



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

10/11/2018 9:28 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL  
RULE**

AGENCY: Education TITLE-SERIES: 126-071  
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: Establishment Procedures and Operating Policy  
for Multi-County Career and Technical Education  
Centers (3232)  
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)

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

November 13, 2018

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

**Yes**

**William C Burch -- 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 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION  
SERIES 71

ESTABLISHMENT PROCEDURES AND OPERATING POLICY FOR MULTI-COUNTY  
CAREER TECHNICAL EDUCATION CENTERS (3232)

**§126-71-1. General.**

1.1. Scope. -- This rule provides for the organization and operation of career and technical education centers serving more than one county.

1.2. Authority. -- W. Va. Constitution, Article XII, §2; W. Va. Code §§18-2-5, 18-2B-1, et seq., 18-9A-1 et. seq., 18-9D-19(e), 18A-4-8c; and Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 USC 2301 et seq.

1.3. Filing Date. -- October 11, 2018.

1.4. Effective Date. -- November 13, 2018.

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. §126CSR71 West Virginia Board of Education (WVBE) Policy 3232, Establishment Procedures and Operating Policies for Multi-County Career Vocational Technical Education Centers, filed August 12, 2005, and effective September 11, 2005.

**§126-71-2. Purpose.**

2.1. The WVBE is committed to providing high quality career technical education (CTE) programs to students in West Virginia's public schools. The WVBE also recognizes that these programs can sometimes be delivered more effectively and efficiently when two or more contiguous county boards of education join together to provide programs at a career technical education center that serves students from all participating districts.

2.2. The purpose of this rule is to provide the procedures for establishing and operating multi-county CTE centers.

**§126-71-3. Definitions.**

3.1. Administrative Council. The governing body of the multi-county center, with representation from participating counties and the West Virginia Department of Education (WVDE), Division of Technical Education and Governor's Economic Initiatives.

3.2. Advisory Council. Required by the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 USC 2301 et seq. (Perkins Act) and is charged with advising the WVDE and local CTE programs of study on the development, administration, and evaluation of policies and programs relating to CTE. The Advisory Council is comprised of high-level contacts and volunteers from business and industry, labor, postsecondary education, the nonprofit sector and students. Advisory Councils must meet a minimum of two times each during the school year.

3.3. Career Technical Student Organizations (CTSO). CTE organizations are primarily based in high schools, comprehensive high schools, and CTE centers. CTSOs are integrated into programs of study as co-curricular activities and designated as nonprofit organizations. CTSOs are authorized by the Perkins Act.

3.4. Extracurricular. Activities not directly related to curriculum; and-cannot take place during class time.

3.5. Fiscal Agent. The participating county selected by the Administrative Council that maintains all fiscal records of the center.

**§126-71-4. Establishment.**

4.1. Letter of Intent. Each county board of education seeking to join in a multi-county CTE center (Center) shall notify the WVBE of its intent via a letter sent to the Associate State Superintendent for the Division of Technical Education and Governor's Economic Initiatives.

4.2. Resolution to Participate. Each county board of education desiring to join in a Center shall adopt and include in its minutes a resolution to join with one or more other counties to operate a Center and to support the Center financially through its Administrative Council.

4.3. Multi-County Center Policies. A written agreement setting forth the policies under which an Administrative Council shall operate shall be agreed upon by each participating county board of education at the time it joins, and may be amended by agreement of all participating counties.

**§126-71-5. Operation.**

5.1. Administrative Council. Each Center shall be administered by an Administrative Council.

5.1.a. The Administrative Council shall be composed of:

5.1.a.1. one member of the county board of education of each county involved, selected by each respective county board of education and certified by its president and secretary;

5.1.a.2. the county superintendent of each county;

5.1.a.3. the Associate State Superintendent or designated representative of the, Division of Technical Education and Governor's Economic Initiatives; and,

5.1.a.4. the Director, who shall attend all meetings and serve as secretary of the Administrative Council.

5.1.b. each Administrative Council may adopt a policy for the appointment of alternate or substitute members.

5.1.c. Appointment and Term. Administrative Council members from the respective boards of education shall be appointed terms of three years. If any member is unable to fulfill their term of office, a replacement shall be appointed by the respective county board of education for the un-expired term.

5.1.d. Duties. The Administrative Council shall be the Center's governing body of the Center. The Administrative Council shall make all decisions related to the Center's personnel, policy, programs, and control.

5.1.e. Organizational, Regular, and Special Meetings.

5.1.e.1. An organizational meeting of the Administrative Council shall be held annually during the month of July at which time a chairperson and vice-chairperson shall be elected.

5.1.e.2. A minimum of six meetings shall be held annually.

5.1.e.3. The secretary shall notify each member of the Administrative Council of the agenda for each regular meeting at least three business days in advance of the meeting.

5.1.e.4. A simple majority of the members of the Administrative Council shall constitute a quorum. All decisions shall require a simple majority vote for passage.

5.1.e.5. Special meetings may be called by the chairperson or a majority of the members.

5.1.e.6. The WVBE grants authority to the Administrative Council to enter into contracts. These contracts must be consummated through the fiscal agent which is the county board of education.

5.1.e.7. The secretary of the Administrative Council shall record the proceedings of each meeting and provide each council member with a copy of minutes and attachments within 10 business days after each meeting.

5.2. Fiscal Agent.

5.2.a. The Administrative Council may select one-of the participating counties to be the Fiscal Agent. If the county selected is other than the county in which the Center is located, the selection must be approved by the WVBE.

5.2.b. The Fiscal Agent shall maintain all fiscal records relative to the Center and shall make records available to all members of the Administrative Council.

5.2.c. The Fiscal Agent cannot initiate action, control of, or direct the Center. The Fiscal Agent's approval authority is limited to the question of the action's legality, the Administrative Council having sole discretionary authority.

5.2.d. Because the Center operation does not represent educational expenses and benefits reserved to the Fiscal Agent, the Fiscal Agent's county board of education shall establish and maintain separate accounts in the General Current Expense Fund apart from all other funds of the county board of education. By this means, the county board's of education normal financial report will not be distorted, and the Center accounts will be clearly visible for accounting and auditing purposes. Purchase order forms, transmittals, invoices, checks, and records may be the same as those of the Fiscal Agent, but must be separately maintained. The Administrative Council will act, in general, as a county board of education now acts in approving fiscal actions, with the Fiscal Agent's responsibilities being limited as provided.

5.2.e. The Fiscal Agent shall be responsible for audits. Costs of audits shall be an allowable cost in the operating budget for the Center.

5.3. Procedures for Purchasing. The Director of the Center shall adhere to the purchasing policies established by the Fiscal Agent and shall maintain a record of encumbrances. The Fiscal Agent shall approve and authorize all purchasing recommendations submitted by the Administrative Council, so long as ~~said~~ purchases and procedures comply with established policies, West Virginia law, and available budget.

#### 5.4. Administration.

5.4.a. The Administrative Council shall employ a Center Director. The Director shall administer, supervise, and promote, under the policies and regulations established by the Administrative Council, the career, technical, and adult programs the Centers provide.

5.4.b. The Director shall prepare and present the annual budget to the Administrative Council for review and approval. Budget revisions must be approved by the Administrative Council before presentation to the Fiscal Agent.

5.4.c. The Director shall be responsible for the recommendation of personnel for appropriate positions. Such recommendation shall be submitted to the Administrative Council for approval. The Director shall be responsible for recommendation of school personnel actions as prescribed in W. Va. Code §18A-2-1 et seq. Assignment, transfer, promotion, demotion, reduction in force, suspension, and dismissal will be in accordance with West Virginia laws governing the employment of professional and service personnel.

5.4.d. The Director shall recommend salaries for the Center personnel. Recommendations shall be submitted to the Administrative Council for approval.

5.4.e. The Director shall prepare and present to the Administrative Council a 10 year Comprehensive Educational Facilities Plan (CEFP), and any subsequent revisions necessary.

#### 5.5. Personnel.

5.5.a. Professional personnel shall meet the state requirements for certification in the field in which they are assigned. Decisions relating to the employment of personnel will be made by the Administrative Council upon recommendation by the Director. Personnel shall be employed at the Center as approved by the Administrative Council in accordance with West Virginia school law governing employment of service and professional school personnel.

5.5.b. The Administrative Council must afford its employees the same benefits (sick leave, vacation, insurance, retirement, continuing contract, etc.) as those to which the employees of the Fiscal Agent are entitled.

5.5.c. In the administration of grievances of employees, the Director and Administrative Council will follow grievance procedures as established by the West Virginia Public Employees Grievance Board.

5.5.d. Employees of Centers shall accrue seniority and continuing contract status in accordance with W. Va. Code §18A-4-8c.

5.5.e. Employees of Centers are not eligible to serve on the boards of education of participating counties.

5.6. Extracurricular Activities. Extracurricular activities for high school students shall be disassociated from the Center. Students attending the Center shall be entitled to participate in extracurricular activities in their home schools.

5.7. Program of Study. The Administrative Council shall be the sole authority, subject to the rules of the WVBE, in determining the program of instruction to be offered at the Center. The Director shall be responsible for implementation of the program approved by the Administrative Council.

5.8. School Year. The calendar for the school year of the Center shall be established by the Administrative Council in accordance with the program purposes. The instructional term for the Center's high school students shall correspond with the instructional terms of the participating counties to the extent possible.

5.9. Transportation. Transportation responsibilities and expenses for each public school student attending the Center shall be assumed by the county board of education sending the student to the Center.

5.10. Records and Reports.

5.10.a. The Director shall certify the credits earned at the Center to the principals of the high schools in which the students are enrolled.

5.10.b. The Director shall prepare such other records and reports as are deemed necessary by the Director or the Administrative Council.

5.11. Advisory Council. Each Center shall establish an Advisory Council to provide advice on current job needs and the relevance of courses being offered by the Center in meeting such needs. Such an Advisory Council shall be composed of members of the general public, and shall include representatives of business, industry, and labor. The Director shall serve as secretary of the Advisory Council. Each county shall have representation on the council and Advisory Council members representing a county shall have their appointments approved by that county's board of education. The term of office of the chairperson shall be one year. The chairperson shall be elected by the membership. In addition, the Center Director shall see that the Advisory Committee includes representatives of business, industry, and labor for each career technical program of study offered.

5.12. Finance. The Center shall be financed as follows:

5.12.a. The Administrative Council shall request state and federal financial assistance for support of instruction, administration, supervision, operational expenses, and other services associated with the operation of the Center.

5.12.b. The following "steps" of the state foundation program shall be included in the sources of revenue for the operation costs of Centers: Step 1, Step 2, Step 3, Step 6 and allowances for Public Employees Insurance Agency and retirement.

5.12.c. The local share shall be the total budget (expenditures) for the operation of the Center minus anticipated (received) revenues from federal and state sources, and the local share shall be proportioned among the participating counties based on the previous year's enrollment (second month) in the Center.

5.12.d. The Fiscal Agent county is also eligible to receive, from state vocational funds, an allocation for administrative costs. This amount shall be equal to the county's current restricted indirect cost rate times the amount of revenue received toward operation of the Center from the state foundation program and other state and federal vocational funds.

5.12.e. The Administrative Council may accept gifts, grants, other state and federal funds, tuition, and other allocations of funds for purposes of erecting, repairing, equipping buildings, and operating the Center.

5.13. Withdrawal. W. Va. Code §18-2B-2a states that any county participating in the operation of a Center shall not be permitted to withdraw from such participation.

5.14. Duplication of Center Programs.

5.14.a. When planning the construction of a high school in a county that is served by a Center, the county may not be required to include the construction of a comprehensive career technical center in the CEFP. If the county board of education elects to construct a comprehensive career technical center, the board shall include the Director and Administrative Council in the planning of programs to be offered at the career technical center which complement the programs offered at the Center. The programs offered at the career technical center may not replace the programs offered at the existing Center without the consent of the Center's Administrative Council (see W. Va. Code §18-9D-19(e)).

5.14.b. A partner county that plans to duplicate a state approved CTE program of study currently operating at the Center shall receive permission of the Multi-County Administrative Council prior to adding the duplicated program of study to the local educational agency plan.

5.14.c. A partner county that plans to open a local concentration (non state-approved) as outlined in W. Va. 126CSR44M, WVBE Policy 2520.13, West Virginia College- and Career-Readiness Program of Study/Standards for Career and Technical Education, must:

5.14.c.1. establish local West Virginia Education Information System course codes for offered courses;

5.14.c.2. establish a different program of study name;

5.14.c.3. acquire local county board of education approval;

5.14.c.4. assure the instructor certification aligns with WVDE certification requirements;

5.14.c.5. maintain state facility and safety compliance; and,

5.14.c.6. fund locally without use of any CTE federal or state funds.

5.14.d. Local concentration completer data will not be included in state and federal accountability

or CTE funding formulas.

**§126-71-6. Severability.**

6.1. 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.