

Hope Scholarship Subcommittee on Legislative Rules

Meeting Minutes

April 8, 2022 11:00 am via Microsoft Teams

The meeting of the Hope Scholarship Subcommittee on Legislative Rules was called to order by Jonathan “Zak” Ritchie, Chair, on Friday, April 8, 2022 at 11:02 am after determination that a quorum of the members was present. Subcommittee members attending the meeting were: Jonathan “Zak” Ritchie and Charles Russell.

The following West Virginia State Treasurer’s Office (WVSTO) staff members attending the virtual meeting: James Fuerhoff, Lindsay Marchio, Michelle Storage, Adam Shuemaker and Amy Willard. Approximately 15 members of the public attended the virtual meeting.

The agenda for the meeting consisted of the following:

- I. Welcome – Introductions/Roll Call – Call to Order
- II. Approval of Previous Minutes
- III. Review and discussion of public comments submitted for legislative rule 112 CSR 18
- IV. Consideration of agency approved legislative rule 112 CSR 18
- V. Consideration of emergency amendment to emergency rule 112 CSR 18
- VI. Adjournment

Welcome – Introductions/Roll Call – Call to Order

The Chair called the meeting to order after determination that a quorum of members was present. He announced introduced both himself and Charles Russell as the members present.

Approval of Previous Minutes

The Chair indicated the first order of business was the approval of minutes from the February 1, 2022 meeting of the Hope Scholarship Subcommittee on Legislative Rules, which had been previously circulated. After hearing no corrections to the minutes, Charles Russell made a motion to approve the minutes. The Chair seconded. No discussion was heard. The Chair polled the members and the motion carried.

Review and Discussion of Public Comments Submitted for Legislative Rule 112 CSR 18

The next order of business was a discussion on the public comments received with respect to legislative rule 112 CSR 18. The Chair indicated that staff of the West Virginia State Treasurer’s Office (WVSTO) had prepared a recommended draft of responses to the public comments received

for consideration by the Subcommittee. The Chair recognized James Fuerhoff to give a brief overview of the public comments received and the draft responses.

Mr. Fuerhoff indicated the first comments were from Jamie Arnold, who expressed concerns with the 45-day requirement to be eligible for the Hope Scholarship. The WVSTO recommended no change to the rule since the Hope Scholarship Board cannot change the Hope Scholarship Act.

The second set of public comments were from WV Families United for Education, who had multiple comments. Their first comment posed questions about potential supplies being qualified expenses and the WVSTO recommended amending the rule to clarify that curriculum and supplies necessary for educational programs are qualified expenses. The second comment inquired about the 45-day window that the Board has from receipt of an application to issue an award letter. The WVSTO recommended no change to the rule since the statutory language is clear and it would be duplicative to include in the rule. The next comment posed questions regarding the 45-day enrollment requirement relating to award letters. The WVSTO recommended amending the rule to clarify that only the 180 days of the regular instructional term can be used to meet the 45-calendar day requirement. The next comment was regarding a laptop and the WVSTO recommended amending the rules to clarify that technology equipment necessary for an educational program is a qualified expense. The WVSTO recommended no change the rule for the next comment regarding reimbursement of qualified expenses. The final comment inquired about testing or other requirements for home school students and the WVSTO recommended no change to the rules as a result of the public comment.

In the next set of public comments from the Diocese, the first comment was regarding the unlawful discrimination language utilized in the rule. The WVSTO recommends updating the language to refer to state or federal law applicable to the provider. The second comment was a suggestion to clarify language related to tuition and fee schedules. After discussion with the Board's program manager, all education service providers will be required to provide tuition and fee schedules as part of the onboarding process, so the WVSTO recommends amending the rule to clarify that all education service providers will be required to provide tuition and fee schedules. The third comment was a suggestion that the final sentence in Section 11.7 could be probably interpreted to require access to records that go beyond the Board's interest in ensuring Hope Scholarship funds are being spent on qualified expenses. The Treasurer's Office recommends amending the language to incorporate the alternative language suggested by the Diocese.

The final set of public comments were from Yes Every Kid. The first comment was regarding continued eligibility in the program and the WVSTO recommended no change to the rule. The second comment was whether the application window could be expanded to the full year and the WVSTO again made no recommended changes to the rules as a result of the comment. The third comment was a suggestion to include a definition of Individualized Instructional Plan and the WVSTO recommends incorporating that definition in Section 2.16 of the rule. The fourth comment was regarding qualifying expenditures and the WVSTO recommend adding language in Section 9.2.16 of the rule regarding elective educational courses. The fifth comment inquired whether the Board could automate the Notice of Intent transmittal to the county superintendent. The WVSTO recommended no change to the rules as a result of that comment. Comment six was an inquiry regarding authorized account holders and the WVSTO recommended no change to the rules as a

result of the comment. The final comment was in regards to encapsulating other transaction methods and the WVSTO recommended no changes to the rule as a result of the public comment.

Upon completion of Mr. Fuerhoff's presentation, the Chair inquired if there were any questions regarding the public comments or changes needed to draft responses to the public comments by the WVSTO team. None were heard. The Chair moved that the Hope Scholarship Board responses to public comments as discussed be recommended by the Subcommittee on Legislative rules for approval to the full Hope Scholarship Board. Charles Russel seconded the motion. The Chair asked for discussion. Upon hearing none, he polled the members on the motion and the motion was adopted.

Consideration of Agency Approved Legislative Rule 112 CSR 18

The Chair indicated the next order of business was a discussion of the Board's agency approved rule 112 CSR 18. He indicated staff of the WVSTO had prepared a recommended draft of the agency approved rule for consideration by the subcommittee and recommended James Fuerhoff to give a brief overview of the proposed agency approved rule.

Mr. Fuerhoff indicated that the agency approved rule changes were directly as a result of public comments or technical corrections/clarifications. The following sections of the agency approved rule were updated:

- Section 2.16 – Public Comment
- Section 2.17 – Public Comment
- Section 3.1.4.a – Technical Correction/Clarification
- Section 9.2.1 – Technical Correction/Clarification
- Section 9.2.4 – Technical Correction/Clarification
- Section 9.2.7 – Technical Correction/Clarification
- Section 9.2.15 – Public Comment
- Section 9.2.16 – Public Comment
- Section 9.2.17 – Public Comment
- Section 9.2.18 – Public Comment
- Section 11.2.1 – Technical Correction/Clarification
- Section 11.3.1.d – Public Comment
- Section 11.3.1.e – Technical Correction/Clarification
- Section 11.4.1 – Public Comment
- Section 11.7 – Public Comment

Upon completion of Mr. Fuerhoff's presentation, the Chair inquired if there were any questions or changes needed to the proposed agency rule. There were none heard. The Chair made a motion that the Hope Scholarship Board's proposed agency rule as discussed be recommended by the Subcommittee on Legislative rules for approval to the full Hope Scholarship Board. The motion was seconded by Charles Russell. The Chair asked for discussion and none was heard. The Chair polled the Committee, and the motion was adopted.

Consideration of Emergency Amendment to Emergency Rule 112 CSR 18

The Chair indicated the next order of business on the agenda was a discussion on a proposed emergency amendment to the Board's emergency rule 112 CSR 18. He indicated staff of the WVSTO had prepared a recommended draft of an emergency amendment for consideration by the Subcommittee and recognized Amy Willard to give a brief overview of the emergency amendment.

Ms. Willard indicated that the changes to the emergency rule included all of the changes that James Fuerhoff had described for the agency rule plus some additional changes that were identified as necessary over the first month of operations of the Hope Scholarship Program. The changes include the following:

- An update to Section 3.1.4.a regarding kindergarten students who are not five years old before July 1.
- An update to Section 3.1.4.c to clarify how the attendance of the 45-day provision is determined.
- An update to Section 4.1.3.k to require submission of documentation to help deter fraud. Applicants will be required to submit a copy of the student's birth certificate and proof of West Virginia residency.
- Addition of Section 6.1.7 to include that Hope Scholarship parents must agree that they will not resell items purchased with Hope Scholarship funds.
- Updates to Section 9.2.4 regarding the purchase of services from public schools to clarify examples of the types of services, to clarify that Hope students are subject to WVSSAC rules, to clarify that Hope students in a participating school are eligible to receive free services that would have otherwise been provided by the public school to private school students, and to clarify that students will be required to pay for public school services with other funds if they wish to receive services and have no Hope funds available.
- An update to Section 10.5.1 regarding Hope students who return to public school and their subsequent eligibility for the Hope Scholarship Program.
- Addition of Section 11.2.2 and 11.2.3 to add permissive language for items authorized in the Hope Scholarship statute (surety bonds and reciprocal agreements).
- Addition of Sections 11.3.1.f and 11.4.5 to require participating schools to notify the Board annual by June 15th when Hope students graduate from their secondary programs.
- Addition of Section 11.6 to indicate that education service providers may not limit the amount of Hope Scholarship funds that a student may use
- Addition of Section 11.7 to address deposits and advance payments to education service providers.

Upon completion of Ms. Willard's presentation, the Chair asked if there were any questions or changes needed to the WVSTO draft emergency amendment. There were none heard. The Chair made a motion that the Hope Scholarship Board's proposed emergency amendment as discussed be recommended by the Subcommittee on Legislative Rules for approval to the full Hope Scholarship Board. The motion was seconded by Charles Russell. The Chair asked for discussion and none was heard. The Chair polled the Committee, and the motion was adopted.

Adjournment

The Chair asked if there was any other business to come before the Committee and none was heard. The Chair thanked the WVSTO staff for their work on the legislative rules and adjourned the meeting at 11:24 am.

Minutes prepared by Amy Willard

Minutes approved by the Subcommittee on November 18, 2022



Jonathan "Zak" Ritchie, Chair