

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
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: Legislative CITE AUTHORITY: WV Code § 18C-3-3

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 42

TITLE OF RULE BEING PROPOSED: West Virginia Higher Education Grant Program

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 October 17, 2002 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 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

**SCANNED**

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

**FILED**

2002 SEP 18 P 2:45

**SERIES 42  
WEST VIRGINIA HIGHER EDUCATION GRANT PROGRAM**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§133-42-1. General.**

1.1. Scope: This rule establishes guidelines and procedures which will direct the operation of the West Virginia Higher Education Grant Program, hereinafter referred to as the Grant Program.

1.2. Authority: West Virginia Code §18B-1-6, §18C-5-1

1.3. Filing Date:

1.4. Effective Date:

**§133-42-2. Purpose.**

2.1. The intent of the legislation creating the Grant Program is to establish a broad-scale state grant program designed to guarantee that the most able and needy students from all sectors of the state are given the opportunity to continue their programs of self-improvement in approved institutions of higher education of their choice located in this state.

**§133-42-3. Funding.**

3.1. Moneys appropriated or otherwise available for this purpose shall be allocated to an appropriate account or accounts.

3.2. For administrative costs associated with the Grant Program or other state-level student financial aid programs authorized by West Virginia Code, up to four percent of the amount appropriated each year may be used by the Higher Education Policy Commission for administrative expenses and information dissemination.

**§133-42-4. Administration.**

4.1. The Grant Program shall be administered by the West Virginia Higher Education Policy Commission under the general direction of the Chancellor for Higher Education.

4.2. The West Virginia Higher Education Policy Commission is authorized and empowered to do the following in relation to the Grant Program:

4.2.a. Prepare and supervise the issuance of public information concerning the Grant Program.

4.2.b. Prescribe the form and regulate the submission of applications for grants.

4.2.c. Administer or contract for the administration of such examinations as may be prescribed by the West Virginia Higher Education Policy Commission.

4.2.d. Select qualified recipients of grants.

4.2.e. Award grants.

4.2.f. Accept grants, gifts, bequests and devises of real and personal property for the purposes of the Grant Program.

4.2.g. Cooperate with approved institutions of higher education in the state and their governing boards in the administration of the Grant Program.

4.2.h. Make the final decision pertaining to residency of an applicant for grant or renewal of grant.

4.2.i. Employ or engage such professional and administrative employees as may be necessary to perform the duties and responsibilities associated with the administration of the Grant Program.

4.2.j. Employ or engage such clerical and other employees as may be necessary to perform the administrative duties and responsibilities associated with the Grant Program.

4.2.k. Prescribe the duties and fix the compensation of all such employees.

4.3. An Advisory Council on West Virginia Grants shall exist to provide input and offer suggestions to the West Virginia Higher Education Policy Commission on such matters as eligibility criteria for grant recipients, the administrative operation of the Grant Program and appropriate relationships between the various student financial aid programs.

4.3.a. Membership of the Advisory Council on West Virginia Grants shall include:

4.3.a.1. One legislative representative from the State Senate to be designated by the President of the Senate;

4.3.a.2. One legislative representative from the House of Delegates to be designated by the Speaker of the House;

4.3.a.3. The Secretary of Education and the Arts or her/his designee to represent the Governor's Office and the West Virginia Higher Education Policy Commission;

4.3.a.4. One public college or university president to be named by the Chancellor in consultation with the West Virginia public college and university presidents;

4.3.a.5. One independent college or university president to be named by the Chair of the West Virginia Association of Independent Colleges and Universities;

4.3.a.6. Two high school counselors (devoting at least half of their professional time to direct counseling of students in senior high schools) to be appointed by the President of the West Virginia School Counselors Association;

4.3.a.7. Two directors of financial aid to be named by the Chair of the West Virginia Association of Independent Colleges and Universities; and

4.3.a.8. Two directors of financial aid to be named by the Chancellor in consultation with the West Virginia public college and university presidents.

4.3.b. Ex-officio members shall include:

4.3.b.1. The Vice Chancellor for Administration for the West Virginia Higher Education Policy Commission who shall serve as Chair of the Council;

4.3.b.2. The staff coordinator for the West Virginia Higher Education Grant Program; and

4.3.b.3. The staff coordinator for the Higher Education Adult Part-time Student (HEAPS) Grant Program.

4.3.c. Terms of membership for the two college or university presidents are for four years. The presidents may succeed themselves if recommended by the appropriate authority, but may not serve for more than two consecutive terms.

4.3.d. Terms of membership for the two high school counselors are for four years. The counselors may succeed themselves if reappointed, but may not serve for more than two consecutive terms.

4.3.e. Terms of membership for the four directors of financial aid are for four years. The directors of financial aid may succeed themselves if recommended by the appropriate authority, but may not serve for more than two consecutive terms.

**§133-42-5. Eligibility Criteria.**

5.1. A person shall be eligible for consideration for a grant if the person:

5.1.a. Is a citizen of the United States;

5.1.b. Has been a resident of the state for one year immediately preceding the date of application for a grant or renewal of a grant;

5.1.c. Meets the admission requirements of the approved institution of higher education to which admission is sought or meets the admission requirements of a three-year registered nurse diploma program which is offered by a nonprofit West Virginia hospital and approved by the West Virginia board of examiners for registered professional nurses and is subsequently admitted; and

5.1.d. Is enrolled as a full-time student at an approved institution of higher education;

5.1.e. Satisfactorily meets the qualifications of financial need and academic promise, as well as academic achievement, as established by the West Virginia Higher Education Policy Commission.

5.1.e.1. Family financial ability to contribute to higher education expenses shall be determined by comparing the expected family contribution and the approved educational budget for the institution attended.

5.1.e.2. High school seniors and high school graduates who have not completed any college hours after high school graduation or passage of the GED will be evaluated on academic promise and achievement as determined by cumulative high school grade point average on a 4.0 scale and ACT composite score or equivalent SAT score. The West Virginia Higher Education Policy Commission may utilize a combined academic score based upon grade point average and ACT or SAT scores.

5.1.e.3. A student who has been home-schooled must have earned the equivalent of a high school diploma to be eligible for consideration for an initial award, which shall include:

5.1.e.3.A. Must have earned the GED with a minimum score as set by the West Virginia Higher Education Policy Commission;

5.1.e.3.B. Meets other criteria, such as a minimum score on a standardized test, as may be determined by the West Virginia Higher Education Policy Commission.

5.1.e.4. Renewal student applicants and other college students will be evaluated on their cumulative college grade point average (GPA) and other academic progress standards as determined by the institution where enrolled and the West Virginia Higher Education Policy Commission.

#### **§133-42-6. Application Process.**

6.1. An applicant for the West Virginia Higher Education Grant Program must submit the Free Application for Federal Student Aid (FAFSA) and any other such application materials as determined by the West Virginia Higher Education Policy Commission which may include a common application for multiple state-level student aid programs.

6.2. The staff of the West Virginia Higher Education Policy Commission shall collaborate with officials of K-12 education and institutions of postsecondary education to make maximum use of technology and shared data systems in the application process.

6.3. An annual application deadline for priority consideration shall be established by the West Virginia Higher Education Policy Commission.

#### **§133-42-7. Ranking of Applicants.**

7.1. The primary criterion for ranking eligible applicants for purposes of award selection shall be Expected Family Contribution (EFC) as derived from financial information provided on the FAFSA. Applicants shall be ranked in ascending order from lowest to highest EFC, with awards going first to those with the lowest EFC and next to those with higher EFCs until available funds are exhausted.

7.2. A secondary ranking may be employed utilizing academic qualifications at the EFC level where available funds are exhausted. When this secondary academic ranking system is utilized, students would be ranked in descending order from highest academic qualifications to lowest with no student receiving an award below the minimal academic score in effect at the time.

#### **§133-42-8. Recipients, Awards, and Distribution of Awards of Grants.**

8.1. The grant recipient is free to attend any approved institution of higher education in West Virginia as determined by the West Virginia Higher Education Policy Commission or any three-year registered nurse diploma program which is approved by the West Virginia Board of Examiners for Registered Professional Nurses and which is offered at a non-profit West Virginia hospital.

8.2. Grants may only be made to undergraduate students and to students enrolled in approved three-year registered nurse diploma programs as described in Section 7.1.

8.3. Each grant recipient may be considered for a renewal award until the course of study is completed, but not to exceed an additional three academic years beyond the first year of the award for bachelor's degree students. Grant Program recipients who attain an associate's degree and meet all eligibility standards shall not be precluded from receiving continuing assistance for a further undergraduate degree so long as the total number of semesters of grant assistance does not exceed eight.

8.4. Qualifications for renewal will include maintaining satisfactory academic standing, making normal progress toward completion of the course of study and continued eligibility, as determined by the West Virginia Higher Education Policy Commission.

8.5. Grant awards shall be made without regard to the applicant's race, creed, national origin, gender, veteran's status, age or disability; and in making awards, the West Virginia Higher Education Policy Commission shall treat all approved institutions of higher education in a fair and equitable manner.

8.6. Grant awards are limited to the lesser of the payment of tuition and those related compulsory fees charged by an institution to all West Virginia undergraduate students or an amount equal to the average state general fund support for each full-time equivalent student at state institutions of higher education for the preceding academic year as calculated by the West Virginia Higher Education Policy Commission.

8.7. Payment of grants shall be made directly to the institution.

8.8. In the event that a grant recipient transfers from one approved institution of higher education or approved three-year registered nurse diploma program, to another approved institution of higher education or approved three-year registered nurse diploma program, the grant is transferable only with the approval of the staff of the West Virginia Higher Education Policy Commission.

8.9. Should the recipient terminate enrollment for any reason during the academic year, the unused portion of the grant shall be returned by the institution to the Higher Education Policy Commission in accordance with the Commission's policy for issuing refunds, for transfer to the appropriate account and allocation for expenditure pursuant to the provisions of W.Va. Code § 18C-5-1 et seq.

8.10. The West Virginia Higher Education Policy Commission from time to time may identify areas of professional, vocational and technical expertise that are, or will be of critical need in the state and, to the extent feasible, may direct grants to students that are pursuing instruction in those areas.

### **§133-42-9. Coordination of Grant Program and Certain Other Aid Programs.**

9.1. All students seeking assistance through the West Virginia Higher Education Grant Program are required to apply for assistance through the Federal Pell Grant Program and resources available through that Program shall be considered before an award is issued by the West Virginia Higher Education Grant Program.

9.2. Students who fully meet the eligibility requirements for both the Higher Education Grant Program and the PROMISE Scholarship Program may receive a Higher Education Grant only if they are among the least affluent students in the Grant Program applicant pool as indicated from information reported on the FAFSA. The West Virginia Higher Education Policy Commission shall annually define the population identified as being among the least affluent applicants. In no instance may a combination of PROMISE and Higher Education Grant Program assistance exceed demonstrated financial need.

9.3. Students who fully meet the eligibility requirements for both the Higher Education Grant Program and the Engineering, Science and Technology Scholarship Program (ESTSP) may receive a Higher Education Grant only if they have remaining demonstrated financial need after the ESTSP award is applied to approved educational expenses at the institution being attended. In no instance may a combination of ESTSP and Higher Education Grant Program assistance exceed demonstrated financial need.

9.4. Students who fully meet the eligibility requirements for both the Higher Education Grant Program and the Underwood-Smith Teacher Scholarship may receive a Higher Education Grant only if they have remaining demonstrated financial need after the Underwood-Smith Teacher Scholarship award is applied to approved educational expenses at the institution being attended. In no instance may a combination of Underwood-Smith Teacher Scholarship and Higher Education Grant Program assistance exceed demonstrated financial need.

9.5. Since the Higher Education Grant Program is targeted toward full-time students and the Higher Education Adult Part-time Student (HEAPS) Grant Program is targeted on part-time students, students would not normally receive assistance from both of these sources. Should there be instances where a student fully meets the eligibility requirements of both the Higher Education Grant Program and the workforce development component of the HEAPS Program, the student may receive a HEAPS award only if they have remaining demonstrated need after the Higher Education Grant Program award is applied to approved educational expenses at the institution being attended.

### **§133-42-10. Authority of West Virginia Higher Education Policy Commission to Enter into Reciprocal Agreements with Other States Concerning Grants.**

10.1. The West Virginia Higher Education Policy Commission may enter into reciprocal agreements with state grant and grant program agencies in other states which provide

financial assistance to their residents attending institutions of higher education located in West Virginia.

10.2. The West Virginia Higher Education Policy Commission may authorize residents of West Virginia to use financial assistance under Section 9.1 to attend institutions of higher education in such other states.

10.2.a. Residents of West Virginia requesting financial assistance to attend institutions of higher education located in any such states must meet all of the eligibility standards set forth Section 5.

**§133-42-11. Appeal Process.**

11.1. An applicant may appeal in writing the decline of an initial award or renewal of an award within ten (10) days of receipt of notification to the staff coordinator of the West Virginia Higher Education Grant Program.

11.2. An applicant may further appeal in writing the decision of the staff coordinator of the West Virginia Higher Education Grant Program within ten (10) days of receipt of notification to the Vice Chancellor for Administration. At her/his discretion, the Vice Chancellor for Administration may consult with an appeal advisory committee of the Advisory Council on West Virginia Grants in making a final decision.

11.3. Any appeal made under this section should detail with specificity the grounds for the appeal. The decision rendered at each level shall address in writing each ground raised on the appeal.

**§133-42-12. Audit.**

12.1. Participating institutions shall be subject to such audits as may be required by the West Virginia Higher Education Policy Commission.

□  
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 133-42: West Virginia Higher Education Grant Program

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
<b>ESTIMATED TOTAL COST</b>					
<b>PERSONAL SERVICES</b>					
<b>CURRENT EXPENSE</b>					
<b>REPAIRS &amp; ALTERATIONS</b>					
<b>EQUIPMENT</b>					
<b>OTHER</b>			20,000,000		

2. Explanation of Above Estimates:

The Higher Education Grant Program is an existing program funded at approximately \$20 million for student awards from state, federal and student fee revenues. The proposed rule has no direct impact in terms of obligating the State of West Virginia to increased funding.

3. Objectives of These Rules:

This rule establishes policies and procedures for the awarding of financial aid to students in West Virginia higher education institutions through the Higher Education Grant Program.

Rule Title: 133-42: West Virginia Higher Education Grant Program

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

The Higher Education Grant Program contributes to an educated workforce which in turn contributes to a positive environment for economic development and enhancement of the State financial health and vitality as well as the quality of life in the State.

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

Higher Education Grant Program recipients come from all counties and communities throughout the State. Students with academic promise but demonstrated financial need are the target population.

C. Economic Impact on Citizens/Public at Large.

The Grant Program currently assists some 11,000 West Virginia residents who require need-based financial assistance to realize their postsecondary education goals. The majority of these students remain in West Virginia following college graduation and are available as highly educated members of the West Virginia workforce.

Date: September 16, 2002

Signature of Agency Head or Authorized Representative:

*J. Michael Muller*

## **SUMMARY**

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

**Series 42  
West Virginia Higher Education Grant Program**

This rule establishes guidelines and procedures for operation of the West Virginia Higher Education Grant Program. This program is designed to guarantee that the most able and needy students from all sectors of the state are given the opportunity to continue their programs of self-improvement in approved institutions of higher education of their choice located in this state.



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  
Chairman

J. Michael Mullen  
Chancellor

September 18, 2002

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 a Notice of a Comment Period on a Legislative Rule under Title 133, Series 42: West Virginia Higher Education Grant Program. This proposed rule was approved by the Higher Education Policy Commission at its September 12, 2002 meeting.

Sincerely,

A handwritten signature in black ink that reads "Joe Davis for Michael Mullen".

J. Michael Mullen  
Chancellor

/jd