

**FORMATION OF EDUCATIONAL SERVICES COOPERATIVES:
STEP-BY-STEP PROCEDURE AND CHECKLIST**

Step No.	County Board Action	Notes/Considerations	Status (Use this Column to Keep Track of Progress) (Not Started/ In Progress/Completed)
1.	Perform Needs Assessment	<p>The county board should determine what services it needs, including what services neighboring county boards may be able to provide.</p> <p><u>NOTE:</u> The West Virginia School Board Association maintains an instrument which may aid the county boards in performing the Needs Assessment. Please contact the WVSBA to secure a copy of that document.</p> <p>Additionally, the WVSBA maintains a document that compares and contrasts the pros, cons, and other issues between, and of, the more limited cooperative agreements and the formation of Educational Service Cooperatives. That document is available on the WVSBA's website.</p>	

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2.	Determine needs, as determined by the Needs Assessment, that can best be met by an Educational Service Cooperative.	<p>The county board should make a critical determination of the service its needs in the Needs Assessment.</p> <p>The Needs Assessment may reveal that a more limited cooperative agreement can better meet the needs of the county board.</p> <p>If the county boards within the geographical area of a RESA reconfigure a RESA into an ESC all property, equipment and records held by the RESA will be transferred or disbursed to the ESC substantially covering the same geographical area as the RESA.</p> <p>Note that although RESA's may be dissolved before July 1, 2018, under W.Va. Code § 18-5-13c(b), on July 1, 2018 all RESAs will be dissolved.</p>	
3.	Contact other county boards to determine with which board(s) the county board will form an ESC	The Needs Assessment should assist the county board in determining with which county boards it desires to form an ESC. All of the county boards will then execute the document creating the ESC.	

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4.	Enter into the ESC by executing an Agreement to Form the [Name] Educational Services Cooperative (the “ESC Agreement”)	<p>The participating county boards will enter into the ESC Agreement for the purpose of initially forming the ESC and the ESC’s initial governing council as providing in W. Va. Code § 18-5-13c(c).</p> <p>The county boards must vote to enter into the ESC Agreement.</p> <p>The President of the member county boards will execute the ESC Agreement.</p> <p>Perform Step 4.a., immediately below, before executing ESC Agreement</p>	
4.a.	County Boards designate one Interim President who (i) will be a superintendent from one of the member county boards, and (ii) will organize the initial meeting of the Governing Council. The Interim President’s term will end at the end of the meeting or upon the election of the President of the ESC.	<p>Step 4.a. should be completed by all county boards participating in the ESC before finalizing the ESC Agreement.</p> <p>As noted, the Interim President serves the limited role of organizing the initial meeting. At the initial meeting, the Governing Council of the ESC will appoint a President.</p>	

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5.	Each member county board selects 1 of its members to be a required ¹ member of the initial Governing Council for the ESC.	<p>The ESC Agreement will provide the date by which the initial required member from each of the member county boards must be selected.</p> <p>The superintendent of each member county board will also be a required member of the Governing Council.</p> <p>Together, a superintendent and a selected county board member from each county board comprise the required members of the Governing Council.</p>	
6.	Selected county board member and superintendent from each member county board attend initial meeting.	<p>The initial meeting time, date and are provided for in the ESC Agreement.</p> <p>This meeting, like other government meetings, is subject to the Open Governmental Proceedings Act.</p> <p>The Governing Council must keep minutes of the initial meeting and all future meetings of the Governing Council.</p>	
7.	At the initial ESC meeting, the initial Governing Council members adopt the ESC's bylaws.	In this critical step, the initial members of the ESC will adopt the bylaws which will govern, among other things, the ESC's procedure.	
8.	The Governing Council appoints the ESC Administrator	The ESC Administrator will serve at the will and pleasure of the Governing Council.	
9.	The Governing Council selects the officers of the ESC	<p>The officers of the ESC are (i) a president, (ii) a vice president, and (iii) a secretary.</p> <p>The officers are elected by the Governing Council by a majority vote.</p>	

¹ The term “required member” is used in this document. The bylaws refer to such members as “statutory members.” The members are termed statutory members in the bylaws only because the statute, W. Va. Code § 18-5-13c, requires each of the member county boards to be represented by its superintendent and an appointed board member.

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10.	The Administrator may nominate one or more persons for membership in the Governing Council, which are referred to as the discretionary members.	<p><i>NOTE: Discretionary members are just that: discretionary. The Governing Council is not required to have these members.</i></p> <p>The ESC Administrator may nominate one or more of the following persons as discretionary members:</p> <ul style="list-style-type: none"> (i.) Representatives of institutions of higher education and community and technical colleges serving the geographical area covered by the Cooperative; (ii.) One non-superintendent chief instructional leader employed by a member county board; (iii.) One school principal employed by a member county board; (iv.) One teacher employed by a member county board; and (v.) Additional members representing business and industry, or other appropriate entities, as the Governing Council determines fit to meet its responsibilities. 	
11.	The statutory members of the Governing Council vote to approve or disprove of each of the members nominated by the ESC Administrator	Nominees for discretionary members of the Governing Council become voting members of the Governing Council only upon a majority vote of the statutory members of the Governing Council.	
12.	ESC Administrator, with advice and assistance of the Governing Council, determines whether to select one of the member county boards as its fiscal agent.	The ESC is not required to select a member county board as a fiscal agent. The ESC can perform such a role itself.	

Notes and Comments:

- ESC's are public entities and are therefore subject to all laws applicable to public entities in the State of West Virginia.
- The scope of services and initiatives pursued by ESC's will almost certainly differ among the various ESC's that form throughout the State of West Virginia. While it may be helpful to review specific documents prepared by other ESC's for the purpose of forming a new ESC, realize that all ESC's will be unique legal entities with specific legal and procedural issues.
- ESC's will be distinct legal entities upon formation. They will have a separate and independent existence from each of the member county school boards.