



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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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: 135-35
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 135-35 Business, Occupational, and Trade Schools

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: 18B-2B-9

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:

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED:

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

PUBLIC HEARING:

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

RELEVANT FEDERAL STATUTES OR REGULATIONS:

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

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

Rule regarding the issuance, renewal, and revocation of permits to business, occupational, and trade schools.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

To allow the WV Council for Community and Technical College Education to issue, renew and revoke permits to business, occupational and trade schools.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

NA

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

NA

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

NA

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. 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
2. Estimated Total Revenues	0	0	0

E. 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 35
BUSINESS, OCCUPATIONAL, and TRADE SCHOOLS

§135-35-1. General.

1.1. Scope. -- Rule regarding the issuance, renewal, and revocation of permits to business, occupational, and trade schools.

1.2. Authority. -- ~~West Virginia~~ W. Va Code §18B-2B-9.

1.3. Filing Date. -- ~~July 19, 2017.~~

1.4. Effective Date. -- ~~July 19, 2017.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on ~~July 19, 2022.~~

§135-35-2. Definitions.

2.1. Accredited School

A school that is accredited by a regional or national accrediting agency that is recognized by the United States Department of Education.

2.2. Associate Degree

A degree that may be awarded by accredited schools pursuant to a program of not less than two (2) academic years as authorized by West Virginia Code 18B-2B-9.

2.3. Council

The West Virginia Council for Community and Technical College Education.

2.4. Campus

A permanent facility where instruction takes place, or a facility where courses are taught for more than ten (10) days per calendar year.

2.5. Chancellor

The Chancellor of the West Virginia Council for Community and Technical College Education or his or her designee.

2.6. Financially Sound

Meeting two of the following: a current ratio of at least 1:1 regarding total current assets compared to total current liabilities, positive total equity, or current year profitability.

2.7. Immediate Family

Spouse, parent, sibling, child, or grandchild.

2.8. Ownership Change

When the change of ownership results in a change in control of the school outside the immediate family.

2.9. Person

Any individual, group of individuals, partnership, association, organization, business, trust, corporation, or other business entity.

2.10. Business, Occupational, or Trade School

An institution, organization, or entity no matter how titled, maintaining or conducting classes or instruction for a consideration, remuneration, or tuition, designed to prepare an individual for employment or enhance employment skills.

2.11. Representative

Any person representing a school, whether such school is located within or outside of the State of West Virginia, or acting 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 this state.

2.12. School

Business, occupational, or trade, school.

2.13. Specialized Associate Degree

Degree that may be awarded by accredited schools pursuant to a degree program of not less than two (2) academic years.

2.14. State

The State of West Virginia.

2.17. Terms

Regularly established divisions of the academic school year, each with an established starting and ending date, which is normally referred to as modules, quarters, trimesters, or semesters.

§135-35-3. Exemptions.

3.1. For the purpose of this rule, the following are not defined as a correspondence, business, occupational, or trade school:

3.1.a. Any school or person licensed or approved to offer education or training by any other statutory licensing or accrediting agency pursuant to statutes of the West Virginia Code other than 18B-2B-9.

3.1.b. Any school or organization whose courses of instruction offered are solely for the purpose of

teaching preparation of tax returns.

3.1.c. Any school conducted by any person, solely on a contractual basis with private or governmental organizations where obtaining a permit is not a condition of the contract and students are not charged tuition or other fees, and no advertisement of courses takes place.

3.1.d. Any training or apprenticeship program conducted by a company, union, or other organization in which students, members, or employees enrolled in the training or educational programs are not charged tuition or other fees.

3.1.e. Schools that offer courses which are conducted solely for personal development or information, do not prepare or represent themselves as preparing, an individual for a career or enhancing employment opportunities, are not offering sequential courses comprising an entire program and are not offering courses for more than twenty-four (24) weeks per calendar year.

3.1.f. Tutorial instruction given in a private home or elsewhere as supplemental to regular classes for students enrolled in public or private schools.

3.1.g. Non-profit independent colleges, universities, and other non-profit entities that are accredited by a regional accrediting agency recognized by the United States Department of Education.

3.1.h. Public colleges, universities, and schools under the jurisdiction of the West Virginia Council for Community and Technical College Education, or the West Virginia Board of Education.

§135-35-4. Application for Permit.

4.1. Unless exempted as defined in Section 3 of this rule, a person or corporation shall not solicit students or operate any business, occupational, trade school, or branch campus in the state without first applying for or obtaining a permit issued by the Council. A permit shall be issued authorizing the solicitation of students and/or authorizing the operation of a school if all conditions of the laws and regulations of this state pertaining to correspondence, business, occupational, and trade schools are met.

4.2. If a person 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 shall submit an original application for a permit to do so on forms provided by the Council.

4.3. As a condition of the issuance of a permit, a school shall submit with the application:

4.3.a. A copy of the curriculum and description of courses for each program being offered;

4.3.b. A copy of the student enrollment contract;

4.3.c. A copy of the school's tuition refund policy and schedule;

4.3.d. A fully executed surety bond in the appropriate amount;

4.3.e. The appropriate permit fee;

4.3.f. A list of all representatives of the school who will be soliciting students; and

4.3.g. If accredited, documentation from the accrediting agency regarding accreditation status.

4.4. Persons shall not be deemed to have submitted an initial application for a permit to operate a school or solicit students in this state unless a properly completed application, the application fee, the required surety bond, and all other information and documentation required by this rule has been submitted to the Council and the following has been provided:

4.4.a. A listing of the individual's or organization's prior school operation history in this state, other states, or other countries.

4.4.b. Information detailing the involvement in, or relationship to, any school that lost its accreditation, lost its authorization to operate because of violation of state or federal laws, was terminated from participation in the federal financial aid programs, closed without arranging a teach-out for students or arranging refunds, or other discharge of the school's contractual obligation to the student.

4.4.c. Proof at the time of filing an initial application that adequate facilities are available and ready for occupancy and that all instructional equipment, books, supplies, and personnel are in place and ready for operation and verified by an on-site visit by a representative of the Council.

4.5. As a condition of permit renewal, all schools shall make annual reports to the Council on forms furnished by the Council.

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.

4.8. Any information of a confidential or proprietary nature provided to the Council by a school for the purpose of obtaining or renewing a permit, and exempted from public disclosure pursuant to the terms of West Virginia Code §29B-1-4, shall not be disclosed for any purposes inconsistent with this rule or statute.

§135-35-5. Approval to Offer Degrees.

5.1. All schools planning to offer a degree at the specialized associate's degree, associate's degree, or higher must receive approval from the Council and/or the West Virginia Higher Education Policy Commission prior to offering the degree. Schools seeking approval to offer the degree shall submit the following for review:

5.1.a. All degree requirements and the course curriculum

5.1.b. Faculty credentials and experience

5.1.c. A description of all available student support services

5.1.d. A description of available library and instructional materials

5.1.e. A description of program learning objectives and assessment methodology

5.2. Once a school is approved to offer the degree, that school is subject to annual reauthorization as provided in Legislative Rule, Title 135 (Council) or 135 (Commission), Series 52, Annual Reauthorization of Degree-Granting Institutions .

§135-35-6. Permit Application Fee.

6.1. Any person applying for a permit to solicit students or operate a school, as defined by this rule, or branch campus in this state shall submit an initial application fee in the amount of two thousand dollars (\$2,000) with the application.

6.2. Any person 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.

6.3. Any person submitting a permit renewal application and surety bond more than sixty (60) days after the last effective date of the applicant's previous surety bond shall be considered a new applicant for the purpose of paying the initial application fee.

§135-35-7. Surety Bond Requirements.

7.1. A school located in the state shall submit with its initial or renewal application, the original fully executed continuous surety bond written by a company authorized to do business in this state in the sum of fifty thousand dollars (\$50,000) unless required otherwise by a provision of this section.

7.2. Any school which has its physical facilities located in this state and has operated in this state under the present ownership, or ownership control 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 this state in the sum of thirty-five thousand dollars (\$35,000).

7.3. Schools having branch campuses within this state shall provide one fully executed surety bond in the appropriate amount providing coverage for all campuses.

7.4. In the event of notice of cancellation of the surety bond by a bonding company, the school shall furnish a fully executed replacement to the Council within sixty (60) days of the school's receipt of the notice of cancellation. But in no event may a school solicit or enroll new students until the appropriate surety bond is in effect.

7.5. The termination of a school's surety bond coverage shall be grounds for revocation of its permit if the school fails to replace the bond within the required time.

7.6. A school whose physical facilities are located outside this state, and which applies for a permit to solicit students in this state, shall submit a fully executed surety bond in the sum of fifty thousand dollars (\$50,000).

7.7. The Council may increase the bond requirement of any school to one hundred fifty thousand dollars (\$150,000) if the school has its accreditation terminated or its institutional eligibility under the Higher Education Act of 1965, as amended, is terminated for cause.

7.8. If, in accordance with the standards of the American Institute of Certified Public Accountants, the school's audited financial statements are qualified because the school's continued financial viability as an ongoing concern is in doubt, and the school is not financially sound as defined in Section 2 of this rule, the Council may require the surety bond be increased up to an amount not to exceed four hundred thousand dollars (\$400,000) if the Council determines an increased bond is reasonably necessary to protect the financial obligations legally due to the students then enrolled at the institution.

7.9. Confidentiality Statement - any financial information submitted to the Council by a school covered under this rule shall be used by the Council only for purposes of this rule.

§135-35-8. Maintenance of Records.

8.1. A school shall maintain records at a central location and have them available for inspection by a representative of the Council.

8.2. A school shall maintain academic records suitable for transcript purposes for each student for fifty (50) calendar years after the student has departed the school, or until the student becomes 65 years of age. The records shall include, as a minimum:

- 8.2.a. The name and address of the school;
- 8.2.b. The full name and address of the student;
- 8.2.c. The starting and completion or separation dates;
- 8.2.d. The course of instruction or subject;
- 8.2.e. The amount of credit, if any;
- 8.2.f. The grade for each subject; and
- 8.2.g. A statement indicating whether the student graduated or completed the course.

8.3. A school shall develop and enforce security measures to protect student records from damage or destruction for the required period of time.

§135-35-9. Change of School Ownership.

9.1. A school must notify the Council at least thirty (30) days in advance of the change of ownership control. Within thirty (30) days of such notification, the Council will notify the school of permit status.

9.2. When a school is located in this state and has a change of ownership control and the new ownership control is outside of the immediate family of the previous owner, the school may continue to operate under the present permit. However, before the solicitation of students can continue, the school shall submit to the Council the following:

- 9.2.a. A fully executed surety bond in the amount of fifty thousand dollars (\$50,000).
- 9.2.b. The names, addresses, and corporate titles of all persons or other entities having a financial interest in the school, and the names and addresses of any other schools in which these persons or entities have or have had a financial interest.
- 9.2.c. A revised listing of all programs to be offered if changes were made with new ownership.
- 9.2.d. An application for each representative of the school who will be soliciting students.

9.3. If the school is located outside this state, the school must show evidence of compliance with the laws and regulations in the state where the school is located. In addition, before the solicitation of students continues in this state, the school must submit the following:

- 9.3.a. A fully executed surety bond in the amount of fifty thousand dollars (\$50,000);

9.3.b. An application for each representative of the school that will be soliciting students in West Virginia;

9.3.c. A revised listing of all programs to be offered if changes are made with new ownership; and

9.3.d. The names, addresses, and corporate titles of all persons or other entities having a financial interest in the school.

§135-35-10. School Closing.

10.1. A school which is closing, either voluntarily or involuntarily, shall:

10.1.a. Inform the Council of this action immediately by certified mail;

10.1.b. Supply the Council with the name, address, and telephone number of the person responsible for closing arrangements;

10.1.c. Supply the Council with the name, address, telephone number, and the course of study for each student who has not completed his or her course of study;

10.1.d. Supply the Council with information on the dates of enrollment, the amount of class time left for each student to complete the course, and the amount of entitled refund, if any, for which each student is eligible;

10.1.e. Inform currently enrolled students by written notice of the appropriate procedures they are to follow to secure refunds due if suitable teachouts have not been arranged, or to continue their education and supply the Council with a copy of this notice; and

10.1.f. Inform the Council and currently enrolled students of plans to store the permanent student records and the procedure to obtain copies.

§135-35-11. Student Enrollment Contract.

11.1. Before the schooling begins, all students shall receive a completed, signed and dated enrollment contract specifying both the school's and student's legal rights and obligations. The agreement may incorporate into the contract by reference information in the school's catalog, student handbook, or other school publication without printing such information or publication in the contract itself. The enrollment contract must contain, but is not limited to, the following:

11.1.a. The name and address of the school;

11.1.b. The name of the course of study or program, including the number of credit or clock hours of classroom instruction, home study lessons, or other study units required;

11.1.c. The total cost of the course, term or program for which the student is obligated under the contract including tuition, fees, books, and any other charges the student will incur shall be clearly stated;

11.1.d. The school's cancellation and refund policy including an explanation of the procedures a student will follow to cancel the contract or enrollment agreement; and

11.1.e. 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. Those schools that are accredited by a national or regional accrediting agency recognized by the United States Department of Education may adhere to the accrediting agency's criteria regarding student enrollment contracts to satisfy the requirements of this section. However, in the event that enrollment contracts are not addressed by accrediting agency criteria, the provisions of this section must be followed.

§135-35-12. Cancellation and Refund Policies.

12.1. To obtain a permit a school shall have a cancellation and refund policy that incorporates the following provisions:

12.1.a. A statement relative to the unused portion of tuition, fees, and other charges if the student does not begin classes, withdraws, or is dismissed.

12.1.b. All fees and payments remitted to a school by a prospective student shall be refunded, minus any stated application fee not to exceed fifty dollars (\$50), if the student is not admitted due to ineligibility.

12.1.c. 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 fifty dollars (\$50).

12.1.d. 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 proper notification. A home study program of instruction shall be terminated if a school does not receive a lesson or an appropriate response from the student within six months after receipt of the last lesson, 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 a letter is postmarked or proper notification is given. The school shall provide a receipt for the letter or withdrawal notice received.

12.1.e. Schools are required to submit refunds to individuals or the appropriate agency within twenty (20) days after receipt of a proper notification of termination from a student.

12.1.f. The student refund policy for withdrawals and terminations for schools not accredited by an accrediting agency recognized by the United States Department of Education must at a minimum comply with the following:

12.1.f.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.

12.1.f.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.

12.1.f.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.

12.1.f.4. A student who withdraws after completing more than fifty percent (50%) of the term is not entitled to a refund.

12.2. Refunds shall be calculated for a specific term as defined in Section 2 of this rule, or the total cost of programs not exceeding one year. In the event that students are financially obligated for a year-long program, the refund policy shall be on a weekly prorata basis through the first sixty percent (60%) of the program. The student's financial commitment shall not be for more than one year at any given time.

12.3. Those schools that are accredited by a national or regional accrediting agency recognized by the United States Department of Education, may use the accrediting agency's refund policy to meet the requirements of this section. However, student refunds must be made within twenty (20) days after receipt of a proper notification of termination.

12.4. Those schools having their physical facilities located outside this state must comply with the cancellation and refund policies of their home state. If there is no state cancellation and refund policy in their home state, Section 11 of this policy must be followed.

§135-35-13. 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 or misleading.

13.2. In its advertising, a school shall:

13.2.a. Limit reference to its authority to operate to "Permit to Operate Issued by the West Virginia Council for Community and Technical College Education;

13.2.b. Disclose that it is a home study school if it provides such instruction;

13.2.c. Advertise starting or average salaries of its former students only if these claims can be documented for the most recent twelve- (12) month period preceding the advertisement for more than fifty percent (50%) of the graduating class.

13.3. In its advertising, a school shall not:

13.3.a. Advertise that it is "supervised," "recommended," "endorsed," "approved," or "accredited" by the Council;

13.3.b. Describe its courses of instruction and subjects in a misleading manner.

13.3.c. Use photographs or other illustrations in ways which misrepresent the size and location of the school, its equipment and facilities for the career for which the student is being trained;

13.3.d. Represent that it is endorsed by or affiliated with a college or university, unless such statements can be documented;

13.3.e. Advertise or indicate in any manner the transferability, or possibility of transferability, of its credits to colleges and universities unless it has written evidence on file of current acceptability of such

credits from said colleges or universities;

13.3.f. Advertise that it is endorsed by manufacturers, business establishments, or organizations engaged in the line of work for which the school gives training unless written documentation regarding the endorsement is on file;

13.3.g. 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.h. 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.i. Advertise any tuition, fees, or other charges in amounts other than those currently on file in the chancellor's office or advertise them without showing the total costs;

13.3.j. Falsely guarantee job placement or employment at a certain wage; or

13.3.k. Use endorsements, commendations, or recommendations by students without their written consent.

13.4. A school eligible to offer a course of instruction or program leading to an associate degree or specialized associate degree shall, in any advertisement, promotional material, or the school catalogue refer to this degree designation as an "Associate Degree" or a "Specialized Associate Degree."

13.5. Those schools that are accredited by a national or regional accrediting agency recognized by the United States Department of Education may adhere to the accrediting agency's criteria regarding advertising to satisfy the requirements of this section. However, in the event that advertising is not addressed by accrediting agency criteria, the provisions of this section must be followed.

§135-35-14. Student Complaints.

14.1. A school shall attempt to 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 Council.

14.2. The school shall have written procedures that describe in detail how a student may register a complaint with the school and Council, and how the school will investigate and attempt to resolve the complaint.

14.3. The Council will begin the investigation of a written complaint within thirty (30) days of the date of receipt of the complaint unless it is a complaint regarding a matter over which the Council has no jurisdiction or it is intrinsically not credible. The initial investigation should be completed within sixty (60) days of the filing of the complaint.

14.4. The school shall provide all enrolled students with a written copy of the student complaint procedures and make prospective students aware that such procedures exist and provide copies upon request.

14.5. Each school that is being investigated, as a result of a written student complaint, will be notified by the Council that such an investigation is being conducted, and a copy of the written complaint will be forwarded to the school. The name of the complainant may be withheld if so requested.

14.6. The school being investigated must respond to any inquiry by the Council relating to the

investigation within ten (10) work days of its receipt of the inquiry.

14.7. Any school refusing to cooperate with an investigation of a written student complaint by the Council or any other governmental agency shall have its permit to operate or solicit students in West Virginia revoked in accordance with the due process provisions of Section 14 of these rules.

14.8. The Council, upon completion of the investigation of a written student complaint, will supply the school by certified mail with a written report of the findings and any proposed corrective action. The school will have twenty (20) work days to reply to the Council before any action may be taken.

14.9. The school has a right to request a hearing regarding any findings or action proposed by the Council resulting from an investigation involving student complaints.

14.10. The Council may forward any information pertaining to a written complaint found to have merit involving student financial aid to the United States Department of Education.

§135-35-15. Warning, Suspension, Withdrawal, or Revocation of Accreditation, License, and/or Approval To Operate.

15.1. A school shall provide the Council with a copy of any notice of warning, suspension, revocation, or other adverse action received from any national, regional, or state accrediting and/or approval agency or the United States Department of Education within five (5) days of receipt of such notice. The school shall at the same time inform the Council in writing of activities being taken to correct the deficiencies.

15.2. The Council may for good cause, suspend, withdraw, or revoke the authorization of a school to operate within this state or to solicit students within the state. Good cause shall consist of:

15.2.a. Loss of accreditation by a nationally or regionally recognized accrediting agency;

15.2.b. Cancellation of the school's bond by the bonding company and failure to secure a replacement in accordance with this rule;

15.2.c. A final determination that the school has engaged in conduct prohibited by this rule, and the conduct warrants suspension, withdrawal, or revocation of the approval to operate a school or solicit students in this state, and corrective action has not been taken within the required time;

15.2.d. Closure of the school without adequately providing for the completion of students' classes or course work, without refunding students' unearned tuition or otherwise discharged the institutions contractual obligations to the students;

15.2.e. Conviction of the owner of a school for a felony or crime involving administration of the school or involving Federal Student Assistance programs; or

15.2.f. Refusal to cooperate with an investigation pursuant to Section 13 of this rule.

15.3. Upon receipt by the Council of information constituting any of the above grounds for suspension, withdrawal, revocation, or other adverse action, the Council shall notify the school and its owner in writing of its intent to recommend suspension, withdrawal, revocation, or other adverse action and the grounds for such recommendation.

15.3.a. The owner of the school may, within ten (10) work 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 chancellor's office or at such other location convenient to the parties and witnesses as may be designated by the chancellor.

15.3.b. The hearing shall be conducted by the Chancellor of the West Virginia Council for Community and Technical College Education or the chancellor's designee, pursuant to the procedures set forth in Chapter 29A, Article 5 of the Code of West Virginia.

15.3.c. 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.d. If the owner or a representative of the school does not request a hearing within the requisite time period, the recommendation of the chancellor shall be deemed unchallenged by the school and reported to the Council for final action.

15.4. At the hearing, the grounds for suspension, withdrawal, or revocation of authorization to operate the school or other adverse action must be established by clear and convincing evidence.

15.4.a. The owner of the school or its 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.b. The Council does not have the power to issue subpoenas, but the chancellor 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.c. 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.d. The hearing shall be recorded by mechanical means or by a certified court reporter retained by the chancellor.

15.5. The chancellor 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 Council, and a copy of same shall be provided to the school on the same date it is filed with the Council and placed upon its agenda for action.

15.6. The Council 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 this state. Notification of the Council's action shall be given to the school and/or its representative in writing within two (2) business days following such action of the Council, by certified mail, or by personal delivery. For good cause shown in the minutes of the Council's, action upon the chancellor's report may be deferred to a date not later than the next regularly scheduled business meeting of the Council.

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