

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

Form #5

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FILED

2001 SEP 28 P 3:00

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Higher Education Policy Commission TITLE NUMBER: 133

CITE AUTHORITY: W.Va. Code §18B-1-6

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

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

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS October 31, 2001


Authorized Signature

**TITLE 133
PROCEDURAL RULE
HIGHER EDUCATION POLICY COMMISSION
SERIES 4**

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**TITLE: RULES, GUIDELINES AND OTHER POLICY STATEMENTS BY
 GOVERNING BOARDS**

SECTION 1. GENERAL

- 1.1 Scope - Rule establishing process for adoption, amendment, or repeal of rules, guidelines and other policy statements by state institutions of higher education
- 1.2 Authority - W. Va. Code § 18B-1-6
- 1.3 Filing Date - September 28, 2001
- 1.4 Effective Date - October 31, 2001

SECTION 2. APPLICATION

- 2.1 This rule shall apply to the adoption, amendment, or repeal of any rule, guideline or policy statement by a President or governing board with institution-wide effect. It shall not apply to policies, guidelines, or directives established for individual units, divisions, departments or schools of the institution which deal solely with the internal management or responsibilities of that unit, division, department, or school. The Chancellor shall periodically provide the institutions with examples of what items would and would not have institution-wide effect.
- 2.2 No rule, guideline or policy statement with institution-wide effect shall be adopted, amended, or repealed by an governing board or its President without the provisions in this rule being met.

SECTION 3. ADOPTION OF RULES, GUIDELINES, OR POLICY STATEMENTS

- 3.1 If a governing board or its President determines that a rule, guidelines or policy statement should be adopted, amended, or repealed concerning a subject matter under the governing board's jurisdiction, excluding academic curriculum policies which do not constitute a mission change, the President, or his/her designee, shall notify the Chancellor, those persons representing student, faculty, and classified employees at the institution, as well as other interested

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.