



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

11/20/2018 8:45:34 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-  
MAKING REVIEW COMMITTEE**

AGENCY: Community And Technical College Education TITLE-SERIES: 135-27  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes  
RULE NAME: 135-27 Workforce Development Program

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: §18B-3D-2, §18B-1-1, §18B2-b-6

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

§18B-3D-2. Workforce Development Initiative Program continued; purpose; program administration; rule required. (a) The Workforce Development Initiative Program is continued under the supervision of the council. The purpose of the program is to administer and oversee grants to community and technical colleges to implement the provisions of this article in accordance with legislative intent.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 10/16/2018

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 11/19/2018

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Notice posted on the WV Council for Community and Technical College Education's website. Email notices sent to constituent groups, i.e. Advisory Councils of Faculty, Students, and Classified Staff; Advisory Council of Presidents, HEPC and CTCS staff, mailing list of those whom have requested Council agenda and rule notices.

**SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:**

The West Virginia Council for Community and Technical College Education (Council) consistent with provisions of West Virginia Code §18B-3D-2, §18B-3D-6, §18b-1-6 and §18b-2b-6, adopts the procedures and guidelines for the administration of the Workforce Development Program (Learn and Earn), Technical Program Development, and West Virginia Advance Rapid Response grant programs.

**STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:**

This rule sets forth provisions for the administration of grant funding, criteria for applications, determination and distribution of funds, and performance evaluation for the Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response grant programs.

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

**A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:**

None

**B. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:**

None

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2018 Increase/Decrease (use "-")	2019 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
<b>Personal Services</b>	0	0	0
<b>Current Expenses</b>	0	0	0
<b>Repairs and Alterations</b>	0	0	0
<b>Assets</b>	0	0	0
<b>Other</b>	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

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

NA

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

**Yes**

**Angela S Kerns -- 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 135  
LEGISLATIVE RULE

WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION

SERIES 27

WORKFORCE DEVELOPMENT: LEARN AND EARN, INITIATIVE TECHNICAL PROGRAM DEVELOPMENT, AND WEST VIRGINIA ADVANCE RAPID RESPONSE GRANTS

**§135-27-1. General.**

1.1. Scope. -- The West Virginia Council for Community and Technical College Education (Council) consistent with provisions of West Virginia Code §18B-3D-2, §18B-3D-6, §18b-1-6 and §18b-2b-6, adopts the procedures and guidelines for the administration of the Workforce Development ~~Initiative~~ Program (Learn and Earn), Technical Program Development, and West Virginia Advance Rapid Response grant programs.

1.2. Authority. -- West Virginia Code §18B-3D-2, §18B-1-1, §18B-2b-6

1.3. Filing Date. -- ~~June 21, 2012~~

1.4. Effective Date. -- ~~June 21, 2012~~

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect on \_\_\_\_\_.

**§135-27-2. Goals.**

2.1. Closely align West Virginia community and technical colleges with the economic development efforts of the state.

2.2. Provide funding to community and technical colleges for program delivery to advance the economic development goals of the state.

2.3. Provide an opportunity to build the capacity of community and technical colleges to sustain workforce development efforts and make a major impact on the economic development efforts of the state.

2.4. Provide West Virginia workers with world-class transferable and portable skills across industries.

2.5. Provide West Virginia employers a highly skilled workforce, thus providing an arena for recruiting and retaining business.

2.6. Increase the per capita income of West Virginia workers by increasing their workforce skill levels.

**§135-27-~~23~~. Purpose.**

~~23.1~~ The purpose of this rule is to set forth provisions for the administration of grant funding, criteria for applications, determination and distribution of funds, and performance evaluation for the Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response workforce development grant programs that Workforce Development Initiative Program, including the Learn and Earn Program, that was created by the West Virginia Legislature with a mission to develop a strategy to strengthen the quality of the state's workforce by linking the existing postsecondary education capacity to the needs of business, industry and other employers by utilizing available funding to provide explicit incentives for partnerships between employers and community and technical colleges to develop comprehensive workforce development services.

#### **§135-27-4. West Virginia Advance Rapid Response Program Description**

4.1. The program will focus on workforce delivery programs that develop high-performance work organizations and provide workers with world-class transferable skills enabling them to master technology and foster innovation.

4.2. The program will provide the development of specific occupational/technical competencies and workforce skills in critical thinking, problem solving, ability to work in teams, communication, math, science and other critical competencies required for West Virginia workers and companies to be competitive in a global economy.

4.3. The emphasis of the program is skill-based training that can be certified through national, state or local assessments resulting in a credential and meeting the economic development goals of the state as determined by the West Virginia Development Office.

4.4. The program is intended to provide services to West Virginia companies, but may provide education or training at out-of-state locations with the approval of the Chancellor.

4.5. The West Virginia Advance program will focus on providing services to employers that have a positive economic outcome on West Virginia. The program will support projects for:

4.5.a. Existing West Virginia companies that are expanding and creating new jobs;

4.5.b. Existing West Virginia companies that are requiring employees to obtain new job skills in order to retain their positions and keep or make the company more competitive;

4.5.c. Existing West Virginia companies that are upgrading present employees to access high-skill, high-wage occupations within the company;

4.5.d. Companies or industry sectors or clusters that are targeted by the West Virginia Development Office as critical to West Virginia's economic development;

4.5.e. New companies locating in West Virginia that require a skilled workforce for start-up;

4.5.f. West Virginia Development Office projects, targeted industries or local economic development initiatives;

4.5.g. Pre-employment training or preparation to enter a program leading to a high-demand occupation;

4.5.h. Workers displaced by company closings or reductions in the workforce.

4.5.i. Entrepreneurship development programs that have a positive economic impact on a region or community, particularly rural areas, and produce individual employment opportunities.

**§135-27-5. Technical Program Development Description**

5.1. The program will provide funding for Certificate of Applied Science or Associate degree programs that meet documented needs of employers and/or compliment the economic development needs of the state or region.

5.2. The program must target high-demand occupations resulting in participant placement with an average wage range of \$12.00 per hour or more.

5.3. The program is intended to provide participants with the general education and technical skill competencies for high-skill, high-wage occupations.

5.4. The program is intended to increase the capacity of community and technical colleges to better serve the needs of employers and individuals through the development of new technical programming.

**§135-27-46. Learn and Earn Program.**

46.1. ~~Under the following provisions,~~ Eligible community and technical colleges may partner with employers to provide cooperative education opportunities for students. ~~At a that meet at a minimum the following programs must:~~

46.1.a. ~~Funding is limited to cooperative education programs for those career technical programs in which dDocumentation can be provided to and~~ validate the program is a high-demand occupation for the state.

46.1.b. The cooperative education program must be a paid work experience that pays the student no less than \$10.00 per hour.

46.1.c. The experience must provide the student with a supervised work experience in the student's expected career field or program of study and reinforce learning that has occurred in the academic program.

46.1.d. The experience must have clearly stated measurable learning goals and objectives reflecting on what the student's expected learner outcomes will be throughout the experience.

46.1.e. The experience must be part of the academic program and carry college credit as determined by program faculty. The Chancellor may waive this requirement for training in high-demand occupation areas.

46.1.f. The experience must have an assessment component that documents the student has adequately mastered the expected learner outcomes.

46.1.g. The experience must be for a defined period of time and may be on a part- or full-time work basis.

~~46.1.h. Participation in at least one training session provided by the Council on developing and implementing cooperative education programs.~~

~~§135-27-37. Grant Eligibility.~~

~~37.1. Under the provisions of this rule, higher education institutions so designated by West Virginia Code '18B-1-2, as a community and technical college, are eligible to apply for grant funding.~~

~~37.2. To be eligible for a grant under this program, a community and technical college must:~~

~~37.2.a. Develop programs that meet documented employer needs; Complete in its entirety, including all supporting documentation, the proposal for grant funding on forms provided by the Council and submit electronically on or before any specified application date;~~

~~7.2.b. Develop programs that meet documented employer needs~~

~~37.2.b.c. Involve and collaborate with employers in the development of programs;~~

~~37.2.e-d. Develop customized training programs skill sets, Certificates of Applied Science, or Associate of Applied Science degrees that provide for the changing needs of employers and are offered at flexible times and locations to accommodate employer scheduling;~~

~~37.2.d.e. Develop partnerships with other public and private providers; For programs that carry academic credit, establish programs of study agreements with public school systems for the seamless progression of students from the secondary level through community and technical college Certificate of Applied Science and Associate of Applied Science degree programs;~~

~~37.2.e. Establish cooperative arrangements with public school systems for the seamless progression of students from the secondary level through the community and technical college level, particularly in the area of career technical education;~~

~~37.2.f. Assist with the ongoing assessment of workforce development needs of the community and technical college consortia district;~~

~~37.2.g. Actively participate in a community and technical college consortia planning district and facilitate the involvement of consortia members in the development of applications for funding through this program;~~

~~37.2.h. Include in its institutional compact a plan to achieve measurable improvements in the quality of the workforce in the community and technical college consortia planning district; Agree to share curricula developed with funding through these programs with other public West Virginia community and technical colleges.~~

~~37.2.i. Establish a special revolving fund under the jurisdiction of the community and technical college dedicated solely to workforce development initiatives;~~

~~37.2.j. Agree to put curricula developed with funding through this program into an electronic format for inclusion on a state level database for sharing with other community and technical colleges; establish a separate account with an identifiable account number for each grant award;~~

~~37.2.k. Develop a specific plan outlining how the community and technical college will collaborate with local postsecondary institutions to maximize the use of existing facilities, personnel and equipment; and~~

~~37.2.l. Agree to adhere to all terms, conditions and deliverables as specified in the application for proposals and this rule.~~

**§135-27-58. Grant Review.**

~~58.1. The Chancellor of the West Virginia Council for Community and Technical College Education (Chancellor) shall provide grant applications to all eligible institutions, with stated deadline dates for submission.~~

~~58.2. For the Technical Program Development program, the Chancellor shall appoint an Advisory Committee consistent with the provisions of West Virginia Code to review applications proposals and make recommendations to the Council for funding. For the Learn and Earn program, the Chancellor shall appoint an Advisory Committee consistent with the provisions of West Virginia Code to review applications and make recommendations to the Chancellor for funding. West Virginia Advance Rapid Response proposals may be reviewed by a committee comprised of Council staff for the purpose of providing a recommendation to the Chancellor for immediate implementation without committee review.~~

~~58.3. At the call of the Chancellor's, discretion, the Advisory Committees may meet as often as necessary to review grant proposals.~~

~~58.4. In evaluating grant proposals, the Advisory Committees shall give priority to proposals involving businesses with fewer than fifty employees, and grants will not be awarded that provide unfair advantage to employers new to the state that will be in direct competition with established local businesses.~~

~~8.5. The West Virginia Council for Community and Technical College Education, may delegate authority for all grant approval to the Chancellor.~~

**§135-27-69. Application Content.**

~~69.1. Each proposal for a Learn and Earn, Technical Program Development and/or West Virginia Advance Rapid Response Initiative Program grant shall, at a minimum:~~

~~69.1.a. Identify the goals and objectives of the program, the specific business sector training needs, and the job market demand to be addressed for the program/training;~~

~~69.1.b. Identify the number of participants to be served during the grant period, anticipated placement rate, and wage benefit of completers;~~

~~69.1.c. Identify private and public sector partners including those with public school career-technical education which minimizes duplication of programming and maximizes the use of existing facilities;~~

~~69.1.d. Provide a letter of support for the proposal from the local Workforce Investment/Development Board and/or Regional Economic Development Authority;~~

69.1.e. Provide a detailed work plan, a budget and an evaluation plan to gauge the progress of the program;

69.1.f. Provide letters of commitment from private or public sector partners confirming actual funding amount provided for the match requirements where applicable; and

69.1.g. Provide a plan for sustaining the program after grant funding is exhausted.

69.2. In addition to the provisions of 69.1., those community and technical colleges applying for grant funding to support a Learn and Earn project shall:

69.2.a. Complete the Learn and Earn section of the application describing in detail the cooperative education work experience reflecting the provisions contained in Section 46.1 of this Rule.

69.2.b. Provide a written agreement between the college and the participating employer describing a formalized work plan for the work experience component.

**~~§135 27 7. Financial Match Requirements.~~**

~~7.1. Each proposal must provide a commitment letter from private or public sector partners for a match of one dollar, cash and in-kind, for each dollar of state grant funding awarded.~~

~~7.2. An in-kind match shall not constitute more than fifty percent (50%) of the required match.~~

~~7.3. For the Learn and Earn Program, the paid work experience must have, at a minimum, a cash dollar for dollar match from the participating employer. No in-kind match can be used to meet the dollar match requirement for the Learn and Earn Program.~~

~~7.4. With the exception of the Learn and Earn Program, if previously used equipment is committed, the current market value of the equipment must be used in determining an in-kind match amount.~~

~~7.5. In cases where it can be documented that it is a hardship for a private sector partner to provide a dollar to dollar match, the required match may be reduced to one dollar for each three dollars of state funding awarded. Such cases meriting a reduction in the match requirement may include but are not limited to:~~

~~7.5.a. Private sector employers whose operations are located in rural areas of West Virginia;~~

~~7.5.b. Employers with fewer than fifty employees;~~

~~7.5.c. New start up businesses operating five years or less in the state; and~~

~~7.5.d. Employers developing new or expanding operations in the state resulting in a minimum investment of two million dollars;~~

~~7.6. With the exception of the Learn and Earn Program, new equipment may be committed to meet cash match requirements based on the actual documented purchase price of the equipment.~~

~~7.7. If the grant award is solely for the purpose of modernizing equipment, the match requirement is one dollar for each two dollars in state funding awarded.~~

~~7.8. Match requirements may be provided by public sector partners utilizing state or federal dollars if funding for the Workforce Development Initiative Program for the current fiscal year exceeds six hundred and fifty thousand dollars, and in which case one half of the funded amount exceeding six hundred and fifty thousand dollars may be granted utilizing a public sector match.~~

**§135-27-~~810~~. Accountability and Reporting Requirements.**

~~§10.1.~~ A community and technical college receiving a grant under the provisions of ~~this~~ these programs shall submit to the Chancellor all requested programmatic accountability data and budgetary reports including but not limited to:

~~§10.1.a.~~ Annual financial ~~and final~~ reports detailing program expenditures;

~~§10.1.b.~~ Annual reports on activities conducted and dates completed; and

~~§10.1.c.~~ A final report on goals achieved, number of participants served, number of completers, number of completers placed in employment or obtaining a wage increase, cost of training per participant, and other information deemed necessary by the Council.

~~§10.2.~~ Equipment purchased or upgraded with grant funds under this program may not be sold, disposed of, or used for purposes other than those specified in the grant proposal without approval of the Council.

**§135-27-~~911~~. Grant Extension and Renewal.**

~~911.1.~~ Generally, grants will be awarded on a one-year ~~time~~ basis. Technical Program Development and Advance grants ~~but funding for the Learn and Earn program~~ may be for multiple years reflecting the duration of the career-technical program or training being provided. Learn and Earn applications must be submitted annually.

~~911.2.~~ The Chancellor may authorize the expenditure of carry-forward funds upon written request by the institution.

~~911.3.~~ Subject to meeting stated goals, timeframes, with the recommendation of the Advisory Committee (for Learn and Earn projects), and the provisions of Council Series 2, the system's rule on finance, cash match requirements, and ~~with the recommendation of the Advisory Committee,~~ the Council Chancellor may renew a grant up to five years following the initial grant award.