



**WEST VIRGINIA  
SECRETARY OF STATE**

**NATALIE E. TENNANT**

**ADMINISTRATIVE LAW DIVISION**

eFILED

10/15/2015 4:38:22 PM

OFFICE OF  
WEST VIRGINIA SECRETARY OF STATE

**FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR  
A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY **Education**

RULE TYPE **Legislative Exempt AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 126-**

RULE NAME **Establishment and Operation of Regional Education Service Agencies (3233) 072**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

RULE IS LEGISLATIVE EXEMPT

**Yes**

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

**W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS

**Monday, November 16, 2015**

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Yes**

**Mary C Tuckwiller -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 126-072



Rule Id: 9960



Document: 27176

**126CSR72**

**TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION**

**SERIES 72  
ESTABLISHMENT AND OPERATION OF REGIONAL EDUCATION SERVICE AGENCIES (3233)**

**§126-72-1. General.**

1.1. Scope. -- This legislative rule provides for the establishment and operation of Regional Education Service Agencies (hereinafter RESAs).

1.2. Authority. -- W. Va. Constitution, Article XII, Section 2; W. Va. Code §18-2-5 and §18-2-26.

1.3. Filing Date. -- October 15, 2015.

1.4. Effective Date. -- November 16, 2015.

1.5. Repeal of Former Rule. -- This rule amends W. Va. 126CSR72, Establishment and Operation of Regional Education Service Agencies (3233), filed December 11, 2014, and effective January 12, 2015.

**§126-72-2. Establishment, Powers, and Duties.**

2.1. Establishment of Regional Education Service Agencies (hereinafter RESA). The West Virginia Board of Education (hereinafter WVBE) establishes multi-county RESAs as the regional units in the state school system to provide for high quality, cost effective lifelong education programs and services to students, schools, school systems, and communities. Each RESA is established as a regional public multi-service agency to develop, manage, and provide services or programs.

2.2. Number and Composition. There are eight (8) RESAs comprised of the following member counties:

2.2.a. RESA 1 – McDowell, Mercer, Monroe, Raleigh, Summers, Wyoming

2.2.b. RESA 2 – Cabell, Lincoln, Logan, Mason, Mingo, Wayne

2.2.c. RESA 3 – Boone, Clay, Kanawha, Putnam

2.2.d. RESA 4 - Braxton, Fayette, Greenbrier, Nicholas, Pocahontas, Webster

2.2.e. RESA 5 – Calhoun, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt, Wood

2.2.f. RESA 6 – Brooke, Hancock, Marshall, Ohio, Wetzel

2.2.g. RESA 7 – Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Preston, Randolph, Taylor, Tucker, Upshur

2.2.h. RESA 8 – Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Pendleton

2.3. Upon petition by a RESA or a county board, or on its own motion, the WVBE may modify member counties of each RESA to achieve results consistent with this rule or any other factors intended to ensure that each RESA delivers equitable, efficient, and high quality standards of services to county school systems. RESAs or county boards may petition the WVBE for change in composition where evidence demonstrates such change could improve effectiveness or efficiency of services intended to build capacity through technical assistance and professional development that results in the continuous improvement of student performance.

2.4. Membership. All county school systems located within the boundaries of each RESA, as determined by the WVBE, shall be members of that RESA.

2.5. Powers and Duties. The RESAs shall have the following powers and duties;

2.5.a. RESAs shall operate as Local Educational Agencies (hereinafter LEA) for financial purposes, including grants and cooperative purchasing, and collectively as essential agencies responsible for performing service functions to the total community consistent with the WVBE's commitment to high quality programs and services for all students in a state educational system that is thorough, efficient, and performance-based.

2.5.b. The RESAs shall administer existing regional education programs, insofar as is consistent with state and federal law, except for multi-county programs where the attendance areas do not coincide with the established RESA boundaries.

2.5.c. RESAs are empowered to contract with county boards of education, the West Virginia Department of Education (hereinafter WVDE), persons, companies, or other agencies to implement their Strategic Plan as provided in Section 5.

2.5.d. A RESA is eligible as an LEA to participate in partnership with or on behalf of any county school system or school in those programs that will accomplish implementation of the strategic plan and/or state education initiative, or further statutory priorities to maintain RESA operations.

2.5.e. RESAs will serve as repositories of research-based teaching and learning practices. RESAs shall use technology, particularly web-based technology and the WVDE's e-portal (web site), to ensure maximum access to such practices by public schools in the region and state.

2.5.f. RESA may offer technical assistance, including targeted comprehensive staff development services, or other technical assistance to any member school or school system, and will give priority to those schools and school systems that are found to be out of compliance with a state law or federal law, or as directed by the WVBE or its designees in the WVDE.

2.5.g. Upon the request of one or more county boards of education, if directed by law or by the WVBE as permitted, a RESA may assume responsibility for one or more functions otherwise performed by one or more county boards of education.

2.5.h. When a RESA has available funds, or can derive such funds on a fee basis, the executive director must give priority to low-performing school systems or schools that request programs or services required to implement their Strategic Plan.

2.6. Liberal Construction. All functions, powers, and duties of the RESAs shall be liberally construed to effectuate the intent of the WVBE.

**§126-72-3. Governance and Administration.**

3.1. General Supervision. The WVBE is responsible for the general supervision of the RESAs and effectuates this responsibility through its staff and through delegation to the WVDE.

3.2. Executive Director, Employment and Selection.

3.2.a. The WVBE shall employ on behalf of each RESA an executive director who will act as the day to day administrator. RESA executive directors serve at the will and pleasure of the WVBE.

3.2.b. The WVBE shall determine the salary of the executive director at each RESA.

3.2.c. The WVBE, in conjunction with the regional council as established herein, will be responsible for filling vacancies in the position of executive director.

3.2.d. When a vacancy occurs in the position of executive director, the President of the WVBE shall notify the chairperson of the respective regional council who is charged with appointing a selection committee to make recommendations to the WVBE for the employment of an executive director. The selection committee shall be comprised of the following individuals: one member of the WVBE appointed by the WVBE President; WVBE staff at the discretion of the WVBE President; up to two WVDE staff members designated by the State Superintendent; at least one superintendent of the regional council; at least one regional council member who sits on a county board of education other than of the superintendent; and at least three other regional council members as appointed by the regional council. The selection committee is charged with drafting a job description to be approved by the WVBE. The selection committee shall forward its nominee to the WVBE for final consideration and approval.

3.2.e. The WVBE shall conduct an annual evaluation of each executive director utilizing a consistent format across all RESAs. One half of the evaluation rating will be determined by the regional council. The State Superintendent or a WVDE designee may participate in the evaluation.

3.4. Regional Councils. Each RESA shall have a regional council for the purpose of advising and assisting the executive director in carrying out his/her duties.

3.4.a. The regional council shall consist of the following:

3.4.a.1. The county superintendent of each member county;

3.4.a.2. A member of the board of education from each member county selected by the county board of education as provided herein;

3.4.a.3. A designee of the WVBE who will serve as an ex-officio, non-voting member;

3.4.a.4. A representative from the WVDE selected by the State Superintendent, who will serve as an ex-officio, non-voting member

## 126CSR72

3.4.a.5. The following educators to be selected by the executive director with the consent of the regional council:

3.4.a.5.A. One non-superintendent chief instructional leader employed by a member county;

3.4.a.5.B. One school principal employed by a member county; and

3.4.a.5.C. One teacher employed by a member county.

3.4.a.6. The regional council may select additional members representing higher education, business and industry, or other appropriate entities, as the council sees fit to meet its responsibilities.

3.4.b. At the first meeting in July, after each biennial election, each county board shall officially designate the board member representing its board on the regional council. The term of each county board of education member appointment shall be two years, and the member may be reappointed.

3.4.c. The term of each person selected by the executive director shall commence on the first day of July after each biennial election and shall be two years. A person appointed after the first day of July after each biennial election will ~~serve~~ serve the unexpired term, and the member may be reappointed.

3.5. Each executive director shall make recommendations to the WVBE in the following areas: qualifications and leadership characteristics of regular full-time and regular part-time professional and associate staff, development of an annual budget, development of the RESA strategic plan. Each executive director, with the assistance of staff where appropriate, will complete standard annual performance reviews of each regular full-time and regular part-time professional and associate employee. When a position is funded by grants administered by the WVDE, a member of the associated WVDE staff shall assist in determining qualifications and leadership characteristics, and may be consulted during the evaluation process.

3.6. The superintendent of schools in each county may designate a member of his/her administrative staff to serve as his/her official representative on the regional council as his/her voting alternate if he/she is unable to attend a meeting. Each board of education member may designate an alternate member of the board of education as his/her voting alternate if he/she is unable to attend a meeting. If the WVDE representative is unable to attend a RESA meeting, the State Superintendent may designate an alternate representative to attend the meeting. Persons selected by the executive director on the regional council who are unable to attend a meeting may provide a substitute to represent him/her at the meeting if approved by the executive director.

3.7. The regional council of each RESA shall elect a chairperson from its members and provide for such other officers as it may determine are needed. All officers shall be elected for one-year terms, except that vacancies occurring during a term shall be filled for the remainder of the term by a majority vote of members on the regional council.

3.8. The RESAs shall operate utilizing standard policies, rules, and/or regulations for the effective and efficient operation, as developed and promoted by the WVBE. The WVBE will provide such standard operating protocols.

3.9. A quorum for regional council meetings shall be a simple majority of the number of members of each council.

3.10. The RESA executive director, with input from the chairperson of the regional council shall establish advisory committees, task forces, and study groups as desired for accomplishing RESA functions and services consistent with this WVBE rule.

3.11. On or before May 1 of each year, the WVBE, through its evaluation committee, shall conduct an evaluation of each executive director and RESA and report the results of the evaluation to the entire WVBE and the regional council. In conducting this evaluation, the evaluation committee shall consider (1) the RESA's annual performance report, (2) the leadership of the RESA executive director in developing and implementing the Strategic Plan, (3) findings in the RESA's annual budget audit, (4) recommendations of the regional council regarding performance of the RESA, and (5) any other factor the evaluation committee considers appropriate. At least one half of the evaluation rating must be determined by the regional council.

3.12. The executive directors in the network of RESAs shall annually select from their membership one executive director to serve as the communication liaison with the WVBE and State Superintendent. The WVBE may designate a staff member to serve as its liaison. The purpose of this communication linkage is to ensure that information exchange occurs between leadership of the RESAs and the WVBE that can reveal the benefits, challenges, needs, opportunities, and potential partnership roles of the statewide RESA network as an essential technical assistance and professional development provider of services to the state's system of public schools.

3.13. A RESA may employ staff, as necessary, to perform services described in the Strategic Plan or to operate demonstration, pilot, or other projects that may require staff and support services for effective implementation. Upon the recommendation of a RESA executive director, the WVBE will consider the approval of all regular full-time and regular part-time staff at a RESA after a majority of the members of a regional council, by vote, verify that such employment is necessary for effective provision of services. WVBE delegates to each executive director the authority to authorize the temporary hiring of regular full-time and regular part-time staff, pending final approval of the WVBE.

3.13.a. RESA staff who are hired into a position that requires a specified certification must maintain the certification for the duration of employment.

3.13.b. All RESA regular full-time and regular part time personnel are non-contractual will and pleasure employees of the WVBE. Executive directors will make recommendations for termination and suspension of RESA regular full-time and regular part-time personnel to the WVBE.

3.13.c. The WVBE will develop consistent and standardized personnel policies. Each RESA, through its regional council, may suggest revisions to the personnel policies through the WVBE.

3.13.d. A RESA may acquire and hold property considered necessary by the WVBE for achieving the purpose and functions for which RESAs are established, as advised by the regional council and subject to approval by the WVBE.

**§126-72-4. Finances.**

4.1. The executive director of the RESA shall prepare and submit an annual basic operating budget for the next fiscal year at a regional council meeting held no later than April. The budget must be approved by the WVBE. In preparing the budget, the executive director is to (1) allocate expenditures with actions planned to accomplish the Strategic Plan; (2) consult with the Executive Director, WVDE Office of School Finance for ensuring any potential or standing audit issues are considered; and (3) prior to submitting the annual budget to the WVBE for approval, obtain a majority vote by a quorum of members on the regional council regarding the budget's appropriateness for meeting needs of school systems in the region.

4.2. The RESA executive director, with advice and assistance of the regional council, may select as its fiscal agent one of the county boards of education comprising the RESA. The county board so selected may maintain a separate bank account or accounts for the receipt and disbursement of all RESA funds and perform the accounting functions specified in the policies adopted by the WVBE. A county board of education serving as a RESA fiscal agent may not initiate action, direct the RESA's programs or substitute its judgment for that of the executive director as advised by the regional council. The county board of education may reject an action of the executive director if sufficient funds are not available, or if it perceives a legal conflict. The executive director of the RESA shall make arrangements for an annual audit to be conducted in accordance with the requirements of the Single Audit Act (Office of Management and Budget Circular A-133) and the cost of the audit shall be incurred by the RESA. Prior to making those arrangements, the executive director must coordinate with the respective fiscal agent to ensure the audit addresses all applicable issues.

4.3. Each RESA shall employ a competent chief financial officer who meets the qualifications specified in W. Va. 126CSR136, WVBE Policy 5202, Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications. Current RESA employees performing financial functions who are deemed competent and are approved by the State Superintendent shall be allowed to continue in their positions. The chief financial officer will prepare monthly and annual financial reports and provide copies of those reports to the RESA executive director, RESA program directors, the chief school business official of the fiscal agent county board, the regional council, and submit a copy to the WVBE.

4.4. A RESA may receive and disburse funds from the state and federal governments, from member counties, from gifts and grants, and from profit-generating enterprises, the funds of which will contribute to RESA initiatives. Each RESA is encouraged to partner with member school systems, particularly those designated as low-performing, and other organizations as appropriate to attract and leverage resources available from federal programs to maximize its capacity for meeting the needs of member schools and school systems. The WVBE recognizes a RESA as an eligible LEA for the purposes of applying, on behalf of school systems, for grant funds consistent with performing regional services and functions in this rule and/or supportive of education initiatives of the WVBE.

**§126-72-5. Strategic Plan.**

5.1. RESAs assist the WVBE in implementing its standards-based accountability model to provide high quality education programs pursuant to subsection (a) of W. Va. Code §18-2-26. The executive director of each RESA, with the advice and assistance of each regional council, and with the support of the WVBE, is responsible for implementing a strategic planning process to assess and develop multi-county programs. Each RESA executive director will be responsible for administering and implementing

## 126CSR72

regional educational programs identified through the strategic planning process. RESA service areas include, with the first two areas constituting the most important responsibilities for the agencies:

5.1.a. Providing technical assistance to low-performing schools and school systems;

5.1.b. Providing high quality, targeted staff development designed to enhance the performance and progress of students;

5.1.c. Facilitating coordination and cooperation among the county boards of education within their respective regions in such areas as cooperative purchasing; sharing of specialized personnel, communications and technology; curriculum development; and operation of specialized programs for students with exceptionalities;

5.1.d. Installing, maintaining and/or repairing education related technology equipment and software with special attention to any current technology system(s);

5.1.e. Receiving and administering grants under the provisions of federal and/or state law; and

5.1.f. Developing and/or implementing any other programs or services as directed by law or by the WVBE.

5.2. The WVBE and each regional council shall continually explore possibilities for the regional delivery of services that will promote equality in the education offerings among counties, permit the delivery of high quality education programs at a lower per student cost, strengthen the cost effectiveness of education funding resources, reduce administrative and/or operational costs, including the consolidation of administrative, coordinating, and other county level functions into region level functions, and promote the efficient administration and operation of the public school systems. Examples of regionally appropriate programs include technical, operational, programmatic, or professional services.

5.3. The RESA executive director, with advice and assistance of the regional council, shall prepare an annual Strategic Plan to be approved by the WVBE, which at a minimum, shall include the following:

5.3.a. The Strategic Plan must address the areas of service for RESAs as described in sections 5.1.a. through 5.1.e. of this rule. Priority must be given to providing technical assistance to low-performing schools and school systems and the provision of high quality, targeted professional development designed to enhance the performance and progress of students.

5.3.b. The Strategic Plan must be based upon (1) direction from the WVBE; (2) findings from strategic plans of low-performing schools in member county systems; (3) findings for member districts from reviews of accountability reports from the Office of Education Performance Audits (hereinafter OEPA); (4) requests from superintendents of low-performing schools; and (5) any other findings considered appropriate by the RESA executive director for planning programs and services that address the needs of member county systems and that are consistent with and support WVBE initiatives. The Strategic Plan must reflect a budget priority for providing technical assistance to low-performing schools and school systems, and for providing high quality targeted staff development designed to enhance the performance and progress of students in public schools.



5.3.c. The Strategic Plan for all RESAs shall be in a consistent and standardized format.

5.4. Each RESA shall submit, with recommendations from and approval by a majority vote of the regional council, the Strategic Plan to the WVBE staff by October 1 of each year for approval by the WVBE. An executive director may submit a written request to the WVBE to amend a Strategic Plan to address new legislation, changes in student/school achievement, or other significant factors. An amendment request shall include the signature of the regional council chairperson verifying that the amendment requested is consistent with the needs of the RESA and member school systems.

5.5. As part of the statewide network of RESA services, and to the extent funds are appropriated or otherwise available, RESAs may work with the West Virginia Virtual School to establish a model for the delivery of instruction. RESAs shall cooperate with the WVBE in developing an effective model for the regional delivery of instruction in subjects where there exists low student enrollment, a shortage of certified teachers, or where the delivery method substantially improves the quality of an instructional program. The model may incorporate an interactive electronic classroom approach to instruction.

**§126-72-6. Standards for Service Delivery, Accountability and Reporting.**

6.1. Each RESA shall work in coordination with the WVBE and in accordance with the Memorandum of Understanding between the RESAs, the WVDE, the OEPA, and the West Virginia Center for Professional Development to address the issues and initiatives of school systems within their respective regions in relation to school improvement.

6.2. On or before December 1 of each year, each RESA shall submit an annual report to the State Superintendent who will promptly forward such report to the WVBE. The report shall include a summary of all the programs/services provided by the RESA, results of the implementation of the Strategic Plan, and results of the evaluation described in section 6.3 of this rule. Such report should also give adequate consideration to any non-quantifiable benefits derived from RESA services which the RESA executive director and regional council deem appropriate. The report submitted by the executive director shall be reviewed by the members of the regional council who shall verify by a majority vote that the contents of the report accurately represent the performance of the RESA. The annual report for all RESAs shall be in a consistent and standardized format.

6.3. As part of the annual report, each RESA shall submit an evaluation of the services provided and effectiveness of the services within each respective region. Schools, school systems, and other program beneficiaries should complete the evaluations, which must include (1) an overall evaluation of the RESAs services/programs; (2) suggestions on methods to improve the utilization of existing services/programs; (3) suggestions on how existing services/programs may be enhanced; and (4) what new services/programs would be of benefit to schools and school systems.

6.4. The OEPA shall conduct routine on-site reviews of each RESA as directed by the WVBE. The audit process used in the review shall be approved by the WVBE.

**§126-72-7. Severability.**

7.1. If any provision of this rule or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.