

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

Form #8

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OFFICE WEST VIRGINIA
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Effective Date

NOTICE OF AN EMERGENCY AMENDMENT TO AN EMERGENCY RULE

AGENCY: Higher Education Policy Commission TITLE NUMBER: 133

DATE EMERGENCY RULE WAS ORIGINALLY FILED: August 31, 2001

FIRST EMERGENCY AMENDMENT TO AN EXISTING RULE: YES X NO _____

SECOND EMERGENCY AMENDMENT TO AN EXISTING RULE: YES _____ NO _____

DATE OF FIRST EMERGENCY AMENDMENT: _____

SERIES NUMBER OF RULE: Series 7

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

THE ATTACHED IS AN EMERGENCY AMENDMENT TO AN EXISTING EMERGENCY RULE. THIS EMERGENCY AMENDMENT BECOMES EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY AMENDMENT ARE AS FOLLOWS:

Additional clarifications have been made to the proposed legislative rule which will provide guidelines for operation of the PROMISE Scholarship program. These guidelines and procedures are essential for the first year of operating the program.

Use additional sheets if necessary


Authorized Signature

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

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SERIES 7

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

SECTION 1: GENERAL

- 1.1. Scope - This rule establishes guidelines and procedures which will direct the operation of the West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence Scholarship Program, hereafter referred to as PROMISE.
- 1.2. Authority - West Virginia Code §18C-7-6
- 1.3. Filing Date -
- 1.4. Effective Date -

SECTION 2: PURPOSE

- 2.1. The intent of the legislation creating PROMISE is to:
 - 2.1.1. Provide an incentive for all West Virginia students to perform at a high academic level;
 - 2.1.2. Increase the college-going rate in West Virginia;
 - 2.1.3. Develop an educated work force that will attract high skill, high wage jobs for West Virginians; and
 - 2.1.4. Increase the likelihood that West Virginians who do perform at a high academic level will remain in West Virginia after completing their higher education, by inducing those students to attend institutions of higher education in the state.

SECTION 3: FUNDING

- 3.1. A special revenue fund known as the PROMISE Scholarship Fund shall be created in the State Treasury.
- 3.2. Funding shall consist of:
 - 3.2.1. All appropriations to the fund from the West Virginia lottery, video lottery, taxes on amusement devices, and any other legislative appropriation;
 - 3.2.2. All interest earned from the investment of the fund; and
 - 3.2.3. Any gifts, grants, or contributions received by the fund.

SECTION 4: ADMINISTRATION

- 4.1. The PROMISE Scholarship Program shall operate under the direction of a PROMISE Scholarship Board.
 - 4.1.1. The Board shall consist of fifteen members including:
 - 4.1.1.1. The Chairperson of the Higher Education Policy Commission or his or her designee;
 - 4.1.1.2. The Chancellor of the Higher Education Policy Commission or his or her designee;
 - 4.1.1.3. The State Superintendent of Schools or his or her designee;
 - 4.1.1.4. The Secretary of Education and the Arts;
 - 4.1.1.5. The State Treasurer or his or her designee;
 - 4.1.1.6. Two members appointed by the Governor from a list of six persons nominated by the President of the Senate;
 - 4.1.1.7. Two members appointed by the Governor from a list of six persons nominated by the Speaker of the House of Delegates;
 - 4.1.1.8. Six at-large private sector members representative of the state's business and economic community who have knowledge, skill and experience in an academic, business or financial field.

- 4.1.1.8.1. The ten appointed members shall be residents of the state;
 - 4.1.1.8.2. The ten appointed members shall be appointed by the Governor with the advice and consent of the Senate;
 - 4.1.1.8.3. No more than six of the ten appointed members may be from the same political party;
 - 4.1.1.8.4. No more than four of the ten appointed members may be from the same congressional district.
- 4.1.2. Appointed members shall serve a term of four years, except as set forth in 4.1.2.1, and may be reappointed at the expiration of their terms.
- 4.1.2.1. Of the initial appointments, the Governor shall appoint three members to a one-year term, two members to a two-year term, three members to a three-year term and two members to a four-year term;
 - 4.1.2.2. An appointed member shall serve until a successor has been appointed.
 - 4.1.2.3. In the event of a vacancy among appointed members, the Governor shall appoint a person representing the same interests to fill the unexpired term;
 - 4.1.2.3.1 A person appointed to fill a vacancy shall be appointed only for the remainder of that term and is eligible for reappointment.
- 4.1.3. The Secretary of the Education and the Arts shall serve as the Chairperson and presiding officer of the Board.
- 4.1.4. Members of the Board shall serve without compensation.
- 4.1.5. A majority of the members of the Board shall constitute a quorum.
- 4.1.6. Members of the Board shall be reimbursed by the Office of the Secretary of Education and the Arts for expenses, including travel expenses incurred by them in the conduct of official business by the Board.

- 4.1.6.1. Expenses shall be paid at the same rate as is paid to employees of the State.
 - 4.1.7. Appointed Board members may be removed from office by the Governor for official misconduct, incompetence, neglect of duty, or gross immorality.
 - 4.1.7.1. Any such removal must be done in the manner prescribed by law for the removal by the Governor of state elective officers in accordance with West Virginia Code §6-6-5.
- 4.2. The Board has the powers necessary or convenient to administer and carry out the purpose of the PROMISE Scholarship Program including, but not limited to, the following:
 - 4.2.1. To adopt and amend bylaws.
 - 4.2.1.1. To propose legislative rules for promulgation.
 - 4.2.2. To invest funds with the West Virginia Investment Management Board in accordance with the provisions of West Virginia Code §12-6-1 et seq.
 - 4.2.2.1. Any investment shall be made with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.
 - 4.2.2.2. Fiduciaries shall diversify plan investments to the extent permitted by law so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.
 - 4.2.3. To execute contracts and other necessary instruments;
 - 4.2.4. To impose reasonable requirements for residency for students applying for a PROMISE Scholarship.
 - 4.2.4.1. Such requirements shall not, in any way, establish residency requirements for matriculation or fee payment purposes at state institutions of higher education.
 - 4.2.5. To contract for necessary goods and services;

- 4.2.6. To employ necessary personnel and, when necessary, to engage the services of private persons for administrative and technical assistance;
- 4.2.7. To solicit and accept gifts, including bequests or other testamentary gifts made by will, trust or other disposition, grants, loans, and other aids from any source;
- 4.2.8. To participate in any other way in any federal, state, or local government programs in carrying out the purposes of the PROMISE Program;
- 4.2.9. To define the terms and conditions under which scholarships shall be awarded;
- 4.2.10. To establish additional objective standards the Board considers necessary to promote academic excellence and to maintain the financial stability of the fund. The Board may, by administrative procedure, revise those objective standards on an annual basis;
 - 4.2.10.1. When changes to the objective standards are made, provisions will be made for students already enrolled in the program.
- 4.2.11. To establish other policies, procedures, and criteria necessary to implement and administer the PROMISE Scholarship Program.
- 4.2.12. To expend the monies in the fund to provide awards and administer the PROMISE Scholarship Program.

SECTION 5: STUDENT CRITERIA

- 5.1. To be eligible for consideration for an initial PROMISE Scholarship, an applicant must be eligible for the award at the time of application and at the time the award is received. An applicant:
 - 5.1.1. Must have completed the high school graduation requirements after September 1, 2001 or have earned a General Educational Development (GED) diploma as set forth in Section 5.2 or have been home-schooled as set forth in Section 5.3.;
 - 5.1.1.1. Must have completed all of the credits required for graduation, one-half of which must have been completed in a public or private high school in this state or;

- 5.1.1.1.1. Must have been provided instruction in the home in West Virginia or other approved place in West Virginia under Exemption B, West Virginia Code §18-8-1, for the two years immediately preceding application.
- 5.1.1.2. Must apply within two years of his or her graduation from high school unless the applicant has entered the United States Armed Services within two years after he or she has graduated from high school.
- 5.1.1.3. A student who has served in the Armed Services is eligible to apply for a scholarship within seven years of the time he or she enters military service. However, once discharged from the military, the student is only eligible to apply for the initial award within one year of being discharged.
- 5.1.2. With zero to fifteen credits from an institution of higher education, excluding credits earned in advanced placement, college credit and dual credit courses while the student is enrolled in high school, the student must attain a cumulative grade point average of at least 3.0 in the core courses *and* overall coursework required for graduation as required by the State Board of Education. The Board may establish, on an annual basis, core and eligibility requirements beyond those set by the State Board of Education for traditional college transfer students as well as occupational and vocational programs. The eligibility standards won't be less than a GPA of 3.0 in the core courses and a 3.0 overall.
 - 5.1.2.1. Must meet other criteria as established by the Board.
 - 5.1.2.2. The core courses, as referenced in section 5.1.2., are as follows unless amended by the Board:
 - English/Language Arts-(4 credits)
 - Mathematics- (3 credits)
 - Social Sciences- (3 credits)
 - Natural Sciences- (3credits)
 - 5.1.2.3. The use of weighted grades may be used in the computation of a student's grade point average, as referenced in Section 5.1.2., in determining PROMISE eligibility.
 - 5.1.2.4. The grade point average, as specified in section 5.1.2., will be determined by the appropriate school official at the end of the 7th semester. If a student's cumulative grade point average falls below

3.00 at the end of the 8th semester, the student will be ineligible for a PROMISE award.

5.1.2.5 By the last day in February, the appropriate school official referenced in section 5.1.2.4 will notify applicants who do not satisfy PROMISE eligibility requirements.

5.1.2.6 A student who has established PROMISE eligibility but who chooses to enroll in an out of-state institution, may reestablish eligibility if the student has completed fewer than 16 credit hours at the out-of-state institution and who otherwise meets the PROMISE eligibility requirements.

5.1.3. Must meet any additional objective standards the Board considers necessary to promote academic excellence and to maintain the financial stability of the fund.

5.1.4. Must be enrolled or accepted for enrollment at an eligible institution of higher education as set forth in Section 6 of this rule.

5.1.4.1. Must be a first-time freshman, full time student.

5.1.5. Must submit the application/needs analysis form used to apply for federal student aid programs and complete an application form designed and distributed by the Board.

5.1.6. Must be a state resident;

5.1.6.1. State resident means a student who has lived in West Virginia continuously for a minimum of twelve months immediately preceding the final date of application for a PROMISE scholarship or the renewal of a scholarship and meets the standards of West Virginia domicile as defined by the residency policies of the Higher Education Policy Commission.

5.1.7. Must be a United States citizen or a permanent resident thereof.

5.2. For a student who has earned a GED, to be eligible for consideration for an initial PROMISE award, he or she must have earned the GED after September 1, 2001 and:

5.2.1. Must pass the GED examination, with a minimum score as determined by the Board, within two years of the date his or her high school class would normally have graduated.

- 5.2.1.1. Meet other criteria as established by the Board.
- 5.2.2. Must apply for a PROMISE award within two years of attaining the GED unless the applicant has entered the United States Armed Services within two years after he or she attained the GED.
 - 5.2.2.1. A student who has served in the Armed Services is eligible to apply for a PROMISE award within seven years of the time he or she enters military service. However, once discharged from the military, the student is only eligible to apply for the initial award within one year from being discharged.
- 5.3. A student who has been home-schooled must have earned the equivalent of a high school diploma after September 1, 2001 to be eligible for consideration for an initial PROMISE award.
 - 5.3.1. Must earn the GED after September 1, 2001, with a minimum score as set by the Board, within one year of the time of completion of instruction, but not later than twenty years of age;
 - 5.3.1.1. Meet other criteria, such as a minimum on a standardized test, as determined by the Board.
 - 5.3.2. Must have received home instruction for the two years immediately preceding application.
 - 5.3.3. Must apply for a PROMISE award within two years of attaining the GED unless the applicant has entered the United States Armed Services;
 - 5.3.3.1. A student who has served in the Armed Services is eligible to apply for a PROMISE award within seven years of the time he or she enters military service. However, once discharged from the military, the student is only eligible to apply for the initial award within one year from being discharged.
- 5.4. To be eligible for the renewal of a PROMISE Scholarship:
 - 5.4.1. The student will be subject to the eligibility requirements established by the Board at the time of the initial award;
 - 5.4.2. To be eligible for the renewal of a PROMISE Scholarship, a student must have earned a cumulative grade point average of at least 3.0 on a 4.0 scale; provided, however, that for the first year a PROMISE award is received, the

applicant may be eligible for renewal if he or she has earned at least a 2.75 GPA. Thereafter, a cumulative GPA of no less than 3.0 is required for the annual renewal of a Scholarship.

- 5.4.3. The student must maintain appropriate academic progress toward the completion of a degree at the undergraduate education level as defined by the Board.
- 5.5. For degree seeking students, a full-time student is required to maintain PROMISE eligibility. If the student has maintained the eligibility requirements as set forth by the Board, the student may receive a PROMISE Scholarship equal to the length of the degree program.
 - 5.5.1. An eligible student seeking an associate degree may be eligible to receive a PROMISE Scholarship equal to the length of the two-year degree program or Board approved three-year associate degree program.
 - 5.5.2. An eligible student seeking a baccalaureate degree may be eligible to receive a PROMISE Scholarship equal to the length of the four-year degree program.
 - 5.5.3. The Board may approve a PROMISE Scholarship for eligible students enrolled in a specific undergraduate degree program which is designated to be a five-year program.
 - 5.5.4. The Scholarship renewal will be issued annually to eligible students.
 - 5.5.5. A PROMISE Scholarship student must be enrolled for and complete a minimum of 30 credit hours in a twelve month period and meet the institution's academic progress requirements.
- 5.6. The Board shall establish conditions for reapplication when a student is not continuously enrolled.

SECTION 6: ELIGIBLE INSTITUTIONS

- 6.1. Institutions, as defined in West Virginia Code §18C-7-3 are eligible to participate in the PROMISE Scholarship Program and,
 - 6.1.1. Any other institution of higher education, public or private, approved by the PROMISE Board and the policy commission.

- 6.2. Any institution that is not regionally accredited shall not be eligible to participate in the PROMISE Scholarship Program.

SECTION 7: AMOUNT OF AWARD

- 7.1. The award for a student enrolled in a public institution as defined in section 6.1. shall be based upon the actual tuition and fee charges. An award also may include an allowance for books and supplies if approved by the Board.
 - 7.1.1. "Tuition and fees" as established by the Higher Education Policy Commission, means the quarter, semester or term charges imposed by a state institution of higher education and all mandatory fees required as a condition of enrollment by all students.
- 7.2. Students enrolled in other eligible institutions shall receive an award based upon the average undergraduate tuition and fee charges at four-year state public college and universities as defined in section 6.1. for the previous year as determined by the Board. An award may also include an allowance for books and supplies.
- 7.3. The Board shall make the best use of the PROMISE Scholarship Program in conjunction with the West Virginia prepaid tuition trust program.
- 7.4. The Board shall:
 - 7.4.1 Not require PROMISE Scholarship recipients to repay the amount of their scholarship, in whole or in part, if they choose to work outside the state after graduation.
 - 7.4.2. Determine whether to set aside a portion of the scholarship funds for targeted scholarships for applicants accepted or enrolled in an engineering program, science program, technology program or other designated programs;
 - 7.4.3. Determine what other sources of funding for higher education, if any, should be deducted from the PROMISE scholarship award.
- 7.5 PROMISE Scholarship awards shall be coordinated with other aid/grant programs in the following manner:
 - 7.5.1. PROMISE Scholarship funds should 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.

- 7.5.2. PROMISE scholarship awards do not supplant tuition and fee waivers;
 - 7.5.3. It is strongly encouraged that the institutions allow maximum flexibility in the use of institution based financial awards so that they can be used in conjunction with the PROMISE award.
 - 7.5.4. A PROMISE Scholarship shall pay for tuition and fees to a West Virginia public college or university, or an equivalent dollar scholarship to a private college or university in West Virginia.
 - 7.5.5. For those students eligible for both a PROMISE Scholarship and a needs-based grant through the West Virginia Higher Education Grant program, PROMISE Scholarship funds shall be considered the first source of scholarship/grant funding.
 - 7.5.6. The institution shall ensure that the amount of the annual award to an eligible student under the PROMISE Scholarship supplements, and does not supplant, the amount of gift aid that would otherwise be provided to the student.
- 7.6. The amount of a PROMISE scholarship awarded in combination with aid from all other sources shall not exceed the cost of the education at the institution the recipient is attending. This restriction does not apply to those 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.
- 7.6.1. Should the scholarship award plus the amount of other financial awards exceed the cost of attendance, the institution's financial aid officer, in consultation with the recipient, will determine what aid is to be reduced. This adjustment should be to the best advantage of the recipient.
- 7.7. Require that a scholarship will not pay an amount that exceeds the cost of tuition and fees at state institutions of higher education and may include an allowance for books and supplies.
- 7.8. Require that the student shall first submit the application/needs analysis form used to apply for federal student aid programs along with an application for the PROMISE scholarship.
- 7.9. The PROMISE Scholarship Program may be articulated with other related West Virginia student financial aid programs.

SECTION 8: PROMISE SCHOLARSHIP SUPPLEMENTAL FUND

- 8.1. A special revenue fund will be created in the State Treasury which shall be designated and known as the "PROMISE Scholarship Supplemental Fund."
 - 8.1.1. This fund shall consist of:
 - 8.1.1.1. All appropriations to the fund,
 - 8.1.1.2. All interest earned from the investment of the fund, and
 - 8.1.1.3. Any gifts, grants, or contributions received by the fund.
 - 8.1.2. Monies from this fund shall be used to assist state institutions in the event that the PROMISE Scholarship Program leads to an increased number of individuals attending those institutions and contributing expenses greater than the additional tuition income generated by the increased enrollment.
 - 8.1.3. Monies from this fund shall be used to assist only public institutions of higher education.
 - 8.1.4. Funds shall be divided among state institutions of higher education in a reasonable manner to reflect the actual distribution of PROMISE scholarship students among the institutions.

SECTION 9: APPEALS PROCESS

- 9.1. An applicant for an initial PROMISE Scholarship award may appeal a denial of eligibility for the award. If the denial of eligibility was made by the applicant's high school the applicant must file his or her appeal at the school denying eligibility with the person designated by the school or school system to hear such appeals. Each school or school system shall designate an established procedure to hear such appeals in an expedited manner. If the denial of eligibility was made by the PROMISE Board the appeal must be filed with the Outreach Coordinator of the PROMISE Board.

- 9.2. Any appeal must be filed within ten (10) days of the applicant receiving notice that they are not eligible for an initial award. The appeal must detail in writing, and with specificity, the grounds supporting the appeal and a finding of eligibility. The person or persons hearing the appeal may require additional evidence or materials from the applicant or any other individual be submitted.
- 9.3. If the appeal is denied by a school or school system or the PROMISE Outreach Coordinator the reasons for the denial shall be communicated in writing to the applicant with an explanation of the reason for the denial. An appeal granted by a school or school system may be reviewed by the PROMISE Board and reversed if it was granted contrary to the eligibility standards set out in this rule or established by the PROMISE Board.
- 9.4. An applicant may appeal the denial of the appeal to the Executive Director of the PROMISE Board.
- 9.5. Any appeal to the Executive Director 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 for the appeal. The Executive Director may require additional evidence or materials be submitted. If the Executive Director 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.
- 9.6. A student granted an initial PROMISE Scholarship may appeal a non-renewal of the award. Any such appeal must be filed within fifteen (15) days of notification to the student that he or she is not eligible for renewal of the award. The appeal is to be filed 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.
- 9.7. If the appeal of the non-renewal is denied by the institution the student may appeal that decision to the Executive Director at the PROMISE Board. 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.
- 9.8. If a student with a PROMISE Scholarship is not eligible for renewal of the award because of failure to maintain academic progress they 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 appeal, and the changing of the grade makes them eligible once again for renewal, they may petition the PROMISE Board for a renewal of the award retroactively.