements, to the extent technically and financially feasible, and shall indicate so on its web site home page. The rules, guidelines or policy statements shall be enumerated in a manner that makes them easily identifiable.
- 3.7 An institution may, without following the procedures in this rule, make editorial, non-substantive changes in rules or policies transferred to the institution's jurisdiction by the Policy Commission to reflect the effect of the transfer.

- 3.8 Any rule, guidelines, or policy statement adopted by a governing board or its President shall not be effective until approved by the Chancellor or his/her designee. The Chancellor or his/her designee shall notify the governing board and President of any specific or general objections to the rule, guideline, or policy statement and allow the governing board or President to address the objections. If the President and/or governing board disagrees with the objections they may appeal to the Policy Commission. If the Chancellor or his/her designee has not listed any objections to a rule, guideline, or policy statement within thirty (30) days of receipt of its final version it shall be deemed approved. Approval by the Chancellor or Policy Commission shall not be withheld unless the rule, guideline, or policy is inconsistent with state or federal law or the policies and mission of the Policy Commission.
- 3.9 In the case of an emergency, a governing board or its President may adopt, amend, or repeal a rule, guidelines, or policy statement without first following the procedure set out in this rule. For the purpose of this section, an emergency exists when the adoption, amendment, or repeal of a rule, guidelines, or policy statement is necessary for the immediate preservation of the public peace, health, safety or welfare, or is necessary to comply with a time limitation established by state or federal law or regulation or a directive or rule of the Policy Commission, or to prevent substantial harm to the public interest, or to deal with financial exigency. The facts constituting an emergency shall be communicated in writing in advance to the Chancellor, who shall disapprove the action of the governing board or President if the Chancellor, or his/her designees, disagrees that an emergency existed.
- 3.10 Any adoption, amendment, or repeal of a rule, guidelines, or policy statement under the emergency procedure set out in section 3.8 of this rule shall remain in effect no longer than three (3) months and shall expire unless the governing board or its President has completed final approval under the normal process set out in this rule.
- 3.11 Copies of all proposed rules, guidelines, or policy statements, drafts, and comments received shall be forwarded to the Chancellor, or his/her designee, at the same time as they are forwarded to members of the governing board, students, faculty, and classified employees.

**TITLE 133
PROCEDURAL RULES
HIGHER EDUCATION POLICY COMMISSION
SERIES 4
RULES, GUIDELINES AND OTHER POLICY STATEMENTS BY GOVERNING BOARDS**

SUMMARY

Series 4, *Rules, Guidelines and Other Policy Statements by Governing Boards*, sets forth procedures for institutional governing boards to follow for adoption, amendment, or repeal of rules, guidelines and other policy statements by state institutions of higher education.

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APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules, Guidelines and Other Policy Statements by Governing Boards

Type of Rule: Legislative Interpretive Procedural

Agency: 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	-0-	-0-	-0-	-0-	-0-
CURRENT EXPENSE	-0-	-0-	-0-	-0-	-0-
REPAIRS & ALTERATIONS	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-

2. Explanation of Above Estimates:

There is no cost for implementing this policy.

3. Objectives of These Rules:

This rule sets forth guidelines for state institutions of higher education to follow in the development of their own rules, guidelines and policies.

Rule Title: Rules, Guidelines and Other Policy Statements by Governing Boards

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: August 6, 2001

Signature of Agency Head or Authorized Representative:

Joyce W. Daniels for J. Michael Muller



**WEST VIRGINIA
H I G H E R
E D U C A T I O N
P O L I C Y
C O M M I S S I O N**

JOHN R. HOBLITZELL
CHAIR

J. MICHAEL MULLEN
CHANCELLOR

August 6, 2001

The Honorable Joe Manchin
Secretary of State
State Capitol
Charleston, WV 25305

Dear Secretary Manchin:


On behalf of the Higher Education Policy Commission, I am forwarding the following proposed rules, which were approved at the Commission meeting on August 2, 2001, for notice of a 30-day comment period:

Title 133, Series 4: Rules, Guidelines and Other Policy Statements by
Governing Boards

Title 133, Series 5: Guidelines for Governing Boards in Employing Presidents
or Other Administrative Heads of Institutions

Thank you for your assistance with this process.

Sincerely,


J. Michael Mullen
Chancellor

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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