



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

2/10/2021 4:44:47 PM

Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Education TITLE-SERIES: 126-007  
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: Regulations for Adult Diversion and Transition Programs (Policy 1471)  
CITE STATUTORY 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); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 03/15/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Jacob Green, Superintendent

ADDRESS: WVDE West Virginia Schools of Diversion and Transition, Capitol Bldg. 6, Room 825  
1900 Kanawha Blvd E, Charleston, WV 25305

EMAIL: jgreen@k12.wv.us

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Policy 1471, Regulations for Adult Diversion and Transition Programs (new title), explains in detail the way educational services operate in state correctional facilities for adult students.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Policy 1471 contains language pertinent to adult and juvenile correctional programs; the proposed policy illustrates and explains the regulations regarding incarcerated school-aged and adult students. West Virginia Schools of Diversion and Transition (WVSDT) adult programs follow other WVBE policies as well as regulations for adult education and career and technical education. The information stricken from Policy 1471 consists of either outdated language, language appropriate for inclusion in the WVSDT policy and procedure manual, or language that is specific to juvenile programs and will be included in the revision of Policy 2800 due in Spring 2021.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

No costs or revenue will be impacted by the proposed amendment of W. Va. 126CSR7, Policy 1471.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

There will be no economic impact to the state or its residents because of the proposed amendment of W. Va. 126CSR7, Policy 1471.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

There will be no economic impact to the state or its residents because of the proposed amendment of W. Va. 126CSR7, Policy 1471.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No costs, revenue, or economic impact to the state or its residents will result from the proposed amendment of W. Va. 126CSR7, Policy 1471.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Michele L Blatt -- 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.**

**Policy 1471, Regulations for Adult Diversion and Transition Programs  
Executive Summary**

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**West Virginia Department of Education  
West Virginia Schools of Diversion and Transition (WVSDT)**

**Policy Cycle:**     30 day Comment Period                       Adoption of Policy

**Policy Process:**     Revision             Repeal and Replace             New

**Introduction:** This policy amends Policy 1471, Education in West Virginia’s Correctional Institutions: Mission and Goals. The existing policy contains language pertinent to adult and juvenile correctional programs; the proposed policy illustrates and explains the regulations regarding incarcerated school-aged and adult students.

**Background:** The West Virginia Schools of Diversion and Transition (WVSDT) currently operates under three WVBE policies:

- Policy 1471, Education in West Virginia’s Correctional Institutions: Mission and Goals,
- Policy 2325, High Quality Standards for Juvenile Institutional Education Programs, and
- Policy 2800, Regulations for the Education of Juveniles Placed in Secure Predispositional Detention Centers.

The WVSDT operates 53 educational sites in a variety of institutional and classroom setting across the state and operates as a school district. The amendment of Policy 1471 is the first step in a three-step process to eliminate redundancies in these three policies and clarify the regulations for adult and juvenile programs respectively.

**Proposed Changes:**

- Policy 1471, Regulations for Adult Diversion and Transition Programs (new title), explains in detail the way educational services operate in state correctional facilities for adult students. However, WVSDT adult programs follow other WVBE policies as well as regulations for adult education and career and technical education. The information stricken from the policy consists of either outdated language, language appropriate for inclusion in the WVSDT policy and procedure manual, or language that is specific to juvenile programs and will be included in the revision of Policy 2800 due in Spring 2021.

**Impact:** The clarification of the language in this policy eliminates redundancies, provides clarification, and increases efficiency of operations in the district operated under the WVSDT.

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**Action:**

- Release for 30 day public comment
  - Approved by WVBE with effective date of \_\_\_\_/\_\_\_\_/20\_\_
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**Policy 1471, Regulations for Adult Diversion and Transition Programs  
List of Stakeholders**

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**West Virginia Department of Education  
West Virginia Schools of Diversion and Transition (WVSDT)**

**External Stakeholders**

- Errol Randle, Community Member, Kanawha County
- Jennifer Ballard, Director of Programs, West Virginia Division of Corrections and Rehabilitation
- Robin Chaney, Associate Director of West Virginia Programs, Ashland University

**Internal Stakeholders**

- Dorinda Grimes, Teacher, Lakin Correctional Center
- Christopher Kolar, Teacher, Salem Correctional Center
- James Oates, Teacher, Central Regional Jail
- Terri Long, Teacher, Huttonsville Correctional Center
- Junior Helmick, Principal, Huttonsville Correctional Center
- Mark Hedrick, Principal, St. Marys Correctional Center/Northern Correctional Center and Jail
- Michael Shaffer, Supervising Principal, WVSDT
- Mollie Wood, Manager, WVSDT
- Jacob Green, Superintendent, WVSDT

TITLE 126  
LEGISLATIVE RULE  
~~WEST VIRGINIA BOARD OF EDUCATION~~

SERIES 7

~~EDUCATION IN WEST VIRGINIA'S CORRECTIONAL INSTITUTIONS: MISSION AND GOALS REGULATIONS~~  
FOR ADULT DIVERSION AND TRANSITION PROGRAMS (1471)

**§126-7-1. General.**

1.1. Scope. -- This legislative rule describes ~~the mission and goals of the West Virginia Department of Education~~ the rules and regulations for schools operated by the West Virginia Schools of Diversion and Transition (WVSDT) in providing educational programs and services for incarcerated juveniles ages 18-21 and adults in facilities operated by the West Virginia Division of Corrections and Rehabilitation (WVDCR) Division of Juvenile Services. The mission statement and goals are intended to provide the foundation for the implementation of: 1) W. Va. Code §18-2-13f ~~which requires the West Virginia State Board of Education to provide an adequate and appropriate education for school-aged institutionalized juveniles in the state's correctional facilities, and 2) W. Va. Code §18-20-5 which requires the West Virginia State Board of Education State Superintendent to provide that educational services be provided to adults in correctional institutions to the extent funds are provided by the~~ Legislature.

1.2. Authority. -- W. Va. Constitution, Article XII, §2; and, W. Va. Code §§18-2-5, 18-2-13f et. seq. and 18-20-5.

1.3. Filing Date. -- ~~December 11, 2014.~~

1.4. Effective Date. -- ~~January 12, 2015~~ July 1, 2021.

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. 126CSR7, ~~WVBE Policy 1471, "Education in the State's Correctional Institutions: Mission and Goals," filed in September 6, 2012~~ December 11, 2014, and effective October 9, 2012 January 12, 2015.

**§126-7-2. Definitions ~~as used in these Regulations.~~**

2.1. ~~"Mission Statement: means the purpose and broad description of the activities of the West Virginia Department of Education (hereinafter WVDE) in the state's correctional institutions. Adult Correctional Centers and Regional Jails. Facilities operated by the WVDCR.~~

2.2. ~~"Goals" mean the specific targets toward which the WVDE will direct activities in providing educational programs and services for incarcerated juveniles and adults in compliance with W. Va. Code §§18-2-13f and 18-20-5. Adult Education. Education provided to inmates in adult correctional centers. These classes include high school equivalency preparation and career preparation, basic academic skills, life skills, emotional intelligence training, and soft skills classes.~~

2.3. ~~"School age institutionalized juveniles" mean residents under the age of 21 prior to the first day of September of such school year who have general, special and vocational education needs. "School age institutionalized juveniles" also includes exceptional students who have not yet turned twenty one years~~

of age prior to September 1 and have not graduated with a standard high school diploma. School-aged Student. Incarcerated students between 18-21 years of age who have not received a high school diploma.

2.4. Adult Learner. Incarcerated students age 18 and older who are not eligible to work toward or earn a high school diploma.

2.5. Career and Technical Education (CTE). Schools, institutions, and educational programs that specialize in the highly skilled trades, applied sciences, modern technologies, and career preparation for high demand jobs.

2.6. High School Equivalency (HSE). An alternative diploma earned by passage of the WVBE-approved high school equivalency examination.

2.7. West Virginia Division of Corrections and Rehabilitation (WVDCR). Host agency that owns and operates the physical grounds on which each WVSOT school is located.

2.8. West Virginia Schools of Diversion and Transition (WVSOT). Organization under the supervision of the WVBE and WVDE. WVSOT is responsible for the education of individuals in juvenile correctional centers, juvenile detention centers, residential treatment facilities, adult correctional centers and regional jails, and truancy diversion classrooms.

### **§126-7-3. Mission Statement Purpose.**

3.1. The mission of the WVDE in correctional facilities operated by the ~~Division of Corrections and Division of Juvenile Services~~ WVDCR is to provide ~~correctional~~ educational programs designed to meet the diverse needs of incarcerated ~~juveniles~~ school-aged students and adults. ~~These programs include offerings in general education, basic skills instruction, High School Equivalency (hereinafter HSE) preparation, career and technical education (hereinafter CTE) and CTE, special education and related services, remedial education, social/living skills education, counseling and transitional services, and other programs required to meet the educational needs of incarcerated individual. The provision of correctional educational programs affords opportunities for students to reenter high school, attain a HSE certificate, acquire marketable job skills, achieve basic literacy and functional life skills and make successful transitions to school, the work place, post-secondary programs or other community or rehabilitative placements. To assist students in realizing these opportunities, and to provide education that is adequate and appropriate, the WVDE shall individualize each student's educational program in accordance with his or her unique needs, abilities, plan of treatment, length of incarceration, and realistic career goals. WVSOT educational programs are subject to WVBE rules and applicable state and federal laws and regulations.~~

3.2. WVSOT provides a comprehensive education for incarcerated school-aged students in adult correctional centers and regional jails.

3.3. WVSOT provides adult education and CTE in adult correctional centers and regional jails provided that the funds are legislatively allocated.

3.3.a. Day-to-day operations shall be defined and described in the WVSOT Employee Handbook and WVSOT Operational Procedures.

### **§126-7-4. ~~Goals~~ Educational Programming and Operations.**

4.1. The goals for development of correctional education programs include:

4.1.a. ~~Opportunities. Incarcerated youth in correctional institutions will have adequate and appropriate educational opportunities.~~ Incarcerated adults will have adequate and appropriate educational opportunities to the extent funds are provided by the Legislature. ~~Objectives to accomplish this goal include:~~ When a school-aged student is placed in an adult correctional center, the student shall be afforded the educational opportunities regarding graduation and special education as are afforded students in high school. The WVSDT shall:

4.1.a.1. ~~To provide a comprehensive assessment of each student's educational, academic and vocational CTE needs and aptitudes;~~

4.1.a.2. ~~To develop an individualized program plan for each incarcerated juvenile students and adult in accordance with his or her their unique needs, abilities, plan of treatment, length of incarceration, and realistic career goals;~~

4.1.a.3. ~~To provide equal educational programs and services for male and female offenders;~~

4.1.a.4. ~~To provide modified educational opportunities for incarcerated individuals who are in segregated/special custody settings;~~

4.1.a.5. ~~To develop programs which meet applicable state board of education WVBE policies and accreditation requirements (e.g., personnel qualifications, instructional time, textbooks);~~

4.1.b. Academic Performance. ~~The WVDE~~ WVSDT will provide educational programs designed to permit incarcerated students the opportunity to acquire knowledge and skills needed to succeed in a competitive, changing society and obtain gainful employment post-incarceration. ~~Objectives to accomplish this goal include:~~ The WVSDT shall:

4.1.b.1. ~~To provide academic instruction to incarcerated juveniles school-aged and adult students to facilitate reentry into the public school system an adult education program or lead to attainment of a HSE certificate;~~

4.1.b.2. ~~To provide special education and related services for incarcerated juvenile school-aged students and adult exceptional students in accordance with applicable state and federal requirements;~~

4.1.b.3. ~~To provide social/functional living skills training to assist juveniles school-aged and adult offenders students in making a successful transition into society;~~

4.1.b.4. ~~To provide remedial instruction to help incarcerated students overcome educational deficiencies;~~

4.1.b.5. ~~To provide instruction that will enable school-aged and adult offenders students to obtain a GED~~ HSE certificate or raise their functional literacy level to the highest level attainable;



4.1.b.6. ~~To provide instructional technology and alternative instructional strategies to address the unique learning needs of incarcerated juveniles school-aged and adults students;~~

4.1.b.7. ~~To provide counseling career development and transitional services which facilitate the successful reentry into high school, or entry into the workplace, post-secondary programs, or other appropriate community or rehabilitative placements;~~

4.1.b.7.A. services shall include training in life skills, emotional intelligence, and soft skills;

4.1.b.8. ~~To provide curriculum and instruction based upon the state's instructional goals WVBE's content standards and objectives, and appropriate to the characteristics and needs of incarcerated adolescents school aged and adult learners students;~~

4.1.b.9. ~~To provide regular evaluation of student progress to document/certify the attainment of grades, credits, competencies, and certificates as applicable;~~

~~4.1.c. Personnel, Salary and Benefits — Appropriate personnel will be recruited, retained and provided competitive salaries and benefits. Objectives to accomplish this goal include:~~

~~4.1.c.1. To employ qualified personnel to work in the WVDE's educational programs in the state's correctional institutions.~~

~~4.1.c.2. To provide salaries for educational personnel in the state's correctional institutions which are equivalent in terms of daily rate of pay to educational personnel employed in comparable positions in the public schools in the county where the institution is located.~~

~~4.1.c.3. To raise the profile and increase the visibility of accomplishments of correctional educators.~~

~~4.1.d. Professional Development — Educational personnel in the state's correctional institutions will improve their knowledge and skills to help each incarcerated student succeed. Objectives to accomplish this goal include:~~

~~4.1.d.1. To provide a comprehensive system of personnel development which includes an ongoing staff induction and staff development program to assist personnel in developing and upgrading skills.~~

~~4.1.d.2. To develop personnel evaluation policies and procedures which promote personnel competency.~~

~~4.1.d.3. To develop competencies of personnel in the areas of establishing and maintaining high student expectations and enhancing the positive self esteem of students.~~

~~4.1.d.4. To empower teachers by providing opportunities for them to share in decision-making regarding the teaching learning process.~~

4.1.e. Community Involvement\_ Educational programs in state correctional institutions will enlist community support to enrich the quality of services for students and to assist them in making a successful transition into society. ~~Objectives to accomplish this goal include:~~The WVSDT shall:

4.1.e.1. ~~To heighten the~~ community awareness of ~~the community~~ to educational programs in correctional institutions; and

4.1.e.2. ~~To~~ involve members of the community in the educational process.

4.1.f. Facilities\_ Education facilities in correctional institutions will be safe and adequate to meet the needs of students in an efficient and economic manner. ~~Objectives to accomplish this goal include:~~The WVSDT shall:

4.1.f.1. ~~To~~ assist the ~~Division of Corrections~~ WVDCR in meeting ~~their~~ its obligations under the Interagency Agreement via developing a partnership for improving school facilities for incarcerated ~~youth~~ school-aged and adult students by accessing available state and federal funding for construction and renovation.

4.1.f.2. ~~To assist in developing adequate and appropriate educational facilities for incarcerated adults and juveniles via participation in the architectural planning of facilities slated for construction and renovation under the "West Virginia Regional Jails and Correctional Facilities Master Plan".~~

4.1.g. Economic Development\_ ~~Vocational, technical Career and technical and adult education~~ CTE programs for the offender population will provide opportunities for incarcerated individuals to make positive contributions to society and the state's economic development. ~~Objectives to accomplish this goal include:~~ The WVSDT shall:

4.1.g.1. ~~To~~ provide career exploration/pre-vocational programs that introduce incarcerated school-aged and adult students to employment areas, the world of work and the work ethic; and

4.1.g.2. ~~To~~ provide CTE programs to incarcerated school-aged and adult students that lead to the acquisition of entry level job skills and attitudes; and

4.1.g.3. ~~To~~ focus ~~vocational, technical~~ CTE and adult education programs on employability skills, ~~computer~~ technology literacy, and academic performance in basic skills.

4.1.h. Cooperation\_ The WVDE will maintain and foster a cooperative relationship with ~~the~~ the ~~Division of Corrections~~ WVDCR ; ~~staff and~~ staff ~~and~~ and ~~Division of Juvenile Justice~~ to facilitate the achievement of educational, treatment, and transitional (aftercare) goals for incarcerated ~~juveniles~~ school-aged and adults students.

**~~§126-7-5. Cooperation from County School Districts and RESAs.~~**

~~5.1. Each county school district and regional education service agency shall cooperate with the WVDE in providing an adequate and appropriate education for incarcerated juveniles and adults. Students in transition from one of the juvenile institutions must be placed into the public school environment relevant to the student's programmatic level. These students must be given equal access to educational programs~~

~~and services. If alternative education placement has been selected as the option, then justification must be provided to the transition specialist unless this placement was part of the transition plan. Cooperation shall include, but is not limited to, the (1) transfer of students' educational records in an expeditious manner upon request by WVDE staff; (2) development of a plan of transition, support and integration at the receiving school to assure optimum conditions into public school. This plan shall be developed by counselor, administration, and/or parents and transition specialist; (3) acceptance of credits earned toward graduation upon documentation that completed coursework meet State Board requirements; (4) inclusion of WVDE staff in opportunities to participate in planned inservice and continuing education activities; (5) provision of technical assistance, upon request, from regional staff; and, (6) development of mutual agreements to access needed services.~~

~~5.2 The WVDE through the Office of Institutional Education Programs shall distribute a report template and collect report results from all 55 county school districts annually regarding students who transfer back to county school districts from out of home placements. The WVDE and the 55 county school districts shall work cooperatively to ensure that all students transferring from out of home placements are placed appropriately upon their return and that these students have access to the same opportunities and programming of any other student in a West Virginia public school.~~

#### **§126-7-~~65~~. Implementation Procedures.**

~~65.1. The ~~s~~State ~~s~~Superintendent of ~~s~~Schools is empowered to develop written implementation procedures to accomplish the ~~Board~~ WVBE's mission and goals for education in the state's correctional institutions. Sources of authority for implementation procedures shall include applicable ~~State Board of Education~~ WVBE policies, state statutes, federal laws and regulations, and directives from the ~~s~~State ~~s~~Superintendent of ~~s~~Schools and designated staff. Procedures which may impact the operation of the correctional institution or treatment program shall be developed in a collaborative manner with ~~Division of Corrections~~ WVDCR's personnel and are subject to the provisions of the interagency agreement between the WVDE and the ~~Division of Corrections~~ WVDCR.~~

#### **§126-7-~~76~~. Severability.**

~~76.1. If any provision of this ~~rule~~ policy or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ~~rule~~ policy.~~

**W. Va. 126CSR7, Policy 1471, Regulations for Adult Diversion and Transition Programs  
Comment Response Form**

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**Comment Period Ends: March 15, 2021**

**NOTICE:** *Comments, as submitted, shall be filed with the West Virginia Secretary of State's Office and open for public inspection and copying for a period of not less than five years.*

The following form is provided to assist those who choose to comment on **Policy 1471, Regulations for Adult Diversion and Transition Programs**. Additional sheets may be attached, if necessary.

Name: \_\_\_\_\_ Organization: \_\_\_\_\_

Title: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Please check the box below that best describes your role.

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Superintendent             | <input type="checkbox"/> Higher Educator   | <input type="checkbox"/> Parent/Family    |
| <input type="checkbox"/> Principal                  | <input type="checkbox"/> Teacher           | <input type="checkbox"/> Community Member |
| <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Other            |

COMMENTS/SUGGESTIONS
§126-7-1. General.
§126-7-2. Definitions.
§126-7-3. Purpose.
§126-7-4. Educational Programming and Operations.
§126-7-5. Implementation Procedures.
§126-7-6. Severability.

**W. Va. 126CSR7, Policy 1471, Regulations for Adult Diversion and Transition Programs  
Comment Response Form**

Please direct all comments to:

Jacob Green, Superintendent  
West Virginia Schools of Diversion and Transition  
West Virginia Department of Education  
Capitol Building 6, Room 825  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0330  
E-Mail Address: [jgreen@k12.wv.us](mailto:jgreen@k12.wv.us)  
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