



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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6/9/2021 3:07 PM

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: 126-069
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Regulations for Juvenile Diversion and Transition Programs (2800)
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 12, 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.

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**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

**SERIES 69
REGULATIONS FOR JUVENILE DIVERSION AND TRANSITION PROGRAMS (2800)**

§126-69-1. 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 school-aged juveniles placed in juvenile correctional centers, juvenile detention centers, residential treatment facilities, and truancy diversion classrooms.

1.2. Authority. -- W. Va. Constitution, Article XII, §2; and W. Va. Code §§18-2-5, 18-2-13f, 18-2-13h, 49-2-908, 49-2-912, and 49-4-721.

1.3. Filing Date. -- June 9, 2021.

1.4. Effective Date. -- July 12, 2021.

1.5. Repeal of Former Rule. -- This legislative rule repeals and replaces W. Va. 126CSR69, Policy 2800, Regulations for the Education of Juveniles Placed in Secure Predispositional Detention Centers, filed September 6, 2012, and effective October 9, 2012; and repeals W. Va. 126CSR53, Policy 2325, High Quality Standards for Juvenile Institutional Education Programs, filed April 20, 2009, and effective May 11, 2009.

§126-69-2. Definitions.

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

2.2. High School Equivalency. Alternative diploma earned by demonstrating the attainment of skills equivalent to those at the high school completion level.

2.3. Host Agency. Owner and/or operator of the physical grounds where each WVSDT school is located (e.g., West Virginia Bureau of Juvenile Services, the West Virginia Division of Corrections and Rehabilitation, the contracted service provider for residential services licensed by the West Virginia Department of Health and Human Resources (WVDHHR), or the local school district).

2.4. School-Aged Student. Students between the ages of three and 21, provided students have not yet turned 21 years of age prior to September 1.

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

§126-69-3. Authority and Responsibility.

3.1. WVSDT educational programs are subject to WVBE policies and applicable state and federal laws and regulations.

3.2. WVSDT provides a comprehensive education for school-aged juveniles within juvenile detention, correctional centers, and WVDHHR licensed residential treatment facilities.

3.3. The WVBE and WVDE provide educational services in counties with an approved truancy diversion classroom provided the county board of education (county) voluntarily partners with the WVDE and WVBE.

3.4. Day-to-day operations and responsibilities shall be defined and described in the WVSDT Employee Handbook and WVSDT Operational Procedures.

§126-69-4. Educational Programming and Operations.

4.1. Opportunities. School-aged students educated in schools operated by the WVSDT shall have thorough and efficient educational opportunities.

4.1.a. School-aged students served in WVSDT schools, including exceptional students placed in WVSDT schools, shall receive a free appropriate public education in accordance with applicable regulations under W. Va. 126CSR16, Policy 2419, Regulations for the Education of Students with Exceptionalities.

4.2. WVSDT schools and classrooms serving school-age juveniles shall adhere to the following standards when implementing educational services.

4.2.a. Operational Procedures. The Superintendent of the WVSDT or designee is authorized to develop written operational procedures to implement the intent and provisions of this policy. WVSDT shall establish operating policies and implement written procedures that reflect the WVBE's education standards. These standards ensure that juveniles in facilities governed by the WVBE and WVDE receive a thorough and efficient education in accordance with applicable state and federal laws, rules, and regulations; continue to advance in school; and prepare for re-entry to the local school, postsecondary education, or the world of work.

4.2.b. Curriculum and Instruction. Curriculum and instructional practices are based on state-approved standards and research and ensure that students in these facilities receive a thorough and efficient education. Standards are used to guide instruction and include technology standards.

4.2.c. High Expectations. WVSDT schools shall cultivate a culture of high expectations through curricular offerings and instructional and administrative practices, where stakeholders demonstrate high expectations for students and achievement.

4.2.d. Learning Environment. WVSDT schools shall provide a safe, positive, and nurturing environment that is conducive to learning.

4.2.e. Research-Based Instructional Strategies. WVSDT schools shall demonstrate the use of research-based instructional strategies that facilitate learning for students. These strategies shall include, but are not limited to, social justice initiatives and trauma-informed care and should focus on the special needs of each child.

4.2.f. Strategic Plan. WVSDT school leaders shall collaborate with school personnel to develop a strategic plan using data regarding student achievement and align it with the goals and priorities of the WVBE and WVDE to assure continuous improvement. The strategic plan will be posted on the WVSDT website for partners and others to access.

4.2.g. Data Analysis. WVSDT schools shall make data-informed decisions regarding instruction by collecting and analyzing student assessment and performance data. WVSDT schools shall use multiple measures to annually evaluate program effectiveness and student success.

4.2.h. Guidance and Advisement. Students shall receive personalized guidance and advisement opportunities regarding academics, careers, and pro-social/emotional development.

4.2.i. Lesson Planning. WVSDT teachers shall prepare lesson plans based on the state-approved content standards. WVSDT administrators shall review lesson plans quarterly, at a minimum, and provide written feedback.

4.2.j. Statewide Assessment. Students enrolled in WVSDT education programs shall participate in statewide assessment programs as applicable.

4.2.k. Local Assessment. Each student shall be administered reading/mathematics inventories at intake in order to build individualized learning plans based on the data reflected in the assessment. Staff shall refer the student for comprehensive educational assessments in suspected areas of need as appropriate. A report of findings and recommendations shall be prepared for each student and made available to the court for purposes of disposition and made available to the host agency for purposes of treatment and/or case planning and management.

4.2.l. Personnel. WVSDT schools shall conform with W. Va. Code, WVBE, and WVSDT policy to implement employment, hiring, assignment practices, and conduct evaluations for WVSDT staff. The professional educator(s) assigned to provide instructional services in the juvenile center shall hold or qualify for a West Virginia professional or temporary teaching certificate. At least one professional in a WVSDT school shall be endorsed in multi-categorical special education.

4.2.m. Eligible juvenile centers shall be accredited by a professional association every three years.

4.2.n. Facilities. WVSDT school facilities shall be safe and hazard-free, to adequately meet the students' needs and provide a positive learning environment.

4.2.o. School/Host Agency Collaboration. WVSDT leadership and host agencies shall collaborate to develop an interagency agreement that will ensure a safe and secure environment for students and staff. This interagency agreement shall support the delivery of a high-quality education program and must clearly specify host agency responsibilities for providing adequate facilities and maintenance as agreed upon within reasonable limits.

4.2.p. The WVSDT shall establish a calendar for the juvenile center education program in consultation with the director of the juvenile center. The calendar for the juvenile education program will include a regular school term in compliance with state law concerning the required number of instructional and non-instructional days. The calendar will also include 20 to 40 days of summer programming.

4.2.q. The juvenile education program shall provide students the opportunity for a full instructional day in accordance with W. Va. 126CSR42, Policy 2510, Assuring the Quality of Education: Regulations for Education Programs.

4.3. Truancy diversion/county collaborative classroom programs shall provide instruction as described in the memorandum of understanding with the county.

§126-69-5. Transition Services.

5.1. Transition Specialists are located across the state and assist school-aged juveniles with transition services, including but not limited to, transition from the facility back into the local school, post-secondary training, and employment. Transition specialists work cooperatively with counties and build partnerships to foster better outcomes for transitioning students. Transition specialists also collaborate with the host agency to establish permanency goals for students.

5.1.a. Transition outcomes shall be tracked using data collection to ensure the educational achievement of each student. Data collection shall be monitored monthly containing key elements, including but not limited to: number of days enrolled, credits earned, Option Pathway, Test Assessing Secondary Completion (TASC) diploma, employment, and enrollment in post-secondary or job training. Students shall be monitored for one-year post-discharge.

5.2. The juvenile center education program shall establish and implement written procedures for the immediate transfer of student records from the school of origin to the institution, from the institution to the school of origin, and from institution to institution. Procedures will include a protocol for ensuring the confidentiality of school records when sent or received.

5.2.a. Upon request from WVSDT staff, the school of origin shall promptly transfer student records to a juvenile facility.

5.3. Each county shall cooperate with the WVSDT in providing an adequate and appropriate education for students in placement. Students in transition from placement to the local school must be placed into the public school environment relevant to the student's programmatic and behavioral level. These students must be given equal access to educational programs and services. If alternative education placement has been selected, justification must be provided to the Transition Specialist unless this placement was recommended in the transition plan. Cooperation shall include, but is not limited to, the: 1) transfer of students' educational records in an expeditious manner upon request by WVDE staff; 2) development of a plan of transition, support, and integration at the receiving school to assure optimum conditions for enrollment; 3) acceptance of credits earned toward graduation upon documentation that completed coursework meet WVBE requirements; 4) inclusion of WVSDT staff in opportunities to participate in planned in-services and professional learning activities; 5) provision of technical assistance, upon request, from regional WVSDT staff; and, 6) development of mutual agreements to access needed services for students.

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5.3.a. The plan of transition, support, and integration shall be developed by, at a minimum, the school counselor, school principal or designee, Transition Specialist, and/or parents/guardians. Other entities, including but not limited to, social services, residential providers, and/or the judiciary, may be involved in plan development.

5.4. WVSDT shall distribute a report template and annually collect results from counties regarding students who transfer back from out-of-home placements. The WVSDT and counties shall work cooperatively to ensure that transferring students are appropriately placed upon their return and that these students have access to the appropriate equitable opportunities and programming.

§126-69-6. 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.