



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

7/11/2014 9:28:02 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)**

AGENCY Education

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

RULE NAME Education in West Virginia's Correctional Institutions: Mission and Goals (1471) 007

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)

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, August 11, 2014 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
Jacob Green, Executive Director
WVDE Office of Institutional Education Programs
Capitol Building 6, Room 728
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330

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

Yes

Charles K Heinlein -- 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: 126-007



Rule Id: 9434



Document: 26001



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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)

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

Revisions to Policy 1471 are being recommended to add a requirement for all 55 county school districts to compile and send a report on a bi-annual basis to the WVDE via the Office of Institutional Education Programs indicating the number of students who transferred back to each county school district from an institutional setting and what type of educational placement they transferred to within the county. In addition, all General Education Development (GED) references have been deleted and changed to High School Equivalency (HSE).

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

Yes

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

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RULE NAME Education in West Virginia's Correctional Institutions: Mission and Goals (1471) 007

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)

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

No costs or revenues will be impacted by the proposed amendment of W. Va. 126CSR7, Policy 1471, Education in West Virginias Correctional Institutions: Mission and Goals.

Charles K Heinlein -- 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.



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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)

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	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
ESTIMATED TOTAL REVENUES	0	0	0

Charles K Heinlein -- 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.



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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)

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

No costs or revenues will be impacted by the proposed amendment of W. Va. 126CSR7, Policy 1471, Education in West Virginias Correctional Institutions: Mission and Goals.

Charles K Heinlein -- 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.



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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)

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

No costs or revenues will be impacted by the proposed amendment of W. Va. 126CSR7, Policy 1471, Education in West Virginias Correctional Institutions: Mission and Goals.

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

Charles K Heinlein -- 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.



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EXECUTIVE SUMMARY

WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number and Title: Policy 1471 – Education in West Virginia’s Correctional Institutions: Mission and Goals

Background: The Education of Children in Out-of-Home Care Advisory Committee has discussed over the last year that some students who transfer to the 55 county school districts from institutional placements are automatically placed in alternative educational settings within county school districts. The committee believes that alternative education may be appropriate for some students, but no student should be placed in an education program solely based upon their status as a student returning from an institutional setting. As there is WVDE representation on this committee, the Office of Institutional Education Programs (OIEP) believes that if a reporting system was developed and established in West Virginia State Board policy, the committee could measure how accurately how many students transferring out-of-home students were being placed in alternative educational settings versus regular educational settings.

This policy was placed on public comment and came down on June 16, 2014. One comment was made and accepted. This resulted in a substantive change and permission is being sought to place the policy on comment for another 30 days.

Proposals: Revisions to Policy 1471 are being recommended to add a requirement for all 55 county school districts to compile and send a report on a bi-annual basis to the WVDE via the Office of Institutional Education Programs indicating the number of students who transferred back to each county school district from an institutional setting and what type of educational placement they transferred to within the county. In addition, all General Education Development (GED) references have been deleted and changed to High School Equivalency (HSE).

Impact: This report will validate how many counties are placing students in alternative education settings versus regular education settings. The WVDE and OIEP can then offer technical assistance to counties who place students in alternative education programs solely based upon their status as a student returning from an institutional setting.

Response to Comments:

There was one comment from the Education of Children in Out-of-Home Care Advisory Committee asking that we collect data more often than annually. That comment was accepted, and bi-annual reporting language was added to the policy. Also in response to that comment language, the policy was edited to make the role of the WVDE more concise. In researching the out-of-home definition, it was decided that this policy applied to those out-of-home students in institutional or residential settings and does not apply to those students in foster care. The language was changed to reflect that.

In response to the comment regarding the content of the report and the authority to collect the data, the WVDE believes that the authority already exists so no additional language is needed. The WVDE will collect all pertinent data to this matter. It was decided not to include specific report items in the policy as that may later limit what can be collected.

STAKEHOLDERS

Jacob Green

Dr. Fran Warsing

Charles Heinlein

Frank Andrews

126CSR7

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

**SERIES 7
EDUCATION IN WEST VIRGINIA'S CORRECTIONAL INSTITUTIONS: MISSION AND
GOALS (1471)**

§126-7-1. General.

1.1. Scope. – This legislative rule describes the mission and goals of the West Virginia Department of Education in providing educational programs and services for incarcerated juveniles and adults in facilities operated by the Division of Corrections and 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 to provide education to adults in correctional institutions to the extent funds are provided by the legislature.

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

1.3. Filing Date. – ~~September 6, 2012~~

1.4. Effective Date. – ~~October 9, 2012~~

1.5. Repeal of Former Rule. – This legislative rule amends W. Va. 126CSR7, ~~West Virginia Board of Education~~ WVBE Policy 1471, "Education in the State's Correctional Institutions: Mission and Goals: filed in ~~June 18, 1990~~ September 6, 2012, and effective ~~July 31, 1990~~ October 9, 2012.

§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.

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.

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 to the age of 23 provided the student is at least 21 years of age and enrolled in a special education program prior to the first day of September 1991.

§126-7-3. Mission Statement.

3.1. The mission of the WVDE in correctional facilities operated by the Division of Corrections and Division of Juvenile Services is to provide correctional educational programs designed to meet the diverse needs of incarcerated juveniles 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.

§126-7-4. Goals.

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:

4.1.a.1. To provide a comprehensive assessment of each student's educational and vocational needs and aptitudes.

4.1.a.2. To develop an individualized program plan for each incarcerated juvenile and adult in accordance with his or her 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 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 policies and accreditation requirements (e.g., personnel qualifications, instructional time, textbooks).

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

4.1.b.1. To provide academic instruction to incarcerated juveniles to facilitate reentry into the public school system or lead to attainment of a HSE certificate.

4.1.b.2. To provide special education and related services for incarcerated juvenile 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 juvenile and adult offenders 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 adult offenders to obtain a GED 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 and adults.

4.1.b.7. To provide counseling 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.8. To provide curriculum and instruction based upon the state's instructional goals and objectives, and appropriate to the characteristics and needs of incarcerated adolescent and adult learners.

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

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:

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

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:

4.1.f.1. To assist the Division of Corrections in meeting their obligations under the Interagency Agreement via developing a partnership for improving school facilities for incarcerated youth 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 and adult education 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:

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

4.1.g.2. To provide CTE programs to incarcerated students that lead to the acquisition of entry level job skills and attitudes.

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

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

§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 on an annual basis and collect report results from all 55 county school districts annually regarding students who transfer back to county school districts from out-of-home institutional placements. The WVDE and the 55 county school districts shall work cooperatively to ensure that all students transferring from out-of-home institutional 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. have equal access to the same free, appropriate public education as provided to other children and youths. No county school district shall place a student in an education program solely based upon their status as a student returning from an institutional setting.

§126-7-6 . Implementation Procedures.

6.1. The state superintendent of schools is empowered to develop written implementation procedures to accomplish the Board'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 policies, state statutes, federal laws and regulations and directives from the state superintendent of 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' personnel and are subject to the provisions of the interagency agreement between the WVDE and the Division of Corrections.

§126-7-7. Severability.

7.1. If any provision of this rule 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 1471: Education in West Virginia's Correctional Institutions: Mission and Goals

COMMENT PERIOD ENDS: August 11, 2014

COMMENT RESPONSE FORM

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: Education in West Virginia's Correctional Institutions: Mission and Goals. Additional sheets may be attached, if necessary.

Name: _____ Organization: _____

Title: _____

City: _____ State: _____

Please check the box below that best describes your role.

- | | | |
|---|--|--|
| ☐ School System Superintendent | ☐ School System Staff | ☐ Parent/Family |
| ☐ Principal | ☐ Teacher | ☐ Business/Industry |
| ☐ Professional Support Staff | ☐ Service Personnel | ☐ Community Member |

COMMENTS/SUGGESTIONS
§126-(7)-(5) 5.2. Cooperation from County School Districts and RESAs.

126CSR7

Please direct all comments to:

Jacob Green, Executive Director
Office of Institutional Education Programs
West Virginia Department of Education
Capitol Building 6, Room 728
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330
E-Mail Address: rmahan@access.k12.wv.us
Fax No.: (304) 558-5042