

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

Form #3

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2002 NOV 26 P 2:54

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE ~~LEGISLATIVE RULE-MAKING REVIEW COMMITTEE~~ ^{LOCEA}**

AGENCY: Higher Education Policy Commission TITLE NUMBER: 133

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

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE ~~LEGISLATIVE RULE-MAKING REVIEW COMMITTEE~~ ^{LOCEA} FOR THEIR REVIEW.



Authorized Signature

SCANNED

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**Summary of Comments Regarding
Series 42
West Virginia Higher Education Grant Program**

1. Comment: The President of West Virginia Independent Colleges and Universities wrote to acknowledge the positive impact of the Higher Education Grant Program, but also noted the decline in recipients at independent colleges for the current year. He expressed concern that the utilization of Higher Education Resource Fee (HERF) funds and earmarking of these funds for public college and university students "complicates the award process." Officials of an independent university in the State wrote to express a similar concern. Full funding of the Grant Program and replacement of HERF funds by other funds are recommended.

Questions were asked about whether the following clarifications in the rule might be helpful:

- 5.1.e.4. Should the state follow satisfactory academic program guidelines when reviewing student applications?
- 9.2. For students who meet both Higher Education Grant and PROMISE eligibility requirements, which is applied first - - PROMISE or the Grant?
- 9.3 and 9.4. For students who meet the eligibility requirements, is the "demonstrated financial need" calculated on the basis of direct cost or cost of attendance?

Response: Imbedded in the Higher Education Policy Commission budget request for FY 2003-04 is a proposal to replace HERF funds as a direct source of revenue for the Grant Program so that students from both public and independent colleges would apply for a common pool of funds. Regarding section 5.1.e.4, current language would require recipients to meet institutional academic progress standards as well as guidelines which may be established by the Vice Chancellor for Administration. With respect to section 9.2 of the rule, the current PROMISE legislative rule stipulates that the PROMISE Scholarship would be the first award made where students may qualify for both a PROMISE and State Grant award. Demonstrated financial need as referenced in sections 9.3 and 9.4 and other parts of the policy involves a calculation of the difference between expected family contribution and the approved educational budget which includes both tuition/fees and other allowable educational costs. Section 5.1.e.1 is revised to define demonstrated financial need for purposes of the Grant Program.

2. Comment: One public college president raised a concern about whether the eight semester limit (section 8.3) for the Higher Education Grant recipient is realistic, especially for lower income students who may frequently take longer than that to complete their studies.

Response: No change was made in view of current statutory limits on the length of the period of assistance through the Grant Program.

3. Comment: One campus official raised questions about wording in section 8.5 regarding equal opportunity for grant consideration.

Response: Changes have been made in the revised rule.

4. Comment: The President of the West Virginia Association of Student Financial Aid Administrators (WVASFAA) wrote to the Financial Aid Coordinating Council, with the primary message involving comments from WVASFAA members on the new common application for financial aid. There was also a comment about the perceived lack of specifics on the academic eligibility standards as outlined in the proposed legislative rule. Further comments suggested that Grant Program awards be used for other educational costs when tuition and fees are paid by another tuition restricted award.

Response: No change was made in the rule. Since funding and applicant profiles may change substantially in different years, defining the types of academic indicators to be considered appears to be most appropriate. Senate Bill 207 provided rather specific guidelines for using the Grant Program to make awards to a specific population of PROMISE Scholarship Program recipients who have their tuition paid by the PROMISE Program. There are questions as to whether this authorization would apply to other tuition-based awards.

5. Comment: A legislative leader noted that since the Advisory Council on West Virginia Grants is a non-statutory body established many years ago as an advisory group that it may be inappropriate to provide highly detailed membership guidelines in a legislative rule.

Response: While it is anticipated that the Advisory Council would continue as an advisory body, Policy Commission staff concurs that detailed membership guidelines need not be in the rule. However, a general statement as to the existence and role of the Advisory Council on West Virginia Grants is retained.

6. Comment: An institutional aid officer raised questions as to whether the language in section 4.2.h would apply to campus residency decisions. She also suggested that financial aid officer representatives to the Advisory Council on West Virginia Grants be named by the West Virginia Association of Student Financial Aid Administrators.

Response: A minor change has been made in wording of section 4.2.h of the rule regarding eligibility for a grant.

7. Comment: A legislative leader and a financial aid staff member noted that current statutory provisions for the Higher Education Grant Program assign the Senior Administrator (duties transferred to the Vice Chancellor for Administration of the Higher Education Policy Commission in Senate Bill 653) the primary duties for Grant Program administration. It was suggested that the legislative rule follow current statutory provisions.

Response: The Vice Chancellor for Administration is inserted in the rule in various places where administrative responsibilities were assigned to the Senior Administrator by code.

8. Comment: Since no three-year registered nurse diploma programs currently exist in West Virginia (nor have they existed for several years), Policy Commission staff are recommending deletion of specific reference to these institutions in section 5.1.c, 8.1, 8.2, and 8.8.

Response: Such references are deleted in the revised rule. It would appear that should nurse diploma institutions exist in the future, they could be defined as "approved institutions of higher education" as provided for in the rule.

9. Comment: Policy Commission staff have suggested that there be an alternative to the GED for home-schooled students seeking assistance through the Higher Education Grant Program.

Response: The revised rule, through section 5.1.e.3.A., provides an alternative if the student receives certification of the equivalent of high school completion from a body recognized as an authorized certification agency by the West Virginia Department of Education.

TITLE 133
LEGISLATIVE RULE
HIGHER EDUCATION POLICY COMMISSION

FILED

2002 NOV 26 P 2: 55

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 Vice Chancellor for Administration, formerly the Senior Administrator, under the general direction of the Chancellor for Higher Education and the West Virginia Higher Education Policy Commission.
- 4.2. The Vice Chancellor for Administration 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 Vice Chancellor for Administration.

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 eligibility of an applicant for a grant or renewal of a grant, e.g., meeting defined residency requirements.

4.2.i. Employ or engage such professional and administrative employees as may be necessary to assist the Vice Chancellor for Administration in the performance of 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 assist the Vice Chancellor for Administration in the performance of 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.

§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;

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

5.1.e. Satisfactorily meets the qualifications of financial need and academic promise, as well as academic achievement, as established by the Vice Chancellor for Administration.

5.1.e.1. Family financial ability to contribute to higher education expenses shall be determined by comparing the Expected Family Contribution (EFC) and the approved educational budget for the institution attended. Demonstrated financial need (calculated as the difference between EFC and approved educational budget) shall be necessary to be considered for assistance.

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 Vice Chancellor for Administration 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 Vice Chancellor for Administration, or receive certification of the equivalent of high school completion from a body recognized as an authorized certification agency by the West Virginia Department of Education;

5.1.e.3.B. Meets other criteria, such as a minimum score on a standardized test, as may be determined by the Vice Chancellor for Administration.

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 Vice Chancellor for Administration.

§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 Vice Chancellor for Administration 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 Vice Chancellor for Administration.

§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 Vice Chancellor for Administration.
- 8.2. Grants may only be made to undergraduate students.
- 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 bachelor's 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 Vice Chancellor for Administration.

8.5. Grant awards shall be made without regard to the applicant's race, color, religion, national origin, sex, veteran's status, age or disability; and in making awards, the Vice Chancellor for Administration 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 Vice Chancellor for Administration.

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 to another approved institution of higher education, the grant is transferable only with the approval of the Vice Chancellor for Administration.

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 West Virginia 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 Vice Chancellor for Administration 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 Vice Chancellor for Administration to Enter into Reciprocal Agreements with Other States Concerning Grants.

10.1. The Vice Chancellor for Administration 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 Vice Chancellor for Administration may authorize residents of West Virginia to use financial assistance under Section 10.1 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 in 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 Vice Chancellor for Administration.