



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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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: 126-007
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Regulations for Adult Diversion and Transition Programs (1471)
CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler,
180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. V. Bd. of
Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

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

July 1, 2021

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

Yes

Michele L Blatt -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

126CSR7

**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

**SERIES 7
REGULATIONS FOR ADULT DIVERSION AND TRANSITION PROGRAMS (1471)**

§126-7-1. General.

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

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

1.3. Filing Date. -- April 15, 2021.

1.4. Effective Date. -- July 1, 2021.

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

§126-7-2. Definitions.

2.1. Adult Correctional Centers and Regional Jails. Facilities operated by the WVDCR.

2.2. Adult Education. Education provided to inmates in adult correctional centers. These classes include high school equivalency preparation and career preparation, basic academic skills, life skills, emotional intelligence training, and soft skills classes.

2.3. School-aged Student. Incarcerated students between 18-21 years of age who have not received a high school diploma.

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

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

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

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

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

§126-7-3. Purpose.

3.1. The mission of the WVDE in correctional facilities operated by the WVDCR is to provide educational programs designed to meet the diverse needs of incarcerated school-aged students and adults. WVSOT educational programs are subject to WVBE rules and applicable state and federal laws and regulations.

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

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

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

§126-7-4. Educational Programming and Operations.

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

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

4.1.a.1. provide a comprehensive assessment of each student's academic and CTE needs and aptitudes;

4.1.a.2. develop individualized program plans for incarcerated students in accordance with their unique needs, abilities, plan of treatment, length of incarceration, and realistic career goals;

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

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

4.1.a.5. develop programs which meet applicable WVBE policies and accreditation requirements (e.g., personnel qualifications, instructional time, textbooks).

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

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

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

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

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

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

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

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

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

4.1.b.8. provide curriculum and instruction based upon the WVBE's content standards and objectives, and appropriate to the characteristics and needs of incarcerated school-aged and adult students; and

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

4.1.c. 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. The WVSDT shall:

4.1.c.1. heighten community awareness of educational programs in correctional institutions; and

4.1.c.2. involve members of the community in the educational process.

4.1.d. Facilities. Education facilities in correctional institutions will be safe and adequate to meet the needs of students in an efficient and economic manner. The WVSDT shall:

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4.1.d.1. assist the WVDCR in meeting its obligations under the Interagency Agreement via developing a partnership for improving school facilities for incarcerated school-aged and adult students by accessing available state and federal funding for construction and renovation.

4.1.e. Economic Development. CTE programs for the offender population will provide opportunities for incarcerated individuals to make positive contributions to society and the state's economic development. The WVSDT shall:

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

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

4.1.e.3. focus CTE and adult education programs on employability skills, technology literacy, and academic performance in basic skills.

4.1.f. Cooperation. The WVDE will maintain and foster a cooperative relationship with the WVDCR to facilitate the achievement of educational, treatment, and transitional (aftercare) goals for incarcerated school-aged and adult students.

§126-7-5. Implementation Procedures.

5.1. The State Superintendent of Schools or designee is empowered to develop written implementation procedures to accomplish the WVBE's mission and goals for education in the state's correctional institutions. Sources of authority for implementation procedures shall include applicable WVBE 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 WVDCR's personnel and are subject to the provisions of the interagency agreement between the WVDE and the WVDCR.

§126-7-6. Severability.

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