WV Council for Community and Technical College Education
Meeting of August 13, 2026

ITEM:	Revisions to Legislative Rule, Series 35 *Business, Occupational, and Trade Schools*
INSTITUTION:	Proprietary Institutions
RECOMMENDED RESOLUTION:	*Resolved*, That the West Virginia Council for Community and Technical College Education approves revisions to Title 135, Legislative Rule, Series 35, *Business Occupational, and Trade Schools,* based on the comments received during the 30-day public comment period and instructs staff to file the rule with the Secretary of State as Agency Approved.
STAFF MEMBER:	Chris Rasmussen

BACKGROUND:

Series 35 is a legislative rule promulgated by the West Virginia Council for Community and Technical College Education under the authority of W. Va. Code §18B-2B-9. It governs the regulation of proprietary institutions, commonly referred to as business, occupational, and trade schools, that operate within or solicit students in the State of West Virginia. This legislative rule sunsets on June 5, 2027, and thus is presented for Council action with recommended revisions.

The Council approved recommended revisions to the rule at its June 4, 2026, meeting. The proposed revisions were then posted for a 30-day public comment period. A total of four comments were received. Below are the comments verbatim, the staff response, and staff recommendation for action.

Comment 1: Received July 2, 2026

"Dear West Virginia Council for Community and Technical College Education:

I appreciate the opportunity to provide comments regarding the proposed revisions to 135CSR35.

We respectfully request clarification regarding the proposed addition to §135-35-13.3.12, which states:

""Assert or imply that graduates will be eligible for licensure, or eligible to sit for a licensure examination, in this state or any other state, unless that claim is backed by evidence from the appropriate licensing entity or entities.""

WVJC supports the intent of this provision and agrees that institutions should accurately represent licensure eligibility. However, we believe additional guidance would be helpful to ensure consistent interpretation and compliance.

Specifically, we request clarification on the following:

1. What constitutes sufficient ""evidence"" from the appropriate licensing entity?
Would the Council consider any of the following to satisfy this requirement?
-State statutes or administrative rules establishing educational requirements for licensure.
-Official guidance published on a licensing board's website.
-Written correspondence or email from licensing board staff.
-Formal board determinations or advisory opinions.
-Other documentation.

2. How should institutions address states that do not issue formal written determinations? Many licensing boards do not provide institution-specific approvals or written confirmations. In these cases, institutions often rely on published statutes, regulations, and publicly available board guidance to determine whether their programs meet educational requirements.

3. Is this provision intended to align with the federal professional licensure disclosure requirements under 34 CFR §§ 668.43 and 668.14? If so, clarification confirming that institutions may rely upon the same documentation and state-by-state determination process used for federal compliance would promote consistency and reduce unnecessary administrative burden.

4. Does this requirement apply only to representations made in advertising and marketing materials, or is it also intended to govern disclosures made in catalogs, websites, enrollment agreements, and other informational publications?

Providing additional guidance on these questions would assist institutions in implementing the rule consistently while ensuring prospective students receive accurate and reliable information regarding professional licensure.

Thank you for considering these comments. We appreciate the Council's efforts to strengthen consumer protections while providing clear and practical guidance to regulated institutions."

Response: It is up to each proprietary institution to determine whether its graduates will be eligible for licensure, or eligible to sit for a licensure examination, in West Virginia or any other state, and to determine what constitutes sufficient evidence of that determination. Such evidence could include state statutes or administrative rules, official guidance published on a licensing board's website, correspondence from licensing board staff, and formal board determinations or advisory opinions. While this provision is not designed to align specifically with federal professional licensure disclosure requirements, institutions that rely upon the same documentation and state-by-state determination process used for federal compliance would likely be in compliance with Series 35 section 13.3.12. Per section 13.1, a proprietary institution 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 and misleading. This includes any advertising and marketing materials and any print materials available to current or prospective students, including course and institutional catalogs, websites, enrollment agreements, and other informational publications.

Action: No change to Series 35

Comment 2: Received July 5, 2026

“Are CDL trade schools going to be required to be accredited thru US Dept of education? We are already accredited with FMCSA to educate and certify schooling for the students we receive. “

Response: Accreditation by an entity recognized by the US Department of Education is required only for institutions that wish to offer degrees—it is not required for non-degree granting proprietary institutions.

Action: No change to Series 35

Comment 3: Received July 6, 2026

"Dear West Virginia Council for Community and Technical College Education:

I appreciate the opportunity to provide comments regarding the proposed revisions to 135CSR35.

Section 2.7 Financially Sound – We had this section reviewed by the CPAs who perform our annual audits for submission to the U.S. Department of Education. They mentioned that the language used in the third standard appears to be the type of language typically used when auditing a nonprofit institution. Our auditors suggested that the language in standard 3 remain, since it is the appropriate language to use for a nonprofit institution, but that you add a 4th standard applicable to For Profit institutions using language appropriate for a for profit entity. They suggested the following language be inserted for “positive net income in the case of a for-profit institution."

Section 2.8 Immediate Family – We request that you add the term ""siblings’ child"" to the definition of “immediate family”. The reason for this is that our institution is still being operated by members of the second generation of the family, but third-generation members have been joining the organization for well over a decade. The second-generation siblings, together with their third-generation nieces and nephews, have made a smooth generational transition and continue to do so. For all intents and purposes, this is the same family that has been managing our institution since Stephen Callen first took over operation of the Morgantown Business College on April 1, 1958.”

Response: Section 2.7: “Net income” refers to both for-profit and not-for-profit institutions and change is not required.

Section 2.8: The definition for immediate family comes from WV Code section 18B-2B-9(d)(1). We are required to maintain the definition listed in Series 35 and cannot expand it without the Legislature amending the code.

Action: No change to Series 35

Comment 4: Received July 7, 2026

“Are CDL trade schools going to be required to be accredited thru US Dept of education? We are already accredited with FMCSA to educate and certify schooling for the students we receive. “

"Comments on Proposed Revisions to 135 CSR 35

The following are my comments on the proposed revisions to 135 CSR 35. My comments are limited to the proposed deletion of Section 15.4.a

While proprietary institutions have the right to request a hearing, the hearing itself has little practical value if the institution is not expressly afforded the procedural rights identified in the subsection proposed for deletion. Those rights—including the right to present witnesses and documentary evidence, to cross-examine adverse witnesses, and to be represented by legal counsel—are among the most fundamental safeguards of procedural due process. They are not extraordinary privileges; they are basic protections that Americans reasonably expect whenever a governmental agency conducts proceedings that may affect a person's or institution's legal rights or property interests.

More importantly, the proposed deletion appears to be inconsistent with the Legislature's express directive in subsection o of West Virginia Code § 18B-2B-9, which provides that institutions are entitled to:

""...all substantive and procedural standards of due process relating to the protection of an individual citizen's property rights as provided under the United States Constitution and shall follow the substantive standards and procedural requirements established by or under this section.""

The statutory language could hardly be clearer. The Legislature did not merely authorize hearings; it expressly required that both substantive and procedural due process protections be provided. The procedural safeguards identified in Section 15.4.a are among the most fundamental components of due process. Eliminating them from the rule raises a significant question as to whether the proposed regulation fully complies with the statutory authority under which it is being promulgated. Furthermore, the proposed amendment creates the appearance that the Council is intentionally removing rights that the Legislature has expressly directed it to protect.

Regulatory language should promote clarity, not uncertainty. Retaining Section 15.4.a would remove any doubt regarding the procedural protections afforded to institutions while ensuring that the regulation remains fully consistent with its authorizing statute.

Accordingly, I respectfully request that the Council retain Section 15.4.a in its current form. If the Council nevertheless determines that the subsection should be deleted, I believe it owes the public a clear explanation of (1) the legal authority supporting its decision, (2) why these longstanding procedural protections are no longer necessary, and (3) how proprietary institutions will continue to receive the full measure of substantive and

procedural due process guaranteed by West Virginia Code § 18B-2B-9 and the United States Constitution.
Thank you for considering these comments."

Response: Comment suggestion was determined to be accurate.

Action: Revise Series 35 to add section 15.4.a – 15.4.d back into the rule as originally stated