

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

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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 §18C-7-6

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 7

TITLE OF RULE BEING AMENDED: West Virginia Providing Real Opportunities for Maximizing
In-State Student Excellence (PROMISE) Scholarship Program

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 January 2, 2008 AT 5:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Higher Education Policy Commission
Attention: Brian Noland
1018 Kanawha Boulevard East
Suite 700
Charleston, WV 25301

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



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FILED

**TITLE 133
LEGISLATIVE RULE
WEST VIRGINIA HIGHER EDUCATION POLICY COMMISSION**

2007 DEC -3 PM 3:45

OFFICE OF THE CLERK
WEST VIRGINIA
SECRETARY OF STATE

**SERIES 7
WEST VIRGINIA PROVIDING REAL OPPORTUNITIES FOR MAXIMIZING IN-
STATE STUDENT EXCELLENCE (PROMISE) SCHOLARSHIP PROGRAM**

§133-7-1. General.

- 1.1. Scope – This rule establishes guidelines and procedures for establishing eligibility for the West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence Scholarship Program, hereinafter referred to as PROMISE.
- 1.2. Authority – West Virginia Code § 18C-7-6
- 1.3. Filing Date – December 3, 2007
- 1.4. Effective Date –
- 1.5. Repeals and replaces Title 133, Series 7, dated April 9, 2002.

§133-7-2. Eligibility of High School Graduates for Initial Award.

- 2.1. To be eligible for an initial PROMISE Scholarship, a high school applicant must be eligible for the award at the time of application and at the time the award is received; and
 - 2.1.1. Must complete high school graduation requirements; and
 - 2.1.2. Must complete at least one half of the credits required for high school graduation through attendance at a public or private high school in this state, unless he or she qualified as a military dependent under Section 5 of this rule, or has commuted to an out-of-state school pursuant to Section 6 of this rule; and
 - 2.1.3. Must apply within two years of graduation from high school unless the applicant entered the United States armed services pursuant to Section 4 of this rule; and
 - 2.1.4. Must, while enrolled in high school, have attained a cumulative grade point average of at least 3.0 on a 4.0 scale in both core courses and overall coursework required for graduation by the State Board of Education; and

- 2.1.5. Must meet standardized test score criteria on an ACT or SAT national test as annually established by the PROMISE Board; and
- 2.1.6. Must have resided in West Virginia continuously for a minimum of twelve consecutive months immediately preceding the final date of application for a PROMISE Scholarship unless a member of the Armed Services pursuant to Section 4 of this rule or a military dependent pursuant to Section 5 of this rule; and
- 2.1.7. Must submit both the Free Application for Federal Student Aid and any application form required by the PROMISE Board by March 1 or other deadline established by the Board; however:
 - 2.1.7.1. Any student who misses the deadline for application may apply by June 1 for a spring semester award. This option is contingent upon the availability of funding for late awards.
- 2.2. The grade point average required in Section 2.1.4 will be determined by the appropriate school official at the end of the seventh high school semester. However, the final calculation of the grade point average and eligibility for the award may be determined as late as after the eighth semester.
- 2.3. Weighted grades may be used in the computation of a student's core and overall grade point average.
- 2.4. A student who applied for and was deemed eligible for a PROMISE award must enroll for the first regularly scheduled enrollment period after being selected unless granted a deferment under the leave of absence provisions of Section 9.7 or 9.8.
- 2.5. A student who was deemed eligible for a PROMISE award but elects not to enroll at an eligible institution set forth in Section 7 of this rule may regain eligibility providing the student discontinues enrollment at the ineligible institution at the conclusion of the initial enrollment period (fall semester) and re-enrolls at an eligible institution.

§133-7-3. Eligibility for the Home-Schooled.

- 3.1. A person who has been home-schooled pursuant to the exemption allowed by W.Va. Code § 18-8-1 for both the 11th and 12th grades as documented by registration with the county school board system is eligible for a PROMISE award, but only if he or she has passed the GED examination with a minimum score of 2500 or a score determined by the PROMISE Board.

- 3.2. A home-schooled student must apply for a PROMISE award within two years of the earlier of attaining a GED or the date the student's high school class would normally have graduated and meet all other criteria established by the PROMISE Board, including required scores on national standardized tests.
- 3.3. The parents or legal guardian and the applicant must meet the residency requirements set out in Section 2.1.6 of this rule.

§133-7-4. Eligibility of Members of Armed Services.

- 4.1. A person who entered full-time, active duty with the United States armed services within two years of his or her high school graduation and is discharged with a status other than dishonorable is eligible to apply or claim a PROMISE award within seven years of the time he or she has initially entered military service. However, this eligibility ends one year after discharge from such military service.
- 4.2. The applicant must meet all other criteria established by the PROMISE Board for eligible high school graduates at the time of the application, including high school grade point average and required scores on national standardized tests.
- 4.3. The applicant must meet the residency requirements set out in Section 2.1.6 of this rule, or have entered military service from this state, and not have established domicile in another state, at any time during that military service.
- 4.4. A student attending a United States military academy is only eligible for a PROMISE award if he or she leaves the military academy and meets the requirements of Section 2.5 of this rule.

§133-7-5. Eligibility of Military Dependents.

- 5.1. The credit hour requirements in Section 2.1.2 and the residency requirements of Section 2.1.6 of this rule shall be waived if:
 - 5.1.1. The applicant both resided in a state other than West Virginia and attended high school in another state or in a United States territory, United States possession or foreign country; and
 - 5.1.2. Resided with his or her parent or legal guardian; and
 - 5.1.3. The applicant's parent or legal guardian served in the United States armed forces while the student attended high school in such state, territory, possession or country; and

- 5.1.4. The parent or legal guardian was stationed for military purposes in such state, territory, possession or country; and
- 5.1.5. The parent or legal guardian maintained legal residence in West Virginia while stationed in such state, territory, possession or country.

§133-7-6. Eligibility of Commuting Students.

- 6.1. The credit hour requirements in Section 2.1.2 of this rule shall be waived if:
 - 6.1.1. The applicant resided in West Virginia while attending high school in another state; and
 - 6.1.2. Resided with his or her parent or legal guardian; and
 - 6.1.3. The parent or legal guardian and the applicant must have met the residency requirements set out in Section 2.1.6 of this rule; and
 - 6.1.4. The student commuted from this state on a daily basis; and
 - 6.1.5. The student was a dependent of the parent or legal guardian with whom the student resided; and
 - 6.1.5.1. A dependent student is one who is required to provide parental information on the Free Application for Federal Student Aid because the student does not meet the criteria to be classified an independent student contained in the Higher Education Act of 1965 as amended and implementing regulations.
 - 6.1.6. The student has not established domicile in another state; and
 - 6.1.7. The school to which the student commuted was fully accredited to a degree acceptable to West Virginia's State Superintendent of Schools; and
 - 6.1.8. The school's curriculum requirements for graduation are equivalent, or sufficiently similar to, those required for high school graduation in this state.

§133-7-7. Eligible Institutions.

- 7.1. Only those institutions specified in W. Va. Code § 18C-7-3, or any other

regionally accredited, not-for-profit institution in this state approved by the PROMISE Board, are eligible to participate in the PROMISE Scholarship program.

§133-7-8. Awards.

- 8.1. The PROMISE award for a student enrolled in a state institution of higher education shall be equal to the actual tuition and mandatory fee charges for resident students at the institution.
- 8.2. "Tuition and mandatory fees" means the quarter, semester or term charges imposed by a state institution of higher education upon all students as a required condition of enrollment.
 - 8.2.1. For purposes of this rule, West Virginia University's undergraduate health sciences students shall be treated as paying the same amount of tuition and mandatory fees as all other West Virginia University undergraduate students.
- 8.3. Students enrolled in other eligible institutions shall receive an award based upon the average undergraduate tuition and mandatory fees at comparable state institutions of higher education for the previous year as determined by the PROMISE Board.
- 8.4. Awards will not be made for summer school.
- 8.5. Only full-time, first-year students may receive initial awards. Students already enrolled at a higher education institution are not eligible to apply for a PROMISE award except as outlined in Section 2.1.7.1.

§133-7-9. Eligibility for Renewal of Awards.

- 9.1. For a student to retain or have the PROMISE award renewed each year the student must be continuously enrolled as a full-time student; and
- 9.2. Maintain at least a 2.75 grade point average on a 4.0 scale the first year and a 3.0 cumulative grade point average in subsequent years; and
- 9.3. Complete and earn a minimum of 30 credit hours in each 12 month period.
- 9.4. A student seeking an associate degree is eligible to receive a PROMISE award for no more than a total of four semesters of a two-year degree program.
 - 9.4.1. The student must maintain the 3.0 cumulative grade point average to receive a PROMISE award for a baccalaureate program.

- 9.5. A student seeking a baccalaureate degree is eligible to receive a PROMISE award for no more than eight semesters of a four-year degree program.
- 9.6. If a student enrolls in summer school to attain the minimum 30 credit hours required by Section 9.3 or achieve the grade point average required by Section 9.2, he or she shall not receive a PROMISE award for that summer school enrollment. The summer school enrollment must be completed before the commencement of the regular semester of the PROMISE eligible institution the student is attending. Summer school credits may be obtained from an out-of-state institution with approval of the home institution.
 - 9.6.1. All college credit hours and corresponding grades beginning with the first semester of regular (fall or spring) semester enrollment after high school graduation must be counted in determining PROMISE Scholarship eligibility regardless of whether or not the college accepts these credits.
- 9.7. PROMISE Scholarship students are expected to maintain continuous enrollment in addition to the other renewal requirements set forth in this section. However, this requirement may be waived by an institution of higher education for a medical or family bereavement absence consistent with program policies. The institution may also grant a leave of absence for students entering or being called to military active duty.
- 9.8. Other requests for leaves of absence must be submitted in writing by the student to the Director of State Financial Aid Programs. Student leave of absence requests submitted to the director may include, but are not limited to, programs directly related to the student's educational program, study abroad, extreme financial hardships of the student or the student's immediate family, service or volunteerism or other extraordinary circumstances beyond the student's control when continued attendance would create a substantial hardship for the student.
- 9.9. A student granted a leave of absence under the provisions of Section 9.7 or 9.8 who resumes his or her education at an eligible institution, assuming he or she meets all other eligibility requirements at the time the leave of absence was granted, shall retain eligibility for a PROMISE Scholarship until the first of the following events:
 - 9.9.1. The student received four semesters of PROMISE Scholarship assistance while enrolled in an associate degree program or graduated from the associate degree program; or
 - 9.9.2. The student received eight semesters of PROMISE Scholarship

assistance while enrolled in an associate and/or baccalaureate program or graduated from the baccalaureate degree program; or

9.9.3. The sum of the number of academic years from the date of the student's selection as a PROMISE Scholarship recipient equals six years except for the military service provisions of Section 4.

§133-7-10. Duty of PROMISE Recipient Graduates.

10.1. By accepting a PROMISE award, the recipient agrees to provide the PROMISE Board information the Board may request regarding the recipient's address after graduation, employment after graduation, whether and where the recipient is enrolled in post-graduate programs, and such other relevant information as the Board may deem necessary to assess the effectiveness of the PROMISE Scholarship program.

§133-7-11. Community Service for Applicants.

11.1. Applicants for PROMISE awards are strongly urged to perform at least 20 hours of unpaid community service while in high school and college. The community service may include, but is not limited to, participation with non-profit, governmental, institutional or community-based organizations designed to improve the quality of life for community residents, meet the needs of community residents, or foster civic responsibility.

§133-7-12. Coordination with Other Financial Aid.

12.1. PROMISE Scholarship awards shall be coordinated with other financial aid/grant programs in the following manner:

12.1.1. PROMISE awards must be utilized in a manner that maximizes federal scholarship/grant funding (e.g. Pell Grant) and should not be administered in a manner that would result in the loss of federal grant/scholarship funds to a student or to the State of West Virginia.

12.1.2. PROMISE Scholarship awards must be used for tuition and fees.

12.1.3. Institutions are strongly encouraged to allow maximum flexibility in the use of institution based financial aid awards so that they can be used in conjunction with the PROMISE award.

12.2. The amount of a PROMISE award in combination with aid from all other sources shall not exceed the cost of the attendance at the institution the recipient is attending. This restriction does not apply to members of the West Virginia National Guard, recipients of an Underwood-Smith Teacher

Scholarship, and recipients of a West Virginia Engineering, Science and Technology Scholarship.

- 12.3. For those students eligible for federal grant assistance, such as Federal Pell Grants, the federal assistance should be considered the first source of all scholarship/grant funding to the extent permissible under federal law. For students awarded both a PROMISE Scholarship and a need-based grant through the West Virginia Higher Education Grant Program, the PROMISE Scholarship awards shall be considered the first source for these two scholarship/grant programs. West Virginia Higher Education Grants may be combined with PROMISE awards as provided for annually by program policies.
- 12.4. Should the PROMISE Scholarship award plus the amount of other financial awards exceed the cost of attendance, the institution's financial aid administrator, in consultation with the recipient, will determine what aid is to be reduced. This adjustment should be to the best advantage of the recipient.

§133-7-13. Appeals.

- 13.1. An applicant for an initial PROMISE Scholarship award may appeal the denial of eligibility for the award with the Director of State Financial Aid Programs.
- 13.2. Any appeal must be filed within fifteen (15) days of the applicant receiving notice that he or she is not eligible for an initial award. The appeal must detail in writing, and with specificity, including the grounds supporting the appeal and a finding of eligibility. The director may require additional evidence or materials from the applicant or other parties.
- 13.3. If the appeal is denied by the director, the reasons for the denial shall be communicated in writing to the applicant with an explanation of the reason for the denial.
- 13.4. An applicant may appeal the director's decision to a review committee appointed by the PROMISE Board.
- 13.5. Any appeal to the review committee must be filed within fifteen (15) days of notification to the applicant that his or her initial appeal was denied. The appeal must be in writing and detail, with specificity, the grounds supporting the appeal. The review committee may require additional evidence or materials be submitted. If the review committee denies the appeal, the reasons for the denial shall be communicated in writing to the applicant with an explanation of the reason for the denial.

- 13.6. A student granted an initial PROMISE Scholarship may appeal a non-renewal of the award with the person designated at the institution of higher education where the student is enrolled. The appeal process at the institution shall be governed by an established procedure designated by the institution.
- 13.7. If the appeal of the non-renewal is denied by the institution, the student may appeal that decision to the Director of State Financial Aid Programs. The appeal must be filed within fifteen (15) days of notification to the student of denial of the institutional appeal and shall be heard in the same manner as appeals of denials of initial awards.
- 13.8. If a student with a PROMISE Scholarship is not eligible for renewal of the award because of failure to maintain academic progress, he or she may not utilize the procedure set out herein to challenge any grade assigned them. Challenges to grades must be brought under established institutional procedures for grade appeals. The process set out above may only be utilized to challenge the application of the eligibility requirements to the grade or grades assigned. If a student is successful on a grade or other appeal and the changing of the grade makes him or her eligible once again for renewal, he or she may petition the PROMISE Board for a renewal of the award retroactively.

§133-7-14. Reports.

- 14.1. The PROMISE Board shall report findings about recipients of the scholarships each year to the Joint Standing Committee on Education. Such reports will include the following:
 - 14.1.1. Information on the recipients' demographics including race, income and other variables gathered by the PROMISE Board.
 - 14.1.2. Information on students who graduate from college in West Virginia having utilized the PROMISE Scholarship as indicated in Section 10.1 of this rule.

Title 133
Legislative Rule
West Virginia Higher Education Policy Commission

Series 7
West Virginia Providing Real Opportunities for Maximizing In-State Student
Excellence (PROMISE) Scholarship Program

SUMMARY OF PROPOSED AMENDMENTS

Removes specific mention of the minimum scores required on the SAT or ACT standardized tests and states that the PROMISE Board will set criteria for awards annually.

Allows a student that misses the March 1 deadline for application to apply by June 1 for a spring semester award.

Requires a student that applies for PROMISE and was deemed eligible to enroll for the next regular semester unless granted a leave of absence.

Removes eligibility for GED recipients unless they were home-schooled for both the 11th and 12th grades.

Adds a minimum score of 2500 on the GED examination for those home-schooled.

Requires home-schooled students to apply within two years of the dates the applicant's high school class would have graduated.

Parents or guardian of home-schooled student must meet the same residency requirements as applicant.

If a PROMISE recipient attends summer school to increase GPA for eligibility or to maintain 30 credit hour completion, they must complete summer enrollment before the regular fall semester begins.

All college credit hours are to be counted in determining continued eligibility.

Leaves of absence may be granted for medical or family bereavement, military duty, programs related to the student's study, service, study abroad, volunteerism, extreme financial hardships, or extraordinary circumstances beyond the student's control.

A student granted a leave of absence is only eligible for a total of four semesters while pursuing an associate degree, or eight semesters to pursue a baccalaureate degree, within a total of six years after initial award.

PROMISE recipients urged to perform community service in college, as well as high school.

For those students eligible for federal financial aid, the federal aid shall be considered the first source of aid. For students awarded both a PROMISE Scholarship and a need-based grant through the WV Higher Education Grant Program, the PROMISE Scholarship award shall be considered the first source for these two scholarship/grant programs. This financial aid can be combined with PROMISE awards.

Clarifies appeal procedure.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 133-7 West Virginia Providing Real Opportunities For Maximizing In-State Student

Type of Rule: Legislative Interpretive Procedural

Agency: Higher Education Policy Commission

Address: 1018 Kanawha Boulevard East, Suite 700
Charleston, WV 25301

Phone Number: (304) 558-0699 Email: noland@hepc.wvnet.edu

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The purpose of this revision was to clarify present practices and award criteria. There is no impact on costs or revenue.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00		0.00
Personal Services		0.00	0.00
Current Expenses		0.00	0.00
Repairs & Alterations		0.00	0.00
Assets		0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: _____

Rule Title: 133-7 West Virginia Providing Real Opportunities For Maximizing In-State Student

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

No effect on costs or revenue.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: December 3, 2007

Signature of Agency Head or Authorized Representative

B. Nalid