

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: State College System of West Virginia TITLE NUMBER: 131
Board of Directors

RULE TYPE: Legislative; CITE AUTHORITY WV Code 18B-3-5

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 3

TITLE OF RULE BEING PROPOSED: Proprietary Correspondence, Business,
Occupational, and Trade Schools

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON November 19, 1992 AT 8:30 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Marie Carter
Assistant to the Chancellor
State College System of West Virginia
1018 Kanawha Blvd., East
Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Marie Carter

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

4.20

**TITLE 131
LEGISLATIVE RULE
STATE COLLEGE SYSTEM OF WEST VIRGINIA
BOARD OF DIRECTORS
SERIES 3**

Series 3 describes guidelines for proprietary correspondence, business, occupational, and trade schools to obtain a permit in order to solicit students and to operate the schools. It grants to the Central Office of the State College and University Systems the authority to grant permits and to monitor the operations of the schools. This rule responds to legislation which was enacted during the 1992 regular legislative session requiring the State College System Board to promulgate a rule for this purpose.

**TITLE 131
LEGISLATIVE RULE
STATE COLLEGE SYSTEM OF WEST VIRGINIA
BOARD OF DIRECTORS
SERIES 3**

**TITLE: PROPRIETARY CORRESPONDENCE, BUSINESS,
OCCUPATIONAL, and TRADE SCHOOLS**

SECTION:		PAGE
1	General	2
2	Definitions	2
3	Exemptions	4
4	Application for Permit	4
5	Permit Application Fee	6
6	Surety Bond Requirements	6
7	Maintenance of Records	7
8	Financial Resources/Financial Record Keeping . . .	8
9	Change of School Ownership	8
10	School Closing	9
11	Student Enrollment Contract	10
12	Cancellation and Refund Policies	11
13	Advertising	13
14	Student Complaints	15
15	Warning, Suspension, Withdrawal Accreditation, License and/or Approval to Operate	16

**TITLE 131
LEGISLATIVE RULE
STATE COLLEGE SYSTEM OF WEST VIRGINIA
BOARD OF DIRECTORS
SERIES 3**

**TITLE: PROPRIETARY CORRESPONDENCE, BUSINESS,
OCCUPATIONAL, and TRADE SCHOOLS**

SECTION 1. GENERAL

- 1.1 Scope - Rule regarding the issuance, renewal and, revocation of permits to proprietary correspondence, business, occupational, and trade schools.
- 1.2 Authority - West Virginia Code § 18B-3-5
- 1.3 Filing Date -
- 1.4 Effective Date -

SECTION 2. DEFINITIONS

- 2.1 Accredited School A school that is accredited by a regional or national accrediting agency that is approved by the United States Department of Education.
- 2.2 Board The State College System of West Virginia Board of Directors.
- 2.3 Campus A permanent facility where instruction takes place or a facility where courses are taught for more than ten (10) days per calendar year.
- 2.4 Central Office The Central Office of the State College and University Systems of West Virginia.
- 2.5 Correspondence School A for-profit educational organization which, for a consideration, profit, or tuition, teaches or instructs in any subject that prepares an individual for employment through the medium

- of correspondence between the student and the school by which the school transmits to or exchanges matter with the student via printed material, video tapes, cassette tapes, telecommunications, or other means.
- 2.6 Financially Sound A current ratio of at least 1:1 regarding total current assets compared to total current liabilities, positive total equity, and current year profitability.
- 2.7 Immediate Family Parents, children and their spouses, brothers and their spouses, sisters and their spouses, and grandchildren.
- 2.8 Person Any individual, group of individuals, partnership, association, organization, business, trust, corporation, or other business entity.
- 2.9 Proprietary Business, Occupational, or Trade School A for-profit institution or organization, no matter how titled, maintaining or conducting classes for the purpose of offering instruction for a consideration, remuneration, or tuition, designed to prepare an individual for employment.
- 2.10 Representative A person employed by a school, whether such school is located within or outside of the State of West Virginia, to act as an agent, solicitor, procurer, broker, or independent contractor to produce students or enrollees for any such school by solicitation in any form at any place in the State of West Virginia.
- 2.11 Specialized Associate Degree Degree authorized by the State College System Board of Directors to be awarded by proprietary schools pursuant to a degree program of not less than two (2) academic years.
- 2.12 State The State of West Virginia.
- 2.13 Terms Regularly established equal divisions of the academic school year, each with an established starting and ending date, which are normally

referred to as modules, quarters, trimesters, or semesters.

SECTION 3. EXEMPTIONS

- 3.1 These regulations do not apply to:
- 3.1.1 Any school that is licensed or approved for a permit from any other statutory licensing or accrediting agency pursuant to statutes of the West Virginia Code other than 18B-3-5.
 - 3.1.2 Any school whose courses of instruction offered are solely for the purpose of teaching preparation of tax returns.
 - 3.1.3 Any school conducted by any person, firm, corporation, or other organization solely on a contractual basis where obtaining a permit is not a condition of the contract and no individual person is charged tuition and no advertisement of courses takes place.
 - 3.1.4 Schools that offer vocational courses which are conducted solely for personal development or information, and do not represent themselves as preparing an individual for a career or occupation.
 - 3.1.5 Tutorial instruction given in a private home or elsewhere as supplemental to regular classes for students enrolled in public or private schools.
 - 3.1.6 Those schools or organizations registered as non-profit entities and which rely solely upon contractual instruction arrangements or upon government sponsored training programs, and/or have students enrolled in courses or programs of instruction for which they are not charged tuition and other fees.
 - 3.1.7 Non-profit independent colleges or universities that are accredited by a regional accrediting agency recognized by the United States Department of Education.
 - 3.1.8 Those public colleges, universities, and schools under the jurisdiction of the State College System of West Virginia, the University System of West Virginia, or the West Virginia Board of Education.

SECTION 4. APPLICATION for PERMIT

- 4.1 No person or corporation shall solicit students or operate any for-profit correspondence, business, occupational, trade school, or branch campus in the state without a permit to do so, issued by the board. A permit shall be issued authorizing the solicitation of students or authorizing the operation of a school if all conditions of the laws and regulations of the state pertaining to correspondence, business, occupational, and trade schools are met.
- 4.2 If a person or corporation, as defined in Section 2 of this rule, wishes to operate or continue to operate a school or branch campus or to solicit students in the state, that person or corporation shall submit an original application for a permit to do so on forms provided by the Central Office.
- 4.3 A school shall submit with the application:
 - 4.3.1 A copy of the curriculum and course description for each program being offered;
 - 4.3.2 A copy of the student enrollment contract;
 - 4.3.3 A copy of the school's tuition refund policy and schedule;
 - 4.3.4 A fully executed surety bond in the appropriate amount;
 - 4.3.5 A statement projecting the estimated amount of tuition to be collected over the dates corresponding to the surety bond's effective dates;
 - 4.3.6 The appropriate permit fee;
 - 4.3.7 A list of all official representatives of the school who will be soliciting students;
 - 4.3.8 A written plan to protect the contractual rights of enrolled students as required by Section 10 of this rule; and
 - 4.3.9 If accredited, a copy of the latest team report and the letter of accreditation status from the accrediting agency.
- 4.4 A school applying for renewal of a permit shall submit, in addition to the items in Section 4.3, a financial statement indicating the amount of tuition collected in the preceding year with the dates corresponding to the effective dates of the school's surety bond. (Any school which has its physical

facilities located in the state and which has operated in this state under the present ownership for at least ten (10) years is not required to submit a financial statement indicating the amount of tuition collected.)

- 4.5 As a condition of permit renewal, all schools shall make annual reports to the Central Office on forms furnished by the Central Office.
- 4.6 In addition to the requirements set forth above, all out-of-state schools shall annually provide evidence of authority to operate or accreditation by the regulatory agency of each state in which the school is located or conducts business.
- 4.7 A permit shall be valid for one year corresponding to the effective date of the surety bond as required herein.

SECTION 5. PERMIT APPLICATION FEE

- 5.1 Any person or corporation applying for a permit to solicit students or operate a for-profit school or branch campus in the state shall submit an initial application fee in the amount of one thousand dollars (\$1,000) with the application.
- 5.2 Any person or corporation applying for renewal of a permit shall submit an annual fee of five hundred dollars (\$500) with the renewal application for each campus operated by the school.
- 5.3 Any person or corporation not renewing its permit within thirty (30) days of the effective date of the surety bond shall be subject to the regulations pertaining to an initial application.

SECTION 6. SURETY BOND REQUIREMENTS

- 6.1 A school located in the state shall submit with its initial or renewal application, the original copy of a fully executed, continuous surety bond written by a company authorized to do business in the state in the sum of thirty-five thousand dollars (\$35,000) or greater, but not more than two-hundred thousand dollars (\$200,000). The amount will be based on projected tuition and fee collections for initial applicants, and actual tuition and fee collections of the preceding year, corresponding with the surety bond renewal date, for renewal applicants.

The following scale applies:

Actual or Projected Tuition and Fees	Surety Bond Requirements
any amount up to \$50,000	\$35,000
\$50,001 - \$75,000	\$50,000
\$75,001 - \$100,000	\$75,000
\$100,001 - \$150,000	\$100,000
\$150,001 - \$200,000	\$150,000
greater than \$200,000	\$200,000

- 6.2 However, any school which has its physical facilities located in the state and has operated in the state under the present ownership, or ownership within the immediate family, for at least ten (10) years, is required to submit with its renewal application the original copy of a fully executed continuous surety bond written by a company authorized to do business in the state in the sum of thirty-five thousand dollars (\$35,000).
- 6.3 Schools with more than one (1) campus within the state shall provide a fully executed surety bond for each of its campuses in an amount equal to the bond requirement for its oldest established campus in the state.
- 6.4 In the event of cancellation of the surety bond by a bonding company, the school shall furnish a fully executed replacement to the Central Office within thirty (30) days of the school's receipt of the notice of cancellation.
- 6.5 The termination of a school's surety bond coverage shall be grounds for revocation of its permit.
- 6.6 A school whose physical facilities are located outside the state, and which applies for a permit to solicit students in the state, shall submit a fully executed surety bond in the sum of thirty-five thousand dollars (\$35,000).

SECTION 7. MAINTENANCE of RECORDS

- 7.1 A school shall store records at a central location and have them available for inspection by Central Office personnel .
- 7.2 A school shall maintain academic records suitable for transcript purposes for all students for fifty (50) calendar years after the student has departed from the school, and include as the minimum:

- 7.2.1 The name and address of the school;
 - 7.2.2 The full name and address of the student;
 - 7.2.3 The dates of attendance;
 - 7.2.4 The course of instruction or subject;
 - 7.2.5 The amount of credit, if any;
 - 7.2.6 The grade for each subject; and
 - 7.2.7 A statement of graduation or completion, or reason the student departed.
- 7.3 A school shall develop and enforce security measures to protect student records from damage or destruction for the required period of time.

SECTION 8. FINANCIAL RESOURCES/FINANCIAL RECORD KEEPING

- 8.1 The school shall provide the following financial information with each initial and renewal application:
- 8.1.1 If accredited, a copy of the annual financial statement filed with the school's accrediting agency.
 - 8.1.2 If not accredited, financial statements compiled in accordance with standards established by the American Institute of Certified Public Accountants and including a balance sheet, an income statement, and a cash flow statement.
- 8.2 Financial statements must be prepared for each individual school location required to execute a surety bond.
- 8.3 If, after an analysis of a school's financial report, the Central Office determines that a school does not appear to be financially sound, or it appears to have difficulties deemed serious enough to consider denial or revocation of approval, or its records are inaccurate, the school, within seventy-five (75) calendar days of notification, must submit:
- 8.3.1 Financial statements reviewed in accordance with standards established by the American Institute of Certified Public Accountants; and

8.3.2 Its most recent federal and state income tax returns.

SECTION 9. CHANGE of SCHOOL OWNERSHIP

9.1 A school must notify the Central Office thirty (30) days in advance of the change of ownership or control.

9.2 Following a change of ownership, the new owner(s) must obtain a permit from the Central Office in order to operate the school.

9.3 When a school is located in the state and has a change of ownership, and if the new ownership is outside of the immediate family of the previous owner, the school must apply for a permit. Included with this application shall be the following:

9.3.1 An application fee of one thousand dollars (\$1,000);

9.3.2 A financial statement, including the information required in Section 8 of this rule;

9.3.3 A fully executed surety bond in the appropriate amount as required by Section 6 of this rule;

9.3.4 The names, addresses and corporate titles of all persons or other entities having a financial interest in the school, and the name and addresses of any other schools in which these persons or entities have or have had a financial interest.

9.3.5 A revised listing of all programs to be offered if changes were made with new ownership; and

9.3.6 An application for each representative of the school who will be soliciting students.

9.4 If the school is located outside the state, the school must show evidence of compliance with the laws and regulations in the state where the school is located. In addition, the school must submit the following:

9.4.1 An application for a permit with the application fee of one thousand dollars (\$1,000);

9.4.2 A fully executed surety bond in the amount of thirty-five thousand dollars (\$35,000);

- 9.4.3 An application for each representative of the school that will be soliciting students in West Virginia;
- 9.4.4 A revised listing of all programs to be offered if changes are made with new ownership; and
- 9.4.5 The names, addresses, and corporate titles of all persons or other entities having a financial interest in the school.

SECTION 10. SCHOOL CLOSING

- 10.1 A school shall have written plans designed to protect the contractual rights of the students enrolled, including the right to complete the course of instruction in which the student is enrolled, in the event the school desires to close or change location.
- 10.2 A school which is closing, either voluntarily or involuntarily, shall:
 - 10.2.1 Inform the Central Office of this action immediately by certified mail;
 - 10.2.2 Supply the Central Office with the name, address and telephone number of the person responsible for closing arrangements;
 - 10.2.3 Supply the Central Office with the name, address, telephone number, and the course of study for each student who has not completed his or her course of study;
 - 10.2.4 Supply the Central Office with information on the amount of class time left for each student to complete the course along with the amount of refund, if any, for which each student is eligible;
 - 10.2.5 Inform currently enrolled students by written notice of the procedures they are to follow to secure refunds or to continue their education, and supply the Central Office with a copy of this notice; and
 - 10.2.6 Inform the Central Office of plans to store the permanent student records and the procedure to obtain copies.

SECTION 11. STUDENT ENROLLMENT CONTRACT

- 11.1 Each school shall utilize a written enrollment agreement which specifies both the school's and student's legal rights and obligations. The enrollment agreement must contain, but is not limited to, the following:
- 11.1.1 The name and address of the school;
 - 11.1.2 The name of the course of study or program, including the number of hours of classroom instruction, home study lessons, or other study units required;
 - 11.1.3 The total cost of the course or program including tuition, fees, books, and any other charges the student will incur shall be clearly stated;
 - 11.1.4 The school's cancellation and refund policy, which shall be clearly stated;
 - 11.1.5 An explanation of the form and notice that should be used if a student elects to cancel the contract or enrollment agreement, and the name and address to which the notice should be sent;
 - 11.1.6 A disclaimer regarding the guarantee of employment by the school to the student; and
 - 11.1.7 The signature of the student applicant, a parent or other sponsor if the student is under the age of eighteen (18), and the appropriate school officials, plus the date signed.
- 11.2 An application for admission is not to be construed as binding on the student, therefore limiting total student financial obligation to the payment of an application fee.
- 11.3 The school shall provide the student with a copy of the completed enrollment agreement that is signed and dated.
- 11.4 Notwithstanding the above requirements, the enrollment agreement of a school shall be deemed to meet all requirements if:
- 11.4.1 The school's physical facilities are located within the state;

- 11.4.2 The school has been under permit since July 1, 1979, under continuous ownership within the same immediate family; and
- 11.4.3 The school is accredited by an appropriate nationally recognized accrediting agency approved by the United States Department of Education.

SECTION 12. CANCELLATION and REFUND POLICIES

- 12.1 The school shall adopt a minimum refund policy relative to the unused portion of tuition, fees, and other charges if the student does not enroll in the school, withdraws, or is dismissed.
- 12.2 All fees and payments remitted to a school by a prospective student shall be refunded, minus any stated application fee not to exceed twenty-five dollars (\$25), if the student is not admitted due to ineligibility.
- 12.3 An admitted student applicant may cancel, by written notice, his or her enrollment any time prior to the first class day of the session for which the application was made, and the school shall refund all tuition paid by the student minus an application fee not to exceed twenty-five dollars (\$25).
- 12.4 For the purposes of refund calculations, an individual's status as a student shall be considered terminated by the school not later than seven (7) calendar days after the last day on which the student actually attended the school. Termination may be effected earlier by written notice. A home study program of instruction shall be terminated if a school does not receive a lesson for sixty (60) consecutive days, and the date of withdrawal shall be the date of the last lesson received. The date of withdrawal initiated by a student shall be the date the letter is postmarked or, when the notice is hand-carried, it shall occur on the date the notice is delivered. The school shall provide a receipt for each letter or withdrawal notice received.
- 12.5 Schools are required to submit refunds to individuals or the appropriate agency within thirty (30) days after receipt of a written or hand delivered notice of termination from a student.
- 12.6 The school's refund policy for withdrawals and terminations must at a minimum comply with the following:
 - 12.6.1 A student who begins a term and withdraws after completing up to one (1) week or ten percent (10%) of the term is entitled

to a refund of ninety percent (90%) of the charges less the application fee, which may not exceed twenty-five dollars (\$25).

12.6.2 A student who begins a term and withdraws after completing more than ten percent (10%) through twenty-five percent (25%) of the term is entitled to a refund of seventy-five percent (75%) of the charges less the application fee, which may not exceed twenty-five dollars (\$25).

12.6.3 A student who withdraws after completing more than twenty-five percent (25%) through fifty percent (50%) of the term is entitled to a refund of fifty percent (50%) of the charges less the application fee, which may not exceed twenty-five dollars (\$25).

12.6.4 A student who withdraws after completing more than fifty percent (50%) through seventy-five percent (75%) of the term is entitled to a refund of twenty-five percent (25%) of the costs less the application fee, which may not exceed twenty-five dollars (\$25).

12.6.5 A student who withdraws after completing more than seventy-five percent (75%) of the term is not entitled to a refund.

12.7 Refunds shall be calculated for a specific term as defined in Section 2 of this rule, not the total cost of the program, except in those programs that are of sixteen (16) weeks or less in duration. The student's financial commitment shall not be for more than one term at any given time.

12.8 Those schools that are accredited by an appropriate nationally recognized accrediting agency approved by the United States Department of Education, and under permit since July 1, 1979, and having their physical facilities located in West Virginia, and being under continuous ownership within the same immediate family, may use the accrediting agency's refund policy to meet the requirements of this section.

SECTION 13. ADVERTISING

13.1 Each school and its representatives shall not make or cause to be made any oral, written, or visual presentation in connection with the offering or publicizing of a subject or course of instruction which is false, deceptive, inaccurate, or misleading.

13.2 In its advertising, a school shall:

- 13.2.1 Limit reference to its authority to operate to "Permit to Operate Issued by the State College System of West Virginia Board of Directors";
- 13.2.2 Disclose that it is a home study or in-residence school if it provides such instruction;
- 13.2.3 Use photographs or other illustrations only in ways which accurately describe the size and location of the school, its equipment and facilities for the career for which the student is being trained;
- 13.2.4 Advertise starting salaries of its former students only if these claims can be documented for the most recent twelve- (12) month period preceding the advertisement; and
- 13.2.5 Retain on file, copies of all advertising for a minimum of twelve (12) months from the date of the advertisement.

13.3 In its advertising, a school shall not:

- 13.3.1 Advertise that it is "supervised," "recommended," "endorsed," "approved," or "accredited" by the board;
- 13.3.2 Describe its courses of instruction and subjects in a manner other than the approved title designation in the school catalogue on file with the Central Office;
- 13.3.3 Represent that it is endorsed by or affiliated with a college or university, unless such statements can be documented;
- 13.3.4 Advertise the transferability of its credits to specific colleges and universities unless it has written evidence on file of current acceptability of such credits from said colleges or universities;
- 13.3.5 Advertise that it is endorsed by manufacturers, business establishments, or organizations engaged in the line of work for which the school gives training unless it has on file written evidence of such endorsements with the name and address of the endorser and the date of endorsement;

- 13.3.6 Advertise accredited status unless such status has been received from an accrediting body currently listed as recognized by the United States Department of Education and such accrediting body must be named if used in any advertisement or promotional material;
 - 13.3.7 Advertise as an employment agency, or under the same or similar name as such an agency, or advertise training courses in the "Help Wanted" section of any newspaper;
 - 13.3.8 Advertise any tuition, fees or other charges in amounts other than those currently on file in the Central Office or advertise them without showing the total costs;
 - 13.3.9 Advertise or imply a guarantee of job placement or employment at a certain wage; or
 - 13.3.10 Use endorsement, commendations, or recommendations by students without their written consent, which must be kept on file by the school.
- 13.4 A school eligible to offer a course of instruction or program leading to a specialized associate degree shall, in any advertisement, promotional material, or the school catalogue refer to this degree designation as a "Specialized Associate Degree."

SECTION 14. STUDENT COMPLAINTS

- 14.1 A school shall resolve student complaints promptly and fairly and shall not subject a student to punitive action as a result of a written complaint having been filed with the school or Central Office.
- 14.2 The school shall maintain a written record of its handling of all student complaints.
- 14.3 The Central Office, upon receiving a written student complaint, may authorize an investigation into such complaints.
- 14.4 Each school that is being investigated, as a result of a written student complaint, will be notified by the Central Office that such an investigation is being conducted.

- 14.5 The school being investigated must respond to any inquiry by the Central Office relating to the investigation within ten (10) working days of its receipt of the inquiry.
- 14.6 Any school refusing to cooperate with an investigation of a written student complaint by the Central Office or any other governmental agency shall have its permit to operate or solicit students in West Virginia revoked.
- 14.7 The Central Office, upon completion of the investigation of a written student complaint, will supply the school with a written report of the findings and any proposed corrective action. The school will have ten (10) working days to reply to the Central Office before any action may be taken.
- 14.8 The school has a right to request a hearing regarding any findings or action proposed by the Central Office resulting from an investigation involving student complaints.
- 14.9 The Central Office may forward any information pertaining to a written complaint involving student financial aid to the United States Department of Education.

**SECTION 15. WARNING, SUSPENSION, WITHDRAWAL, or REVOCATION
of ACCREDITATION, LICENSE, and/or APPROVAL to
OPERATE**

- 15.1 A school shall provide the Central Office with a copy of any notice of warning, suspension, or revocation received from any national, regional, or state accrediting and/or approval agency within fifteen (15) days of receipt of such notice. The school shall at the same time inform the Central Office in writing of activities being taken to correct the deficiencies.
- 15.2 The board may, for good cause, suspend, withdraw, or revoke the authorization of proprietary schools to operate a school within the state or to solicit students within the state. Good cause shall consist of:
 - 15.2.1 Loss of accreditation by a nationally recognized accrediting agency;
 - 15.2.2 Cancellation of the school's bond by the bonding company;
 - 15.2.3 Evidence that the school has engaged in conduct prohibited by these rules;

- 15.2.4 Evidence of general inadequacy of the instruction offered by the school, resulting in the inability of a substantial number of enrollees to obtain or retain employment because of such inadequate training;
 - 15.2.5 Closure of the school without adequately providing for the completion of students' classes or course work, or without refunding students' unearned tuition; or
 - 15.2.6 Conviction of the owner or manager of a school for a felony or of a crime involving moral turpitude.
- 15.3 Upon receipt by officials at the Central Office of information constituting any of the above grounds for suspension, withdrawal, or revocation, the Central Office may notify the school and its owner in writing of its intent to recommend suspension, withdrawal, or revocation and the grounds for such recommendation.
- 15.3.1 The owner of the school may, within ten (10) days of receipt of such notice, request a hearing upon the recommended action. Such hearing, if requested, shall be commenced within twenty (20) work days of such request at the Central Office or at such other location convenient to the parties and witnesses as may be designated by the Central Office.
 - 15.3.2 The hearing shall be conducted by the chancellor of the State College System or the chancellor's designee, pursuant to the procedures set forth in Chapter 29A, Article 5 of the Code of West Virginia.
 - 15.3.3 The chancellor or the chancellor's designee may continue the hearing at the request of the school for good cause shown. Continuances shall not be granted as a matter of right.
 - 15.3.4 If the owner of the school does not request a hearing within the requisite time period, the recommendation of the Central Office shall be deemed unchallenged by the school and reported to the board for final action.
- 15.4 At the hearing, the grounds for suspension, withdrawal, or revocation of authorization to operate the school must be established by clear and convincing evidence.

15.7 A school or its representative may appeal an adverse action of the board to a court of competent jurisdiction within the time period specified by state law.

- 15.4.1 The owner of the school or its manager or designated representative may appear to defend the interests of the school, may present witnesses and evidence on behalf of the school, and may cross-examine witnesses against the school. The school may retain legal counsel to represent its interests at the hearing.
- 15.4.2 The board does not have the power to issue subpoenas, but the Central Office or the school may request the appearance of witnesses at the hearing, who shall be notified of such request by the chancellor or the chancellor's designee with the date, time, and location of the hearing in writing.
- 15.4.3 The rules of evidence shall not strictly apply and evidence may be admitted if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs. Objections to evidence offered by either party shall be ruled upon by the chancellor or the chancellor's designee who conducts the hearing.
- 15.4.4 The hearing shall be recorded by mechanical means or by a certified court reporter retained by the chancellor.
- 15.5 The chancellor or the chancellor's designee shall make written findings of fact and conclusions of law as to whether or not the school or its representative has committed acts in violation of the law or these rules which would justify the suspension, withdrawal, or revocation of its authorization to operate. Such findings and conclusions shall be reported to the board, and a copy of same shall be provided to the school on the same date it is filed with the board and placed upon its agenda for action.
- 15.6 The board shall act upon the report at its next regularly scheduled business meeting to accept or reject the findings of the chancellor or the chancellor's designee, and to suspend, withdraw, or revoke the authority of the school or its representative to operate and/or solicit students within the state. Notification of the board's action shall be given to the school and/or its representative in writing within two (2) business days following such action of the board, by certified mail or by personal delivery. For good cause shown in the minutes of the board, action upon the chancellor's report may be deferred to a date not later than the next regularly scheduled business meeting of the board.



STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

GASTON CAPERTON
GOVERNOR

October 20, 1992

The Honorable Ken Hechler
Secretary of State
State Capitol
Charleston, WV 25305

Dear Secretary Hechler:

In the absence of a Secretary of Education and the Arts, I hereby grant consent as required pursuant to West Virginia Code §5F-2-2 for promulgation of the following new legislative rule by the State College System Board of Directors:

Title 131, Series 3, Proprietary, Correspondence, Business,
Occupational, and Trade Schools.

Please file the appropriate notices for public comment. A copy of the proposed legislative rule is attached.

Sincerely,

A handwritten signature in cursive script that reads "Thomas A. Heywood".

Thomas A. Heywood
Chief of Staff

Enclosure

cc: Dr. Paul Marion
Dr. John Thralls
Mr. David Mohr

FILE

Oct 30 4 32 PM '32

SECRETARY OF STATE
OFFICE OF THE CLERK