



JULY 2009  
PE 09-01-447

Departmental Review

# DEPARTMENT OF EDUCATION AND THE ARTS

Boards, Commissions, Committees, and Councils



WEST VIRGINIA LEGISLATIVE AUDITOR  
PERFORMANCE EVALUATION & RESEARCH DIVISION

---

## JOINT COMMITTEE ON GOVERNMENT OPERATIONS

### Senate

Edwin J. Bowman, Chair  
Herb Snyder, Vice-Chair  
Walt Helmick  
Donna Boley  
Clark S. Barnes

### House of Delegates

Jim Morgan, Chair  
Dale Stephens, Vice-Chair  
Sam Argento  
Ruth Rowan  
Patti Schoen  
Craig Blair, Nonvoting  
Scott G. Varner, Nonvoting

### Agency/ Citizen Members

Dwight Calhoun  
John A. Canfield  
W. Joseph McCoy  
Kenneth Queen  
James Willison

## JOINT COMMITTEE ON GOVERNMENT ORGANIZATION

### Senate

Edwin J. Bowman, Chair  
Herb Snyder, Vice-Chair  
Richard Browning  
Dan Foster  
Jeffrey V. Kessler  
Brooks McCabe  
Joseph M. Minard  
Corey L. Palumbo  
Robert H. Plymale  
Randy White  
Bob Williams  
Jack Yost  
Donna J. Boley  
Don Caruth  
Dave Sypolt

### House of Delegates

Jim Morgan, Chair  
Dale Stephens, Vice-Chair  
Sam J. Argento  
Brent Boggs  
Greg Butcher  
Samuel J. Cann, Sr.  
Roy Givens  
Daniel J. Hall  
William G. Hartman  
Barbara Hatfield  
Mike Manypenny  
Dale Martin  
Daniel Poling  
Mike Ross

Doug Skaff, Jr  
Margaret A. Staggars  
Randy Swartzmiller  
Joe Talbott  
Daryl E. Cowles  
Pat McGeehan  
Carol Miller  
Jonathan Miller  
Thomas Porter  
Ruth Rowan



WEST VIRGINIA LEGISLATIVE AUDITOR

## PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314  
State Capitol Complex  
Charleston, West Virginia 25305  
(304) 347-4890

Aaron Allred  
Legislative Auditor

John Sylvia  
Director

Denny Rhodes  
Research Manager

Alysia Miller  
Research Analyst

Derek Thomas  
Referencer

---

# CONTENTS

Executive Summary ..... 5

Objective, Scope and Methodology..... 7

Introduction ..... 9

Associated Boards, Commissions, Committees, and Councils .....10

Independent Boards, Commissions, Committees, and Councils .....24

List Of Tables

Table 1: Archives and History Commission ..... 12

Table 2: Center for Professional Development Board.....13

Table 3: WV Commission on the Arts ..... 14

Table 4: Commission for National and Community Service.....16

Table 5: Educational Broadcasting Authority.....17

Table 6: Library Commission .....18

Table 7: Professional Staff Development Advisory Council .....20

Table 8: State Rehabilitation Council.....22

Table 9: Statewide Independent Living Council .....23

Table 10: Advisory Committee on Journalistic and Editorial Integrity.....25

Table 11: Capitol Building Commission.....26

Table 12: Distance Learning Coordinating Council.....28

Table 13: Principals Standards Advisory Council .....29

Table 14: Records Management Preservation Board.....30

Table 15: Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities Board .....32

List Of Appendices

Appendix A: Transmittal Letter to Agency .....35

Appendix B: Agency Response.....37



# EXECUTIVE SUMMARY

## Executive Summary

This study includes a review of each of the 15 associated and independent boards, commissions, councils, and committees under the purview of the Department of Education and the Arts. The Legislative Auditor found that not all boards, commissions, councils, and committees are meeting as required by the Code and that some require the appointment of members. In those cases that have vacancies or expired terms, the Legislative Auditor recommends that the Department of Education and the Arts take steps to initiate the appointment of appropriate persons to each of the vacancies and expired positions. The Legislative Auditor recommends that the Advisory Committee on Journalistic and Editorial Integrity, and the Distance Learning Coordinating Council be abolished due to inactivity. However for a third entity, the Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities Board, which is meeting but not quarterly as required by WV Code, it is recommended that the minimum meeting requirement be amended to only require meetings as needed to fulfill the Board's duties. Finally, the Legislative Auditor identified cases where the sunset provisions for some entities still exist in code despite the repeal of the Sunset Law. A single recommendation was made to address each of these instances.

---

*The entities recommended for termination are the Advisory Committee on Journalistic and Editorial Integrity, and the Distance Learning Coordinating Council.*

---

## Recommendations

1. *The Department of Education and the Arts should coordinate with the Office of the Governor to appoint appropriate persons to each of the expired and vacant positions that exist on the various boards, commissions, councils, and committees.*
2. *The Legislature should consider abolishing the Advisory Committee on Journalistic and Editorial Integrity.*
3. *The Legislature should consider abolishing the Distance Learning Coordinating Council.*
4. *The Legislature should remove the sunset date references in the West Virginia Code for the Capitol Building Commission, Center for Professional Development, Commission for National and Community Service, Division of Culture and History, Division of Rehabilitative Services, Educational Broadcasting Authority Board, and the Records Management Preservation Board.*
5. *The Legislature should consider amending the minimum meeting requirement of the Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities Board from four times per fiscal year to "as needed."*



## OBJECTIVE, SCOPE & METHODOLOGY

### Objective

The purpose of this report is to identify and outline all boards, commissions, councils, and committees under the governance of the Department of Education and the Arts. For each board, commission, council, and committee, the following information is provided: statutory authority, member composition, member vacancies, statutory meeting requirement, meeting history, statutory authorization for the payment of expenses and compensation for members, and line-item appropriation or associated agency budgets. The final goal of this report is to determine whether or not any of the entities should be abolished due to inactivity, fulfillment of legislative mandate, or both.

### Scope

The Legislative Auditor reviewed each of the 15 boards, commissions, councils, and committees under the purview of the Department of Education and the Arts. Financial and meeting information was limited to fiscal years 2007 – 2009. The recommendations to terminate certain entities are made solely on evidence of inactivity and not on performance.

### Methodology

The Legislative Auditor surveyed the chairpersons or representatives for the boards, commissions, councils, and committees to acquire specific information regarding the membership, frequency of meetings, financial information, possible mission change, and entity effectiveness. Statutory criteria were obtained from various WV Code sections pertaining to each entity with the exception of the State Rehabilitation Council, which was found in the Rehabilitation Act of 1973, as amended, and the Code of Federal Regulations. Budgetary information was retrieved from the State of West Virginia Executive Budget, Volume II, Operating Detail for fiscal years 2008, 2009, and 2010. Every aspect of this review complied with the Generally Accepted Governmental Auditing Standards (GAGAS) as set forth by the Comptroller General of the United States of America.



## INTRODUCTION

As part of the Departmental Review of the Department of Education and the Arts, the Legislative Auditor is issuing this informational report on the various boards, commissions, councils and committees under the purview of the Department of Education and the Arts. The intent of the report is to

- identify all boards, commissions, councils, and committees under the governance of the Department of Education and the Arts;
- identify the composition of each of the boards, commissions, councils, and committees;
- identify whether the boards, commissions, or councils, or committees are meeting;
- identify whether the Code permits the payment of expenses and compensation for members of the entities;
- identify whether the board, commission, council, or committee has a line-item appropriation or whether it receives funding from an associated entity;
- identify any vacancies in membership on each of the boards, commissions, councils, and committees; and finally
- identify which boards, commissions, councils, and committees should be abolished due to inactivity, fulfillment of legislative mandate, or both.

In order to obtain specific data about each of the entities, the Legislative Auditor surveyed each of the boards, commissions, councils, and committees. Information was also obtained from the West Virginia Code and from the 2008-2010 Fiscal Year Executive Budgets, Volume II, Operating Detail. For the purposes of this report, the entities are classified as either:

1. **Associated** – Directly associated with overseeing, advising, or complementing a state agency (ex. Center for Professional Development Board).
2. **Independent** – Fundamentally independent and created to serve as a subject-specific taskforce or problem solving entity (ex. Capitol Building Commission).

---

## Associated Boards, Commissions, Councils, and Committees

The following boards, commissions, councils, and committees are classified as “associated.” Below each board, commission, council, or committee is the name of the state agency with which it is associated.

- Archives and History Commission
  - Division of Culture and History
- Center for Professional Development Board
  - Center for Professional Development
- Commission on the Arts
  - Division of Culture and History
- Commission for National and Community Service
  - Commission for National and Community Service
- Educational Broadcasting Authority
  - West Virginia Public Broadcasting
- Library Commission
  - Library Commission
- Professional Staff Development Advisory Council
  - State Board of Education
- State Rehabilitation Council
  - Division of Rehabilitation Services
- Statewide Independent Living Council
  - Division of Rehabilitation Services

## **Archives and History Commission**

### **See Recommendation #1**

The Archives and History Commission promotes and encourages the goals and purposes of the archives and history section, the historic preservation section, and the museums section within the Division of Culture and History. Activities of the Archives and History Commission include providing guidance to the Division of Culture and History in the establishment of state plans for the Archives and History Section, the Historic Preservation Section, and the Museum Section; approving and distributing grants-in-aid and awards from federal and state funds; encouraging and promoting the purposes of the Culture and History Division; approving rules concerning the professional policies and functions of the Division of Culture and History; and advising and consenting to the appointment of Culture and History section directors by the commissioner. The commission also reviews and approves nominations to the National Register of Historic Places.

Currently the Archives and History Commission is operating with two vacancies, one of which has been vacant for over 4 years. Therefore the Legislative Auditor recommends that the Department of Education and the Arts take steps to initiate appointments to fill the two vacancies.

<b>Table 1 Archives and History Commission</b>	
Authority	§29-1-5
Composition	<ul style="list-style-type: none"> <li>▪ Director of the Archives and History Section</li> <li>▪ Director of the Historic Preservation Section</li> <li>▪ Director of the Museums Section</li> <li>▪ President of the State Historical Society</li> <li>▪ President of the State Historical Association</li> <li>▪ Director of the State Geological and Economic Survey</li> <li>▪ President of the West Virginia Preservation Alliance, Inc.</li> <li>▪ State historic preservation officer</li> <li>▪ 13 persons appointed by the Governor</li> </ul>
Advice and Consent of Senate?	Yes
Total Membership	21
Vacancies	2
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Not Specified
Meetings Held	
FY 2007	3
FY 2008	3
FY 2009	3
Next Scheduled Meeting	October 2, 2009
Board, Commission, Committee, or Council Appropriation?	No
Affiliated Agency Budget	
FY 2007	\$29,752,156
FY 2008	\$41,845,187
FY 2009	\$42,011,623
<i>Source: WV Code, agency correspondence, and the State of West Virginia Executive Budget for FY 2008-2010.</i>	

## Center for Professional Development Board

### No Recommendation

The Center for Professional Development Board assists with the administration of the Center for Professional Development. The Board authorizes expenditures from the Center’s special revenue account and employs and fixes the compensation of the Center’s Chief Executive Officer and the Coordinator of the Principals Academy and any other staff necessary to carry out the mission of the Center. Annually, the Center Board is required to evaluate the Chief Executive Officer and report the results to the Governor. In addition to its administrative duties, the Board collaborates with the State Board of Education in providing professional development services in areas of priority as designated by the WV Code. The Board has significant statutory authority over the Center and appears to be functioning.

Authority	§18A-3A-1(c)
Composition	<ul style="list-style-type: none"> <li>▪ Secretary of Education and the Arts</li> <li>▪ State Superintendent of Schools</li> <li>▪ One employee of West Virginia University</li> <li>▪ One employee of Marshall University</li> <li>▪ One Regional Education Service Agency Executive Director</li> <li>▪ Two members of the State Board of Education</li> <li>▪ Three experienced educators appointed by the Governor</li> <li>▪ Three citizens of West Virginia appointed by the Governor</li> </ul>
Advice and Consent of Senate?	Yes
Total Membership	13
Vacancies	0
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Quarterly
Meetings Held	
CY 2007	4
CY 2008	4
CY 2009	2
Next Scheduled Meeting	August 28, 2009
Board, Commission, Committee, or Council Appropriation?	No
Affiliated Agency Budget	
FY 2007	\$3,991,101
FY 2008	\$5,296,214
FY 2009	\$6,031,875
<i>Source: WV Code, agency correspondence, and the State of West Virginia Executive Budget for FY 2008-2010.</i>	

## Commission on the Arts

### No Recommendation

The Commission on the Arts fosters a fertile environment for development of the performing and creative arts and crafts in the state. The Commission is authorized to expend from the “cultural facilities and capital resources matching grant program fund” 50 percent of the moneys deposited into the fund for capital improvements, preservation, and operations of cultural facilities. Other activities of the Commission on the Arts include providing guidance to the Division of Culture and History in the establishment of a state plan for the Arts Section; approving and distributing grants-in-aid and awards from federal and state funds; encouraging and promoting the purposes of the Culture and History Division; approving rules concerning the professional policies and functions of the Division of Culture and History; and advising and consenting to the appointment of Culture and History section directors by the commissioner.

Authority	§29-1-3
Composition	<ul style="list-style-type: none"> <li>▪ Director of the Arts Section, Division of Culture and History</li> <li>▪ 15 persons appointed by the Governor</li> </ul>
Advice and Consent of Senate?	Yes
Total Membership	16
Vacancies	0
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Not Specified
Meetings Held	
CY 2007	7
CY 2008	7
CY 2009	4
Next Scheduled Meeting	September 16, 2009
Board, Commission, Committee, or Council Appropriation?	No
Affiliated Agency Budget	
FY 2007	\$29,752,156
FY 2008	\$41,845,187
FY 2009	\$42,011,623
<i>Source: WV Code, agency correspondence, and the State of West Virginia Executive Budget for FY 2008-2010.</i>	

## **Commission for National and Community Service**

### **No Recommendation**

The West Virginia Commission for National and Community Service was created by an executive order of the governor in 1994 to comply with the federal National and Community Service Trust Act of 1993, but has since been continued by Acts of the Legislature. This Commission's associated agency receives state funding through the Office of the Governor.

The purpose of the Commission is to encourage, coordinate, and assist the efforts of individuals or entities from both the public and private sectors to create or participate in local community service programs to meet the social, environmental, educational and public safety needs of the state of West Virginia. Some duties of the WV Commission for National and Community Service include advising and assisting the governor in statewide planning for promoting volunteer participation in programs, preparing progress reports, developing a comprehensive state service plan, developing a statewide recruitment and placement system for program volunteers, serving as the State's liaison to other organizations that also promote community service and volunteerism, applying for and accepting funds, grants, and gifts from local, state, and/or federal government.

**Table 4**  
**Commission for National and Community Service**

Authority	§5-26A-2
Composition	<ul style="list-style-type: none"> <li>▪ Secretary of the Department of Education and the Arts</li> <li>▪ State Superintendent of Schools (or designee)</li> <li>▪ One individual with expertise in educational and developmental needs of the state's disadvantaged youth</li> <li>▪ One individual with experience in promoting the involvement of older adults in national or community service and volunteer programs</li> <li>▪ A representative of a community-based agency operating within the state</li> <li>▪ A representative of a county or municipal government</li> <li>▪ A representative of a local labor organization</li> <li>▪ A representative of a for-profit business operating within the state</li> <li>▪ One individual whose age is between 16 years and 25 years, and who is or has been a participant or a supervisor of a volunteer or service program</li> <li>▪ At least 6 other individuals but not more than 16</li> <li>▪ A representative of the Corporation for National and Community Service</li> </ul>
Advice and Consent of Senate	No
Total Membership	Min: 16; Max: 26
Vacancies	0
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Biannually
Meetings Held	
FY 2007	4
FY 2008	4
FY 2009	4
Next Scheduled Meeting	July 15, 2009
Board, Commission, Committee, or Council Appropriation?	No
Affiliated Agency Budget	
FY 2007	\$6,339,164
FY 2008	\$6,934,196
FY 2009	\$6,923,895
<i>Source: WV Code, agency correspondence, and the State of West Virginia Executive Budget for FY 2008-2010.</i>	

## Educational Broadcasting Authority

### See Recommendation #1

The West Virginia Educational Broadcasting Authority is a public benefit corporation that acts as advisor and consultant to television and radio stations concerning noncommercial educational programs supported by federal, state, county, city or private funds. It is responsible for supervising and approving the origination and transmission of all noncommercial educational radio, television and related media programs in this state which would be carried through the facilities of a state network. The Authority holds the licenses for the West Virginia Public Radio and West Virginia Public Broadcasting Station. Other duties include constructing, maintaining, and operating educational broadcasting, closed circuit or related facilities, and employing such personnel as may be necessary to operate and maintain any facility created under its enabling legislation.

Currently the Educational Broadcasting Authority is operating with two vacancies. The Legislative Auditor recommends that the Department of Education and the Arts take steps to initiate appointments to fill the two vacancies.

<b>Table 5</b> <b>Educational Broadcasting Authority</b>	
Authority	§10-5-2
Composition	<ul style="list-style-type: none"> <li>▪ Governor (or designee)</li> <li>▪ State Superintendent of Schools</li> <li>▪ A member of the WV Board of Education</li> <li>▪ A member of the Higher Education Policy Commission</li> <li>▪ Seven citizens of West Virginia appointed by the Governor</li> </ul>
Advice and Consent of Senate?	Yes
Total Membership	11
Vacancies	2
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Annually
Meetings Held	
CY 2007	6
CY 2008	4
CY 2009	2
Next Scheduled Meeting	September 2, 2009
Board, Commission, Committee, or Council Appropriation?	No
Affiliated Agency Budget	
FY 2007	\$8,959,357
FY 2008	\$9,099,800
FY 2009	\$9,805,996
<i>Source: WV Code, agency correspondence, and the State of West Virginia Executive Budget for FY 2008-2010.</i>	

## Library Commission

### See Recommendation #1

The Library Commission gives assistance, advice, and counsel to all school, state-institutional, free and public libraries, and to all communities in the state which may propose to establish libraries, as to the best means of development, operation, maintenance, and administration. The Commission accepts and disperses federal and state grants for public library support and services. In addition, the Commission may purchase books and other suitable library matter for traveling libraries and distribute them as needed to those persons and places in the state without adequate public library service to help ensure that all residents of the state have access to high quality library services.

The Library Commission has two vacancies at this time. In addition, four members' terms have expired however they continue to serve on the Commission. The Legislative Auditor recommends that the Department of Education and the Arts take steps to initiate appointments to fill the vacancies.

<b>Table 6</b>	
<b>Library Commission</b>	
Authority	§10-1-12
Composition	Nine citizens appointed by the Governor
Advice and Consent of Senate?	Yes
Total Membership	9
Vacancies	2*
Member Compensation	No
Member Expense Reimbursement	No
Minimum Meeting Requirements	Not Specified
Meetings Held	
FY 2007	4
FY 2008	5
FY 2009	5
Next Scheduled Meeting	August 2009
Board, Commission, Committee, or Council Appropriation?	No
Affiliated Agency Budget	
FY 2007	\$15,526,517
FY 2008	\$15,602,454
FY 2009	\$16,758,060
<i>*In addition to the two vacancies, four members' terms have expired however they continue to serve.</i>	
<i>Source: WV Code, agency correspondence, and the State of West Virginia Executive Budget for FY 2008-2010.</i>	

## Professional Staff Development Advisory Council No Recommendation

The Professional Staff Development Advisory Council advises and assists the State Board of Education in all phases of developing or amending the goals for professional staff development. The Council's advice and assistance shall include, but is not limited to, the following:

- (a) Reporting to the state board on the professional staff development needs identified by the public schools within the respective regions;
- (b) Recommending effective professional staff development programs to meet identified needs;
- (c) Providing local input on the proposed goals and on the professional staff development plan proposed by the center for professional development;
- (d) Communicating professional staff development information and findings to the regional and county staff development councils; and
- (e) Advancing the coordination and quality of professional staff development programs in the public schools of West Virginia.

**The Legislative Auditor finds that the Professional Staff Development Advisory Council is an “associated” Council, however, it is not associated with any agency within the Department of Education and the Arts, but rather it is associated with the State Board of Education.** The Council was included as an entity under the purview of the Department of Education and the Arts from a list provided by Department staff.

A legal opinion obtained from Legislative Services supports the reasoning that the Council appears to be more closely “associated” with the State Board of Education rather than the Department of Education and the Arts or any of its subsidiaries. The legal opinion cited the following supporting evidence: 1) the Council's purpose is to advise and assist the State Board of Education and 2) the members of the Council may be reimbursed for the cost of reasonable and necessary expenses by the State Board of Education. The Secretary of the Department of Education and the Arts is the statutory chair of the Council, which may be why it was included as an entity under her purview.

---

A legal opinion obtained from Legislative Services supports the reasoning that the Council appears to be more closely “associated” with the State Board of Education rather than the Department of Education and the Arts or any of its subsidiaries.

---

**Table 7  
Professional Staff Development Advisory Council**

Authority	§18-2I-3
Composition	<ul style="list-style-type: none"> <li>▪ Secretary of the Department of Education and the Arts</li> <li>▪ Chief Executive Officer of the Center for Professional Development</li> <li>▪ Chancellor of the Higher Education Policy Commission (or designee)</li> <li>▪ Assistant Superintendent for the Division of Instructional and student services of the State Department of Education.</li> <li>▪ Presidents (or designees) of each of the two professional organizations representing teachers in the state with the greatest number of teacher members</li> <li>▪ Chairpersons of each of the eight regional Staff Development Councils</li> <li>▪ Coordinators of each of the eight Regional Educational Service Agency staff developments councils</li> </ul>
Advice and Consent of Senate?	No
Total Membership	22
Vacancies	0
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Not Specified
Meetings Held	
CY 2007	4
CY 2008	4
CY 2009	1
Next Scheduled Meeting	September 23, 2009
Board, Commission, Committee, or Council Appropriation?	No
Affiliated Agency Budget	
FY 2007	\$3,991,101
FY 2008	\$5,296,214
FY 2009	\$6,031,875
<i>Source: WV Code, agency correspondence, and the State of West Virginia Executive Budget for FY 2008-2010.</i>	

## **State Rehabilitation Council**

### **No Recommendation**

Federal law (Rehabilitation Act of 1973, as amended) requires states to establish a State Rehabilitation Council in order to be eligible to receive federal financial assistance under Title I of the Rehabilitation Act of 1973, as amended. Although West Virginia has complied with the Act, there is no language in the West Virginia Code that officially establishes this Council.

The State Rehabilitation Council works closely with the Division of Rehabilitation Services (DRS) by coordinating the activities of the DRS and other organizations such as the WV State Independent Living Council and assisting the DRS with establishing goals and developing the State Plan for Vocational Rehabilitation. The State Rehabilitation Council also reviews and analyzes the performance of the DRS regarding the effectiveness of and the consumer satisfaction with DRS agency functions, vocational rehabilitation provided by DRS and other entities, and the employment outcomes achieved by eligible individuals. In addition, the State Rehabilitation Council conducts a statewide needs assessment of individuals with disabilities living in the state every three years.

<b>Table 8 State Rehabilitation Council</b>	
Authority	34 CFR 361.16
Composition	<ul style="list-style-type: none"> <li>▪ One representative of the Statewide Independent Living Council</li> <li>▪ One representative of a parent training and information center</li> <li>▪ One representative of the Client Assistance Program</li> <li>▪ One qualified vocational rehabilitation counselor with experience and knowledge of vocational rehabilitation programs</li> <li>▪ One representative of community rehabilitation program service providers</li> <li>▪ Four representatives of business, industry, and labor</li> <li>▪ Representatives of disability advocacy groups representing a cross section of individuals with physical, cognitive, sensory, and mental disabilities; and individuals' representatives of individuals with disabilities who are unable to or have difficulty in representing themselves</li> <li>▪ Current or former applicants for or recipients of vocational rehabilitation services</li> <li>▪ At least one representative of the directors of the projects carried out under section 121 of the American Indian Vocational Rehabilitation Act</li> <li>▪ At least one representative of the state educational agency responsible for the public education of students with disabilities</li> <li>▪ At least one representative of the state workforce investment board</li> <li>▪ Director of the designated state unit</li> </ul>
Advice and Consent of Senate?	No
Total Membership	Min: 15; Max: 26
Vacancies	0*
Member Compensation	Yes
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Quarterly
Meetings Held	
CY 2007	5
CY 2008	5
CY 2009	3
Next Scheduled Meeting	August 20, 2009
Board, Commission, Committee, or Council Appropriation?	No
Affiliated Agency Budget	
FY 2007	\$67,571,893
FY 2008	\$63,367,825
FY 2009	\$70,068,013
*The council currently operates with 19 members, meeting the minimum requirement of 15 members; however the maximum of 26 allows for the possibility of 7 additional council members.	
Source: Derived from 34 CFR 361.16, agency correspondence, and the State of West Virginia Executive Budget for FY 2008-2010.	

## Statewide Independent Living Council

### No Recommendation

The West Virginia Statewide Independent Living Council was established, as a not-for-profit corporation and is necessary to meet the requirements of the federal Rehabilitation Act of 1973, as amended. The Council works closely with the Division of Rehabilitation Services (DRS) in the planning and provision of independent living services in the state. In conjunction with the DRS, the Council develops, approves, and submits to the proper federal authorities a state plan for independent living, as required by the federal act. The Council must monitor, review, and evaluate the effectiveness of the implementation of the state plan. The Council shall also coordinate activities with the State Rehabilitation Council and other bodies that address the needs of specific disability populations and issues under other federal and state law. Finally, the Council is required to submit to the federal funding agency such periodic reports as are required and keep records and afford access to such records, as may be necessary to verify such reports.

**Table 9**  
**Statewide Independent Living Council**

Authority	§18-10M-6
Composition	<ul style="list-style-type: none"> <li>▪ A director of an independent living center</li> <li>▪ Representative of the Division of Rehabilitative Services</li> <li>▪ Representative of the Office of Behavioral Health Services</li> <li>▪ Representative of WV Housing Development Fund</li> <li>▪ Representative of the WV Association of Rehabilitation Facilities</li> <li>▪ Representative of the Bureau of Senior Services</li> <li>▪ Representative of the Office of Special Education Programs and Assurance</li> <li>▪ 23 persons selected from nominations submitted by organizations representing a wide range of individuals with disabilities and other interested groups and appointed by the Governor</li> </ul>
Advice and Consent of Senate?	Yes
Total Membership	30
Vacancies	0
Member Compensation	Yes
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Not Specified
Meetings Held	
FY 2007	6
FY 2008	6
FY 2009	6
Next Scheduled Meeting	August 5, 2009
Board, Commission, Committee, or Council Appropriation?	No
Affiliated Agency Budget	
FY 2007	\$67,571,893
FY 2008	\$63,367,825
FY 2009	\$70,068,013
<i>Source: WV Code, agency correspondence, and the State of West Virginia Executive Budget for FY 2008-2010.</i>	

---

## **Independent Boards, Commissions, Councils, and Committees**

This report previously defined “independent” boards, commissions, councils, and committees as fundamentally independent and created to serve as a subject specific taskforce or problem-solving entity. In some situations, the entity may provide advice to a state agency or administrator. However, the entity is not considered the direct governing body or supervisor, e.g. Principals Standards Advisory Council. The following boards, commissions, councils, and committees are considered as such and included in this section of the report:

- Advisory Committee on Journalistic and Editorial Integrity
- Capitol Building Commission
- Distance Learning Coordinating Council
- Principals Standards Advisory Council
- Records Management Preservation Board
- Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities Board

## Advisory Committee on Journalistic and Editorial Integrity

### See Recommendation #2

In 2005, WV Code §10-5-5a established the Advisory Committee on Journalistic and Editorial Integrity for the purpose of advising the Educational Broadcasting Authority on issues related to the journalistic independence and editorial integrity of public education and public broadcasting.

The Legislative Auditor was unable to identify any information that demonstrates the Advisory Committee on Journalistic and Editorial Integrity was previously active. The Secretary for the Department of Education and the Arts stated that,

*“No information about this committee can be found in the Educational Broadcasting Authority minutes. Based on the minutes, I don’t believe this committee was ever formed ....I have no reason to believe that this committee is needed.”*

Based on the comments of the Cabinet Secretary, the Legislature should consider abolishing the Council since it has not served its intended function and it does not appear to be necessary.

---

*The Legislative Auditor was unable to identify any information that demonstrates the Advisory Committee on Journalistic and Editorial Integrity was previously active.*

---

**Table 10**  
**Advisory Committee on Journalistic and Editorial Integrity**

Authority	§10-5-5a
Composition	Five qualified members appointed by the Educational Broadcasting Authority
Advice and Consent of Senate?	No
Total Membership	5
Vacancies	5
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Biannually
Meetings Held FY 2007 FY 2008 FY 2009	None
Next Scheduled Meeting	No Meeting Scheduled
Board, Commission, Committee, or Council Appropriation?	Not Applicable
<i>Source: WV Code and agency correspondence.</i>	

## Capitol Building Commission

### No Recommendation

The Capitol Building Commission was created to review and approve or reject all plans recommending substantial physical changes inside or outside of the state capitol building or surrounding complex, including the public meeting rooms, hallways and grounds, which affect the appearance thereof. The approval of the commission is mandatory before a contract may be let for work which constitutes a substantial physical change, or before changes are started if the work is not done under a contract.

**Table 11**  
**Capitol Building Commission**

Authority	§4-8-1
Composition	<ul style="list-style-type: none"> <li>▪ Secretary of the Department of Administration</li> <li>▪ Commissioner of the Division of Culture and History</li> <li>▪ One architect</li> <li>▪ One professional engineer</li> <li>▪ Two citizens appointed by the Governor</li> </ul>
Advice and Consent of Senate?	Yes
Total Membership	6
Vacancies	0
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Upon Request
Meetings Held	
FY 2007	3
FY 2008	5
FY 2009	4
Next Scheduled Meeting	July 8, 2009
Board, Commission, Committee, or Council Appropriation?	No
<i>Source: WV Code and agency correspondence.</i>	

## Distance Learning Coordinating Council See Recommendation #3

WV Code §10-5-2a created the Distance Learning Coordinating Council to facilitate the coordination among various state agencies in the acquisition and utilization of distance learning technology. Duties of the Council include developing long-range plans to integrate the instructional telecommunications system, submitting annual reports with recommendations for achieving the best use of limited resources in the development and operation of a distance learning technology system, and establishing appropriate guidelines for participation by school districts, state institutions of higher education, public libraries and public broadcasting stations in a distance learning grant program. The goal of the council is the creation of a statewide technology system linking universities and colleges, schools, libraries and, eventually, homes with software, data bases and video learning capabilities.

The Legislative Auditor was unable to identify any information that demonstrates that the Distance Learning Coordinating Council was previously active, is currently active, or has been terminated. According to the Cabinet Secretary for the Department of Education and the Arts,

*“My understanding is that the WVDLCC [West Virginia Distance Learning Coordinating Council] is defunct. The WVDLCC had been established prior to my appointment as Cabinet Secretary, so I am not aware of the date of its inception. I cannot find any reference to the date of its termination. Based on my recollection, I do believe that it had completed its mission of coordinating distance learning and thus was no longer needed.”*

---

*The Legislative Auditor was unable to identify any information that demonstrates that the Distance Learning Coordinating Council was previously active, is currently active, or has been terminated.*

---

Based on the comments of the Secretary, the Legislature should consider abolishing the Council since it appears to be no longer necessary.

<b>Table 12</b>	
<b>Distance Learning Coordinating Council</b>	
Authority	§10-5-2a
Composition	<ul style="list-style-type: none"> <li>▪ A representative of the office of the Secretary of Education and the Arts</li> <li>▪ A representative of Department of Administration's Division of Information Systems and Communications</li> <li>▪ A representative of the SatNet</li> <li>▪ A representative of the EdNet</li> <li>▪ A representative of the Educational Broadcasting Authority</li> <li>▪ A representative of the Library Commission</li> <li>▪ A representative of the Department of Education</li> <li>▪ A representative of the Higher Education Central Office</li> </ul>
Advice and Consent of Senate?	No
Total Membership	8
Vacancies	8
Member Compensation	No
Member Expense Reimbursement	No
Minimum Meeting Requirements	Quarterly
Meetings Held FY 2007 FY 2008 FY 2009	None
Next Scheduled Meeting	No Meeting Scheduled
Board, Commission, Committee, or Council Appropriation?	Not Applicable
<i>Source: WV Code and agency correspondence.</i>	

## Principals Standards Advisory Council No Recommendation

The Principals Standards Advisory Council provides consultation to the State Board of Education in the promulgation of rules and from time to time in amending such rules. The rules shall address the minimum qualities, proficiencies, and skills that are required of principals in at least the following areas: staff relations, school community leadership qualities, educational proficiencies, and administrative skills. Although the Council advises the State Board of Education, members of the Council are reimbursed for expenses from the budget of the Center for Professional Development.

<b>Table 13</b>	
<b>Principals Standards Advisory Council</b>	
Authority	§18A-3-2c(d)
Composition	<ul style="list-style-type: none"> <li>▪ Chief Executive Officer of the Center for Professional Development</li> <li>▪ One county superintendent</li> <li>▪ Two representatives from higher education who teach in principal preparation programs</li> <li>▪ Two knowledgeable citizen representatives</li> <li>▪ Three school principals (elementary, middle, and junior high)</li> </ul>
Advice and Consent of Senate?	No
Total Membership	9
Vacancies	0
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Not Specified
Meetings Held	
CY 2007	3
CY 2008	3
CY 2009	1
Next Scheduled Meeting	September 14, 2009
Board, Commission, Committee, or Council Appropriation?	No
<i>Source: WV Code and agency correspondence.</i>	

## Records Management and Preservation Board

### No Recommendation

The purpose of the Records Management and Preservation Board is to establish a system of records management and preservation for county governments using electronic technology and other procedures. Grants are allocated by the Board to county entities to facilitate a uniform system throughout the state. The Board provides applications, sets guidelines, and establishes procedures for distributing grants to counties, including a process for appealing an adverse decision on a grant application.

<b>Table 14</b>	
<b>Records Management Preservation Board</b>	
Authority	§5A-8-15
Composition	<ul style="list-style-type: none"> <li>▪ Commissioner of the Division of Culture and History (or designee)</li> <li>▪ Administrator of the Supreme Court of Appeals (or designee)</li> <li>▪ Chief Technology Officer (or designee)</li> <li>▪ A clerk of a county commission</li> <li>▪ A circuit court clerk</li> <li>▪ A county commissioner</li> <li>▪ A county sheriff</li> <li>▪ A county assessor</li> <li>▪ A county prosecuting attorney</li> <li>▪ A WV licensed attorney in good standing with the WV state bar that has real estate and mineral title examination experience</li> <li>▪ A representative of a local historical or genealogical society</li> </ul>
Advice and Consent of Senate?	Yes
Total Membership	11
Vacancies	0
Member Compensation	No
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Not Specified
Meetings Held	
CY 2007	4
CY 2008	2
CY 2009	2
Next Scheduled Meeting	July 9, 2009
Board, Commission, Committee, or Council Appropriation?	No
<i>Source: WV Code and agency correspondence.</i>	

## **Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities Board**

See Recommendations #1 and #5

The Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities Board (Revolving Loan Fund Board) manages the West Virginia Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities. This fund supports a statewide loan program for qualified West Virginia residents with disabilities to assist them with the purchase of technology-related devices or services allowing them to become more independent and improve the individual's quality of life. The loans range from \$500 to \$5,000 for 90 percent of the cost of the technology-related device or service. The program received a one-time appropriation of \$100,000 in 1998. It is designed to be self supported through pay backs and interest of loan recipients.

The Revolving Loan Fund Board is currently operating with two vacancies, one of which is a consumer position that has been vacant since 2001. Additionally, the Board's Certified Public Accountant has been performing the duties of the vacant banker position since August 2007. Therefore the Legislative Auditor recommends that the Department of Education and the Arts take steps to initiate appointments to fill the two vacancies.

The Revolving Loan Fund Board has not been meeting four times per fiscal year as required by WV Code §29-24-5(a)(1). The Director of the Division of Rehabilitation Services indicated that, "since its initial meeting, the Board has opted to meet only when there are loan applicants." The Director also noted there are few requests for loans despite statewide marketing. Therefore, the Legislative Auditor recommends that the Legislature consider removing the Revolving Loan Fund Board's minimum meeting requirement of four times per fiscal year and requiring the Board to meet as needed or upon receipt of a consumer loan application.

---

*The Legislative Auditor recommends that the Legislature require the Revolving Loan Fund Board to meet "as needed" instead of quarterly.*

---

<b>Table 15</b>	
<b>Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities Board</b>	
Authority	§29-24-3
Composition	<ul style="list-style-type: none"> <li>▪ Director of the Division of Rehabilitation Services</li> <li>▪ A representative of the banking industry</li> <li>▪ A representative of the medical profession</li> <li>▪ A certified public accountant</li> <li>▪ Three members from the public at large who are users or providers of technology-related assistance devices or services for individuals with disabilities</li> </ul>
Advice and Consent of Senate	Yes
Total Membership	7
Vacancies	2
Member Compensation	Yes*
Member Expense Reimbursement	Yes
Minimum Meeting Requirements	Quarterly
Meetings Held	
FY 2007	3
FY 2008	3
FY 2009	1
Next Scheduled Meeting	No meeting scheduled
Board, Commission, Committee, or Council Appropriation?	No
<p><i>*WV Code allows for compensation of non state employee members; however, the Board currently does not do so. Source: Derived from WV Code, agency surveys, and the State of West Virginia Executive Budget for FY 2008-2010.</i></p>	

## **The Legislative Auditor Identified Sunset Dates for Some Boards, Commissions, and Councils or Their Associated Agency**

The Legislative Auditor found that sunset provisions for boards, commissions, councils, and committees still exist in code despite the repeal of the Sunset Law. Therefore, the Legislative Auditor recommends that the following commissions, board, authority, and agency code sections be amended to remove the sunset language:

- Capitol Building Commission (§4-8-6)
- Center for Professional Development (§18A-3A-4)
- Commission for National and Community Service (§5-26A-6)
- Division of Rehabilitative Services (§18-10A-2)
- Division of Culture and History (§29-1-1b)
- Educational Broadcasting Authority (§10-5-6)
- Records Management Preservation Board (§5A-8-15a)

## **Recommendations**

1. *The Department of Education and the Arts should coordinate with the Office of the Governor to appoint appropriate persons to each of the expired and vacant positions that exist on the various boards, commissions, councils, and committees.*
2. *The Legislature should consider abolishing the Advisory Committee on Journalistic and Editorial Integrity.*
3. *The Legislature should consider abolishing the WV Distance Learning Coordinating Council.*
4. *The Legislature should remove the sunset date references in the West Virginia Code for the Capitol Building Commission, Center for Professional Development, Commission for National and Community Service, Division of Culture and History, Division of Rehabilitative Services, Educational Broadcasting Authority Board, and the Records Management Preservation Board.*
5. *The Legislature should consider amending the minimum meeting requirement of the Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities Board from four times per fiscal year to “as needed.”*



# Appendix A: Transmittal Letter

## WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0610  
(304) 347-4890  
(304) 347-4939 FAX



John Sylvia  
Director

June 30, 2009

Kay Goodwin, Cabinet Secretary  
Department of Education and the Arts  
Building 5, Room 205  
1900 Kanawha Boulevard East  
Charleston, WV 25305

Dear Secretary Goodwin:

This is to transmit a draft copy of the informational report on the Boards, Commissions, and Councils under the Department of Education and the Arts. The report is scheduled to be presented during the July 14–16, 2009 interim meeting of the Joint Committee on Government Operations and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report, and answer any questions the committees may have.

The report will be updated to include the information recently received on the Commission for International Education and the Technology-Related Assistance Revolving Loan Fund for Individuals with Disabilities Board. Additionally, Alysia Miller, Research Analyst will be updating each table in the report to accurately reflect the number of meetings held in FY 2009 and the dates for each entity's next scheduled meeting. You will be provided with an updated copy of the report by July 8, 2009.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us by July 7, 2009. We need your written response by noon on July 10, 2009, in order for it to be included in the final report.

If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Monday, July 13, 2009 to make arrangements. We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "John Sylvia".

John Sylvia

\_\_\_\_\_ *Joint Committee on Government and Finance* \_\_\_\_\_



## Appendix B: Agency Response

**Subject:** Education and the Arts Reply to the Draft Report on the Boards, Commissions, Committees and Council of That Agency

**From:** "Goodwin, Kay H" <Kay.H.Goodwin@wv.gov>

**Date:** Fri, 10 Jul 2009 15:59:53 -0400

**To:** <Perd@mail.wvnet.edu>

**CC:** "Redman, Tiffany D" <Tiffany.D.Redman@wv.gov>, "McKee, Martha B"

<Martha.B.McKee@wv.gov>

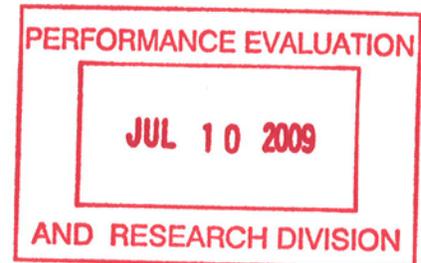
Dear Mr. Sylvia,

Thank you so very much for sending our office a copy of the exemplary work effort provided us by Mr. Denny Rhodes on his investigation of the Department of Education and the Arts' Boards, Commissions, Committees, and Councils.

Ms. Tiffany Redman will represent our Office on July 16, 2009 from 10:00 a.m. to 12:00 to answer any questions she can assist with when your report is presented to the Joint Committee on Government Operations and the Joint Committee on Government Organization.

Sincerely,

Kay Goodwin, Cabinet Secretary







WEST VIRGINIA LEGISLATIVE AUDITOR

**PERFORMANCE EVALUATION & RESEARCH DIVISION**

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

telephone: 1-304-347-4890 | [www.legis.state.wv.us/Joint/PERD/perd.cfm](http://www.legis.state.wv.us/Joint/PERD/perd.cfm) | fax: 1-304-347-4939