



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

7/21/2022 4:25:12 PM

Office of West Virginia  
Secretary Of State

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

AGENCY: Community And Technical College Education TITLE-SERIES: 135-27

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: 135-27 Workforce Development Initiative Grant Programs: Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response Grants

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: §18B-3D-5

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)? No

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? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/10/2022

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

COMMENTS RECEIVED: No

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

PUBLIC HEARING: No

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

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

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

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

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

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

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

This rule adopts the procedures and guidelines for the administration of the Workforce Development Programs: Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response grant programs.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

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		
	2022 Increase/Decrease (use "-")	2023 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	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
<b>2. Estimated Total Revenues</b>	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 27

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

§135-27-1. General.

1.1. Scope. – ~~The West Virginia Council for Community and Technical College Education (Council) consistent with provisions of West Virginia Code §18B-3D-2, §18B-3D-6, §18bB-1-6 and §18 bB-2 bB-6, This rule~~ adopts the procedures and guidelines for the administration of the Workforce Development Programs: Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response grant programs. Specifically, this rule sets forth provisions for the administration of grant funding, criteria for grant applications, determination and distribution of funds, and performance evaluation for the Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response grant programs.

1.2. Authority. – ~~West Virginia Code §18B-3D-2, §18B-1-1, §18B-2B-6~~ W. Va. Code § 18B-3D-5

1.3. Filing Date. – ~~March 29, 2019~~

1.4. Effective Date. – ~~March 29, 2019~~

1.5. Sunset Date. – This rule shall terminate and have no further force or effect on ~~March 29, 2024~~.

§135-27-2. Goals Definitions.

2.1. ~~Closely align West Virginia community and technical colleges with the economic development efforts of the state.~~ “Applicant” means the community and technical college applying for a Workforce Development Initiative Program grant.

2.2. ~~Provide funding to community and technical colleges for program delivery to advance the economic development goals of the state.~~ “Application” means the written request submitted to the Council by the applicant on forms provided by the Council.

2.3. ~~Provide an opportunity to build the capacity of community and technical colleges to sustain workforce development efforts and make a major impact on the economic development efforts of the state.~~ “Chancellor” means the chancellor for community and technical college education, as that term is defined by W. Va. Code § 18B-2B-2, or his or her designee.

2.4. ~~Provide West Virginia workers with world class transferable and portable skills across industries.~~ “Community and technical college” means the state institutions of higher education that deliver community and technical college education, as that term is defined by W. Va. Code § 18B-1-2.

~~2.5. Provide West Virginia employers a highly skilled workforce, thus providing an arena for recruiting and retaining business. "Council" means the West Virginia Council for Community and Technical College Education.~~

~~2.6. Increase the per capita income of West Virginia workers by increasing their workforce skill levels. "Grant" means the applicable Workforce Development Initiative Program grant: Learn and Earn, Technical Program Development, or Advanced Rapid Response, as appropriate to the context.~~

2.7. "Grantee" means the entity to which the Council has awarded a grant.

2.8. "Submission deadline" means the latest date and time that the Council must receive an application in order to consider it for funding, which is determined by the Chancellor and communicated to the applicant at the time the applicant submits a request for a grant application.

### **§135-27-3. Purpose Applicability.**

~~3.1 The purpose of this rule is to set forth provisions for the administration of grant funding, criteria for applications, determination and distribution of funds, and performance evaluation for the Learn and Earn, Technical Program Development, and West Virginia Advance Rapid Response grant programs that strengthen the quality of the state's workforce by linking the existing postsecondary education capacity to the needs of business, industry and other employers by utilizing available funding to provide explicit incentives for partnerships between employers and community and technical colleges to develop comprehensive workforce development services.~~

3.1. Eligible community and technical colleges shall use grants to effectuate the purposes of the Workforce Development Initiative Program established in W. Va. Code § 18B-3D-1, et seq.

3.2. Applicants must tender applications to the Council by the submission deadline for consideration in the next grant cycle. Expenses incurred by the Applicant before the Council awards the grant shall not be covered by the grant awarded.

3.3. The Council reserves the right to limit the amount of a grant in accordance with the amount of money in the Council's grant funds available for distribution as Workforce Development Initiative Program grants.

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

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

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

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

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

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

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

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

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

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

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

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

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

4.5.8. Workers displaced by company closings or reductions in the workforce; or

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

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

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

5.2. The program must target high-demand occupations resulting in participant placement with an average wage range of ~~\$12.00 per hour or more~~ at least \$15.00 per hour.

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

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

**§135-27-6. Learn and Earn Program.**

6.1. Eligible community and technical colleges may partner with employers to provide cooperative education opportunities for students. At a minimum, Learn and Earn programs must:

- 6.1.1. Document and validate the program is a high-demand occupation for the State;
- 6.1.2. ~~The cooperative education program must be~~ a paid work experience that pays the student ~~no less than \$10.00 per hour~~ at least \$15.00 per hour;
- 6.1.3. ~~The experience must provide~~ the student with a supervised work experience in the student's expected career field or program of study and reinforce learning that has occurred in the academic program;
- 6.1.4. ~~The experience must have~~ clearly stated measurable learning goals and objectives reflecting ~~on~~ what the student's expected learner outcomes will be throughout the experience;
- 6.1.5. ~~The experience must be~~ part of the academic program and carry college credit as determined by program faculty. The Chancellor may waive this requirement for training in high-demand occupation areas;
- 6.1.6. ~~The experience must have~~ an assessment component that documents the student has adequately mastered the expected learner outcomes; and
- 6.1.7. ~~The experience must be~~ for a defined period of time and may be on a part- or full-time work basis.

#### **§135-27-7. Grant Eligibility.**

- 7.1. Under the provisions of this rule, ~~higher education institutions designated by West Virginia Code §18B-1-2, as a~~ community and technical colleges are eligible to apply for grant funding.
- 7.2. To be eligible for a grant under this program, a community and technical college ~~must~~ shall:
- 7.2.1. Complete the ~~proposal~~ application for grant funding on forms provided by the Council and submit the application electronically on or before ~~any specified application date~~ the submission deadline;
- 7.2.2. Develop programs that meet documented employer needs;
- 7.2.3. Involve and collaborate with employers in the development of programs; and
- 7.2.4. Develop customized training programs skill sets, Certificates of Applied Science, or Associate of Applied Science degrees that provide for the changing needs of employers and are offered at flexible times and locations to accommodate employer scheduling;
- 7.2.5. For programs that carry academic credit, establish programs of study agreements with public school systems for the seamless progression of students from the secondary level through community and technical college Certificate of Applied Science and Associate of Applied Science degree programs;
- 7.2.6. Assist with the ongoing assessment of workforce development needs of the community and technical college consortia district, as defined by W. Va. Code § 18B-3C-4;
- 7.2.7. Actively participate in a community and technical college consortia planning district and facilitate the involvement of consortia members in the development of applications for funding through ~~this~~ the Workforce Development Initiative Program;

7.2.8. Agree to share curricula developed with funding through these programs with other ~~public~~ West Virginia community and technical colleges;

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

7.2.10. Agree to establish a separate account with an identifiable account number for each grant award; and

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

#### **§135-27-8. Grant Review.**

8.1. The Chancellor shall provide grant applications to all eligible institutions.

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

~~8.3. At the Chancellor's discretion, the committees may meet as often as necessary to review grant proposals.~~

~~8.4. In evaluating grant proposals, the committees shall give priority to proposals involving businesses with fewer than fifty employees.~~

~~8.53. The West Virginia Council for Community and Technical College Education may delegate authority for all grant approval to the Chancellor.~~

#### **§135-27-9. Application Content.**

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

9.1.1. Identify the goals and objectives of the program, the specific business sector training needs, and the job market demand for the program ~~or~~ training;

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

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

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

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

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

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

9.2. In addition to the provisions of 9.1., those community and technical colleges applying for grant funding to support a Learn and Earn project shall:

9.2.1. Complete the Learn and Earn section of the application describing in detail the cooperative education work experience reflecting the provisions contained in Section 6.1 of this Rule; and

9.2.2. Provide a written agreement between the community and technical college and the participating employer describing a formalized work plan for the work experience component.

#### **§135-27-10. Accountability and Reporting.**

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

10.1.1. Annual financial reports detailing program expenditures;

10.1.2. Annual reports on activities conducted and dates completed; ~~and,~~

10.1.3. An evaluation of accomplishments in implementing the application's proposal; and

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

10.2. Community and technical colleges may not sell, dispose of, or use for purposes other than those specified in the application equipment purchased or upgraded with grant funds under ~~this the Workforce Development Initiative Program may not be sold, disposed of, or used for purposes other than those specified in the grant proposal~~ without approval of the Council.

#### **§135-27-11. Grant Extension and Renewal.**

11.1. Generally, grants will be awarded on a one-time basis. Technical Program Development and Advance grants may be for multiple years reflecting the duration of the career-technical program or training being provided. Community and technical colleges shall submit applications to renew Learn and Earn applications must be submitted annually.

11.2. The Chancellor may authorize the expenditure of carry-forward funds upon written request by the ~~institution~~ community and technical college.

11.3. Subject to meeting the stated goals and timeframes of the Workforce Development Initiative Program, with the recommendation of the Advisory Committee (for Learn and Earn projects), and the provisions of Council Series 2, the System's rule on finance, the Chancellor may renew a grant up to five years following the initial grant award may award Workforce Development Initiative Program grants for a period not to exceed one year. A grantee may obtain subsequent grants by submitting a renewal application to the Chancellor for Learn and Earn and Advance Rapid Response grants or to the Council for Technical Program Development grants, so long as the grantee has completed all the objectives of the current grant to the Chancellor's or the Council's satisfaction. Subject to annual review by the Chancellor or the Council and justification by the grantee, the Chancellor or the Council may renew Workforce Development Initiative Program grants each year for not more than five years following the initial grant award.

**§135-27-12. Grant Withdrawal and Penalty; Unexpended Funds.**

12.1. The Council reserves the right to withdraw a grant upon determination of the grantee's unsatisfactory compliance with either this rule or the specifications of the grant application.

12.2. The Council may cancel a grant in the event a grantee fails to commence Workforce Development Initiative Program activities within 90 days after receiving a notice of award from the Council.

12.3. A grantee shall reimburse to the Council the total sum of a grant not properly used or accounted for pursuant to this Rule.

12.4. The Council reserves the right to conduct on-site inspections or audits of a grantee's Workforce Development Initiative Program and program records during or after the grant period for a period of three years after the Council awards the grant.

12.5. The grantee shall return any unexpended funds remaining at the end of the grant period to the Council.