

**WEST VIRGINIA
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**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Higher Education Policy Commission TITLE NUMBER: 133

CITE AUTHORITY: WV Code §18B-1-6(a)and (b) and 18B-1-4(a)(8)

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 48

TITLE OF RULE BEING PROPOSED: Peer Selection

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 FOR THEIR REVIEW.



Authorized Signature

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

**SERIES 48
PEER SELECTION**

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§133-48-1. General.

1.1. Scope – This rule establishes and outlines the system for selecting peers and allocating peer equity funding for institutions under the Higher Education Policy Commission (Commission), Council for Community and Technical College Education (Council), and institution governing boards.

1.2. Authority – West Virginia Code § 18B-1-6(a), (b), and 18B-1B-4(a)(8)

1.3. Filing Date –

1.4. Effective Date –

§133-48-2. Definitions.

2.1. Academic Program Inventory. The list of academic programs offered as identified by two-digit program code, where an academic program is an instructional program leading toward an associate's, bachelor's, master's, doctor's, or first-professional degree or resulting in credits that can be applied to one of these degrees.

2.2. ACT/SAT Scores. The average ACT or SAT score of entering freshmen. SAT, previously known as the Scholastic Aptitude Test, is an examination administered by the Educational Testing Service (ETS) and used to predict the facility with which an individual will progress in learning college-level academic subjects. ACT, previously known as the American College Testing program, measures educational development and readiness to pursue college-level coursework in English, mathematics, natural science, and social studies. Student performance does not reflect innate ability and is influenced by a student's educational preparedness.

2.3. Carnegie Classification. An institutional classification coding structure developed by the Andrew W. Carnegie Foundation for the Advancement of Teaching. The 2000 Carnegie Classification categorizes selected institutions as: Doctoral/Research Universities—Extensive; Doctoral/Research Universities-Intensive; Master's Colleges and Universities I or II; Baccalaureate Colleges-Liberal Arts; Baccalaureate Colleges-General; Baccalaureate/Associate's Colleges; Associate's Colleges; Specialized Institutions; and Tribal Colleges and Universities.

2.4. Degree Production. The number of academic degrees produced, by academic discipline, as noted by 2-digit program identification code.

2.5. Faculty and Staff Employees by EEO Category. Categorization of all employees on the institution's payroll as of November 1 of the reporting year, by full- and part-time status; by

function or occupational category (EEO); and by faculty status and tenure status. Institutions with medical schools are required to report their medical school employees separately.

2.6. Financial Aid. Grants, loans, assistantships, scholarships, fellowships, tuition waivers, tuition discounts, veteran's benefits, employer aid (tuition reimbursement) and other monies (other than from relatives/friends) provided to students to meet expenses. This includes Title IV subsidized and unsubsidized loans made directly to students.

2.7. Geographic Location. A classification of the degree of urbanization and population size. All institutions are categorized into one of nine categories, varying by population and degree of urbanization.

2.8. Morrill Act Status. An institution is considered a Morrill Act institution if the institution receives funds under the 1860 or 1890 Morrill Acts, also known as Land-Grant Institutions.

2.9. Non-traditional Student Enrollment. A student who is older or younger than the "traditional" college age of 18-24.

2.10. Peer Institution. A public higher education institution in another state that is comparable to a West Virginia public higher education institution.

2.11. Part-time Students. Undergraduate—A student enrolled for either 11 semester credits or less, or 11 quarter credits or less, or less than 24 contact hours a week each term. Graduate—A student enrolled for either 8 semester credits or less, or 8 quarter credits or less.

2.12. Program Mix. The range of academic disciplines, as identified by the 2-digit program identification code, and the range of levels of programs offered, including less than 2-year programs, 2-year programs, programs less than 4 years but greater than 2 years, 4-year programs, 5-year programs, first-professional, masters' level programs, or doctoral level programs.

2.13. Student Full-time Equivalent Enrollment. Two definitions are provided for SFTE: a measurement equal to the sum of the headcount full-time students and one-third the headcount part-time students; or a measurement equal to one student enrolled full time for one academic year. Total FTE enrollment includes full time plus the calculated equivalent of the part-time enrollment. The full-time equivalent of the part-time students can be estimated using different factors depending on the type and control of institution and level of student, and is calculated by the National Center for Education Statistics (NCES).

2.14. Student Headcount Enrollment. One student enrolled in the fall semester for one or more credit hours.

2.15. Total Sponsored Research Expenditures. A functional expense category that includes expenses for activities specifically organized to produce research outcomes and commissioned by an agency either external to the institution or separately budgeted by an organizational unit within the institution. The category includes institutes and research centers, and individual and project research. This function does not include non-research sponsored programs (e.g., training programs). Also included are information technology expenses related to research activities if the institution separately budgets and expenses information technology resources. (Otherwise these

expenses are included in academic support.) FASB institutions include actual or allocated costs for operation & maintenance of plant, interest, and depreciation. GASB institutions do not include operation & maintenance of plant or interest, but may, as an option, distribute depreciation expense.

2.16. West Virginia Public Higher Education Institution.

The following West Virginia public higher education institutions under the jurisdiction of the Council for Community and Technical College Education are subject to the provisions of this rule: Blue Ridge Community and Technical College, the Community and Technical College at WVU Tech, Eastern West Virginia Community and Technical College, Marshall Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College (a division of Fairmont State University), Southern West Virginia Community and Technical College, West Virginia Northern Community College, West Virginia State Community and Technical College, and West Virginia University at Parkersburg.

2.16.1. The following West Virginia public higher education institutions under the jurisdiction of the Higher Education Policy Commission are subject to the provisions of this rule: Bluefield State College, Concord University, Fairmont State University, Glenville State College, Marshall University, Potomac State College of West Virginia University, Shepherd University, West Liberty State College, West Virginia School of Osteopathic Medicine, West Virginia State University, West Virginia University, and West Virginia University Institute of Technology.

§133-48-3. Purpose.

3.1. The primary purpose of selecting peer institutions is to provide a means of comparing West Virginia higher education institutions to similar institutions across the nation. Peer comparisons will be primarily made to determine how to allocate legislative peer equity funding among West Virginia higher education institutions. Other uses for peer institutions may also include, but are not limited to:

3.1.1. Evaluation of appropriate levels of tuition and fees;

3.1.2. Evaluation of institutional performance as defined in legislative or procedural rules;

3.1.3. Determination of comparable faculty and staff teaching requirements and other workloads;

3.1.4. Such other purposes as the law may require or the Commission and/or Council find useful or necessary.

3.3 The primary purpose of peer equity funding is to provide a mechanism to increase internal equity in the funding of West Virginia higher education institutions by adjusting the operating budgets of State institutions based on the operating budgets of peer institutions.

§133-48-4. Selection of Peers.

4.1. Responsibility. The Commission shall select and adjust peer institutions for each West Virginia public higher education institution.

4.1.1. The Commission shall select and adjust peers for community and technical colleges under the jurisdiction of the Council in collaboration with the Council (i.e., the Commission and Council both must approve the peer selection).

4.1.2. Final peer selection is subject to the approval of the Legislative Oversight Commission on Education Accountability.

4.2. Frequency. The Commission shall adjust peer institutions for each West Virginia public higher education institution at least every 6 years or as necessary based on:

4.2.1. Changes in missions of West Virginia public higher education institutions as approved in institutional compacts; or

4.2.2. Data shortcomings or substantial changes in mission or status for at least 3 peer institutions in any given peer group.

4.3. Pool. The Commission shall select peer institutions from among public higher education institutions throughout the United States. Peer institutions shall be of similar mission, and shall not be aspirational.

4.4. Number of Peers. The Commission shall select an appropriate number of peer institutions, which shall not exceed 20, for each West Virginia public higher education institution, with no more than 3 peer institutions from any single state.

4.4.1. As it is exceedingly difficult to affix relevant peers for a standalone Osteopathic institution, the West Virginia School of Osteopathic Medicine may require a comparison group of lesser size and/or additional modifications or exceptions to the procedures set forth in this rule.

4.5. Factors. Factors or variables used in the selection process shall be used to affix peers that are statistically similar in mission, size, and composition. Determination of comparative funding shall be set forth via a mechanism independent of this rule.

4.5.1. Data for peer institutions shall be extracted from the National Center for Education Statistics' Integrated Postsecondary Education Data System (IPEDS). Where appropriate, data for West Virginia institutions shall be extracted from data provided by the institutions to the Commission.

4.5.2. Peer selection data elements shall be drawn from the two years most recently available from IPEDS and/or Commission files.

4.5.3. In selecting peer institutions for West Virginia public higher education institutions, the Commission and Council shall include at least the following factors:

- 4.5.3.1. Student headcount enrollment.
- 4.5.3.2. Student full-time equivalent enrollment.
- 4.5.3.3. Degree production by discipline.
- 4.5.3.4. Academic program inventory.
- 4.5.3.5. Carnegie classification.
- 4.5.3.6. Geographic location.
- 4.5.3.7. Total sponsored research expenditures.
- 4.5.3.8. Faculty and staff employees by equal employment opportunity category.

4.5.4. Additional factors that may be considered include, but are not limited to:

- 4.5.4.1. Non-traditional student enrollment.
- 4.5.4.2. Financial aid.
- 4.5.4.3. ACT/SAT scores.
- 4.5.4.4. Degree of urbanization.
- 4.5.4.5. Morrill Act status.

4.6. Process. The Commission shall select and reevaluate peer institutions for each West Virginia public higher education institution through an open, deliberative, and objective process and in consultation with the institutional boards of governors or boards of advisors, as appropriate.

4.6.1. Commission staff shall begin the peer selection or adjustment process by contracting with a national, independent education consulting firm to assist in the process.

4.6.2. Commission staff and/or the consulting firm shall develop a proposed list of peer institutions through a uniform factor analysis model tailored to the mission of each West Virginia public higher education institution using the factors outlined in section 4.5 of this rule.

4.6.3. To develop an initial listing of peers, the Commission staff and/or the consulting firm shall complete a factor analysis for each West Virginia institution, using the data file that will include but not be limited to the factors outlined in section 4.5. The factor analysis will include those variables that are related to the specific mission and academic program

mix of the West Virginia institution. The factor analysis will develop factor scores for each institution for each factor identified in the analysis.

4.6.4. Each institution shall be provided with a copy of the proposed list of peers for all institutions with a copy of West Virginia institutional source data and descriptive variables characterizing the proposed peers, and within fifteen (15) work days of delivery of the proposed list of peer institutions, may provide written comments or objections to the proposed peer lists of their own or other institutions. Objections shall identify with specificity the reason for the objection.

4.6.5. Commission and consulting firm staff shall review each written comment or objection on the proposed lists and make a recommendation for the Commission's (and Council's, if appropriate) consideration.

4.6.5.1. If Commission and consulting firm staff determine that an objection is valid, the staff shall review the remaining list of potential peer institutions to determine whether other institutions should be stricken for the same reason.

4.6.5.2. Before making a decision concerning a proposed list of peer institutions, the Commission (or Council) shall give a representative of the West Virginia public higher education institution an opportunity to address the staff recommendation.

4.6.6. Once the Commission (and Council, if appropriate) has approved a proposed list of peer institutions, the proposed list shall be forwarded to the Legislative Oversight Commission on Education Accountability for its consideration.

**West Virginia Higher Education Policy Commission
Meeting of October 26, 2006**

ITEM: Approval of Final Rule, Series 48, *Peer Selection*

INSTITUTIONS: All

RECOMMENDED RESOLUTION: *Resolved*, That the West Virginia Higher Education Policy Commission approves the proposed legislative rule, Series 48, *Peer Selection*, to be filed with the Legislative Oversight Commission on Education Accountability (LOCEA) for approval.

STAFF MEMBER: Jim Barton

BACKGROUND:

West Virginia Code §18B-1B-4(a)(8) charges the Policy Commission to establish institutional peer comparison groups for the primary purpose of facilitating peer equity funding allocations as outlined in §18B-1A-5(b)(6)(A). Peer comparison groups may also be used as a point of comparison for a variety of policy issues as prescribed by law, or as solicited by the West Virginia Higher Education Policy Commission. The Commission approved the draft legislative rule at its August 18, 2006 meeting for filing with the Secretary of State's office for public thirty-day comment.

Comments were received from five institutions, and covered the following topic areas:

1. Recommendation to rewrite section 4.4 to clarify language acknowledging the need to apply special considerations for the West Virginia School of Osteopathic Medicine.
2. Inquiry as to the use of Commission data files to supplement IPEDS data, which generally lags behind our most current data by two years.
3. Recommendation that consideration be given to multi-campus configurations due to high costs associated with sustaining such entities.
4. Recommendation that West Virginia institutions which include medical schools should, by default, include only peers with medical schools.
5. Recommendation that the distribution of students by level be considered among the factors related to student enrollment and degree production.

6. Request to analyze the composition and size of an institution's faculty and staff compositions, as well as full/part-time faculty, as these elements may be reflective of unique operational attributes of the institution.
7. Request to consider current revenue and expenditures as a factor for peer selection.
8. Caution that limited emphasis should be placed on 2000 and 2005 Carnegie classification codes, as neither set fully characterizes West Virginia institutions with perfect accuracy given individual and system restructuring over the past several years.
9. Recommendation that the wording of section 4.5 be revised to more clearly convey the intended concept that Series 48 is only intended to establish statistically relevant peers, and not comparative funding equities.

After staff consideration of all comments, three alterations were incorporated into the rule:

1. Clarification of the consideration of the West Virginia School of Osteopathic Medicine. Language was added in the new section 4.4.1 to acknowledge difficulty in selecting relevant peers for a standalone Osteopathic institution.
2. Language in section 4.5 was updated to further clarify that data elements outlined in this rule are not necessarily used to calculate comparative funding relative to peers. Computation of funding in comparison to peers is independent of this rule.
3. Section 4.6.4 was updated to more accurately reflect the background and briefing materials provided to each institution as they evaluate the proposed peer sets.

The final draft of the rule which is being recommended for approval by LOCEA is attached to this item.