

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

Form #2

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2004 OCT 15 P 3:42

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 § WV Code § 18B-1-6 and

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 November 15, 2004 AT 3:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

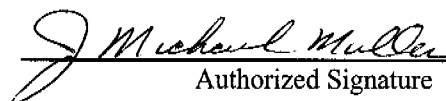
Office of the Chancellor

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

SUMMARY

**Title 133
Legislative Rule
West Virginia 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.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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

Type of Rule: X Legislative Interpretive Procedural

Agency: West Virginia 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
ESTIMATED TOTAL COST	-0-	-0-	-0-	-0-	-0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

The Higher Education Grant Program is an existing program. The proposed rule has no direct impact in terms of obligating the State of West Virginia for funding.

3. Objectives of These Rules:

This rule establishes policies and procedures for 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.

This Program assists WV residents who require need-based assistance to realize their postsecondary education goals. The majority of these students remain in WV following college graduation and are available as highly educated members of the WV workforce.

Date: October 15, 2004

Signature of Agency Head or Authorized Representative:

Dennis C. Taylor

TITLE 133
LEGISLATIVE RULE
HIGHER EDUCATION POLICY COMMISSION

FILED

2004 OCT 15 P 3:42

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 that 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. The West Virginia Higher Education Policy Commission may use up to four (4) percent of the amount appropriated each year for the Grant Program for administrative costs and information dissemination associated with the Grant Program or other state-level student financial aid programs authorized by West Virginia Code.

§133-42-4. Approved Institutions.

- 4.1 An approved institution of higher education means a state institution as defined in section two, article one, chapter eighteen-b of the West Virginia Code; and Alderson-Broadus College, Appalachian Bible College, Bethany College, Mountain State University, Davis and Elkins College, Ohio Valley College, Salem

International University, the University of Charleston, West Virginia Wesleyan College and Wheeling Jesuit University, all in West Virginia.

- 4.2 Additionally, an approved institution means any other regionally or nationally accredited institution of higher education in West Virginia, public or private, approved by the Vice Chancellor for Administration if the institution has been licensed for a minimum of fifteen years subject to the provisions of section five, article three, chapter eighteen-b of the West Virginia Code and section four, article one-b of said chapter.
 - 4.2.1. The postsecondary educational provider referenced in Section 4.2 must complete a Program Participation Agreement form as required by the Vice Chancellor for Administration.
- 4.3 In the event a participating institution loses Federal Pell Grant Program eligibility status, the institution is not eligible to participate in the West Virginia Higher Education Grant Program or other state-level student financial aid programs authorized by West Virginia Code during the period of federal ineligibility.

§133-42-5. Administration.

- 5.1. 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 and in consultation with the Chancellor for Community and Technical College Education and the West Virginia Council for Community and Technical College Education.
- 5.2. The Vice Chancellor for Administration is authorized and empowered to do the following in relation to the Grant Program:
 - 5.2.1. Prepare and supervise the issuance of public information concerning the Grant Program.
 - 5.2.2. Prescribe the form and regulate the submission of applications for grants.
 - 5.2.3. Administer or contract for the administration of such examinations as may be prescribed by the Vice Chancellor for Administration.
 - 5.2.4. Select qualified recipients of grants.
 - 5.2.5. Award grants.
 - 5.2.6. Accept grants, gifts, bequests and devises of real and personal property for the purposes of the Grant Program.

- 5.2.7. Cooperate with approved institutions of higher education in the state and their governing boards in the administration of the Grant Program.
 - 5.2.8. Make the final decision pertaining to eligibility of an applicant for a grant or renewal of a grant, e.g., meeting defined residency requirements.
 - 5.2.9. 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.
 - 5.2.10. 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.
 - 5.2.11. Prescribe the duties and fix the compensation of all such employees.
- 5.3. 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.

§133-42-6. Eligibility Criteria.

- 6.1. A person shall be eligible for consideration for a grant if the person:
 - 6.1.1. Is a citizen of the United States;
 - 6.1.2. Has been a resident of the state for one year immediately preceding the date of application for a grant or renewal of a grant;
 - 6.1.3. Meets the admission requirements of the approved institution of higher education to which admission is sought.
 - 6.1.4. Is enrolled as a full-time student at an approved institution of higher education; and
 - 6.1.5. Satisfactorily meets the qualifications of financial need and academic promise, as well as academic achievement, as established by the Vice Chancellor for Administration.
- 6.2. Financial need 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.

- 6.2.1. Effective for awards during the 2005-2006 academic year, no student with an EFC above \$6,000 will be considered for an award. The Higher Education Policy Commission may annually adjust the EFC level above which students will be deemed ineligible.
- 6.3. High school seniors and high school graduates who have completed no more than 12 college hours after high school graduation or passage of the GED will be presumed to exhibit academic promise if they meet the admission requirements and are admitted to an approved institution of higher education.
- 6.4. Academic achievement for renewal student applicants and students who have completed 13 or more college hours after high school graduation or passed the GED will be evaluated on their cumulative college grade point average (GPA) and other academic progress standards as determined by the institution where enrolled. A minimum 2.0 GPA is required for all such applicants. A renewal student applicant must have earned a minimum of 24 credit hours annually during the preceding fall and spring semesters during which he or she received the grant. The academic progress requirement after the first year of an award shall increase to 30 credit hours annually.
 - 6.4.1. To be eligible for an award during his or her third semester, the student must previously have completed at least 24 credit hours of college during his or her academic career.
 - 6.4.2. To be eligible for an award during his or her fifth semester, the student must previously have completed at least 54 credit hours of college during his or her academic career.
 - 6.4.3. To be eligible for an award during his or her seventh semester, the student must previously have completed at least 84 credit hours of college during his or her academic career.

§133-42-7. Application Process.

- 7.1. 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.
- 7.2. 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.

- 7.3. An annual application deadline for priority consideration shall be established by the Vice Chancellor for Administration.

§133-42-8. Ranking of Applicants.

- 8.1. The 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.

§133-42-9. Recipients, Awards, and Distribution of Awards of Grants.

- 9.1. The grant recipient is free to attend any approved institution of higher education in West Virginia as determined by the Vice Chancellor for Administration.
- 9.2. Grants may only be made to undergraduate students.
- 9.3. 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.
- 9.4. 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.
- 9.5. 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.
- 9.6. 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. The Vice Chancellor for Administration has the authority to establish a

proportionately lower grant award if necessary due to funding limitations, which will be approved annually by the Higher Education Policy Commission.

- 9.7. Payment of grants shall be made directly to the institution.
- 9.8. 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.
- 9.9. 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. The institution is responsible for returning the unused portion of the grant even if the student does not request a refund from the institution.
- 9.10. 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.
- 9.11. Within one month of the end of each semester, each institution shall complete the reconciliation process and refund any overpayment to the Higher Education Policy Commission so that other needy students may receive assistance.

§133-42-10. Coordination of Grant Program and Certain Other Aid Programs.

- 10.1. 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.
- 10.2. 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.
- 10.3. 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.

- 10.4. 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.
- 10.5. 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 toward 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 he or she has remaining demonstrated need after the Higher Education Grant Program award is applied to approved educational expenses at the institution being attended.

§133-42-11. Authority of Vice Chancellor for Administration to Enter into Reciprocal Agreements with Other States Concerning Grants.

- 11.1. 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.
- 11.2. The Vice Chancellor for Administration may authorize residents of West Virginia to use financial assistance under Section 11.1 to attend institutions of higher education in such other states.
 - 11.2.1. 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 6.

§133-42-12. Appeal Process.

- 12.1. 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.
- 12.2. 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.

- 12.3. 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.

§133-42-13. Audit and Required Reports.

- 13.1. Participating private and proprietary institutions shall provide the Vice Chancellor for Administration with audited financial statements annually, and all participating institutions may be subject to financial aid audits as may be required by the Vice Chancellor for Administration. All audited financial statements from private and proprietary institutions shall be treated as confidential trade secrets and shall not be subject to Freedom of Information Act requests.
- 13.2. Participating institutions shall provide reports as may be required by the Vice Chancellor for Administration. This requirement may include the U.S. Department of Education's Fiscal Operations Report and Application to Participate (FISAP) and information for the West Virginia Higher Education Policy Commission Annual Student Financial Aid Survey.