

WEST VIRGINIA SECRETARY OF STATE

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ADMINISTRATIVE LAW DIVISION

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1/11/2013 4:23:53 PM

WEST VIROUSA SECRETARY OF STATE

FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY

Education

RULE TYPE Legislative Exempt

AMENDMENT TO EXISTING RULE Yes TITLE-SERIES

126-

035

RULE NAME Groupings For Adoption Of Instructional Resources For Early Childhood Education,

Middle Childhood Education And Adolescent Education (2445.40)

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.: W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d

839 (1988)

RULE IS LEGISLATIVE EXEMPT

Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS

Monday, February 11, 2013

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Charles K Heinlein -- 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-Series: 126-035



Rule Id: 8866



Document: 24508

TITLE 126 LEGISLATIVE RULE BOARD OF EDUCATION

SERIES 35

Adoption, Use, and Groupings of Instructional Resources for Grades Pre-Kindergarten through Grade 12 (2445.40)

§126-35-1. General.

- 1.1. Scope. This legislative rule sets the requirements for the adoption, use, and legal exemptions for instructional resources and the groupings I-VI for the required subjects taught in pre-kindergarten through grade 12 (Pre-K 12) education.
- 1.2. Authority. W. Va. Constitution, Article XII, §2 and W. Va. Code §§ 18-2A-1, §18-2-5, and 18-2-8.
 - 1.3. Filing Date. January 11, 2013
 - 1.4. Effective Date. February 11, 2013
- 1.5. Repeal of Former Rules. This legislative rule repeals and replaces W. Va. 126CSR35 "Groupings for Textbook Adoption for Early Childhood Education, and Adolescent Education (2445.40)," filed December 9, 2010 and effective January 10, 2011 and repeals W.Va. 126CSR40 "Rules for Granting Exemptions to the Legal Requirements for the Adoption and Utilization of Textbooks/Programs (2445.44)," filed July 10, 1985, effective September 10, 1985.

§126-35-2. Purpose.

2.1. The purpose of this policy is to establish and classify the Pre-K - 12 school subjects required to be taught in the schools of West Virginia into adoption groups and to provide the rules for granting exemptions to the requirement that county boards of education adopt (and schools shall use) only those instructional resources on the current official state multiple list.

§126-35-3. Rules.

- 3.1. County boards of education shall adopt only those instructional resources approved by the State Board of Education and listed on the state multiple list. An adoption report shall be filed electronically with the State Board of Education by May 1 of each adoption year.
- 3.2. An "exemption" will be granted when based on any expressed provision of Article 2A.
 - 3.3. A request for exemption must fall in one of three categories:

- 3.3.a. The additional adoption of instructional resources from the state multiple list not provided in the original county adoption;
- 3.3.b. The continued use of instructional resources from the most recently expired state multiple list with documentation assuring access by each student enrolled in the class; and/or,
- 3.3.c. Requests not in the two (2) preceding categories will be reviewed on a case-by-case basis and shall be presented to the State Board for its determination.
- 3.4. Any request for an "exemption" must address the limitations imposed (if any) for the respective instructional resource adoption and must not exceed the adoption period of the respective subject area.
- 3.5. Comprehensive documentation must accompany each request approved by the county board of education as to meeting the specific needs of the learner(s), compatibility of different copyrighted editions in classroom instruction, and purchasing replacements to assure the availability of textbooks for the duration of the request.
- 3.6. A request for an "exemption" may be submitted to the State Superintendent of Schools only after it has been:
- 3.6.a. reviewed by the county instructional resource committee which was appropriate for the subject;
 - 3.6.b. recommended by the county superintendent of schools; and,
 - 3.6.c. approved by the county board of education.
- 3.7. A county board of education shall not claim an "exemption" until it has the formal, written approval of the State Superintendent of Schools.
- 3.8. Upon approval, the "exemption" will become an official record for purposes of the county instructional resources adoption report, school utilization report, and county accreditation.
- 3.9. A summary data analysis relative to the exemptions granted will be reviewed annually by the State Board of Education to determine if the need exists for revision and/or modification within instructional resources laws or these rules.

§126-35-4. Grouping of Instructional Resources.

- 4.1. The classification of required subjects to be taught will be grades Pre-K 12 education and will be grouped by adoption periods I-VI.
- 4.2. These groupings replace the periods of adoption indicated in W. Va. Code §18-2A-1, "Definition; adoption groups; adoption schedule."

- 4.3. The West Virginia Instructional Materials Review/Advisory Committee, acting as a total body, shall select "Instructional Resources" as defined in W. Va. Code §18-2A-1, for each group by grade and subject for recommendation to the West Virginia Board of Education to be approved and published in the yearly *Official State Multiple List of Instructional Resources*.
- 4.4. The adoption period is based on the fiscal year (July 1 to June 30) and, unless otherwise noted, is established for six (6) years.
- 4.5. The required subjects, as applicable, are listed under classifications of early and middle childhood education and adolescent education.

4.6. Groupings I-VI.

| Table 1: Grouping of Required Subjects for Adoption | | |
|---|------------------------------------|--|
| Adoption Group | Early & Middle Childhood Education | Adolescent Education |
| I | Social Studies Pre-K | Social Studies |
| II | English Language Arts | English Language Arts |
| III | Music Visual Art Health | Dance Theatre Music Visual Art Driver Education Health |
| IV | Science | Science |
| V | World Languages | World Languages |
| VI | Mathematics | Mathematics |

- 4.7. The adoption schedule will be available on the West Virginia Department of Education Instructional Materials website and will also be included in the call for instructional resources issued approximately one year prior to the group adoption period.
- 4.8. The West Virginia Instructional Materials Review/Advisory Committee begins its "instructional resources" review process approximately one year prior to the group adoption period beginning date.
- 4.9. Vendors may submit newly developed and substantially revised instructional resources which have not previously been reviewed or are available as open resources for up to four years following the content-specific adoption period. Resources found to be in compliance with the established criteria will be added to the Official State Multiple List of Instructional Resources for the duration of the content-specific adoption period as found in Appendix A.
- 4.10. Vendors who submit instructional resources for review in an off-cycle year will be assessed a non-refundable fee, the amount to be determined annually and included in the information provided with the call for materials that will be posted on the Instructional Materials website.

4.11. The Department will develop procedures for policy implementation.

§126-35-5. Severability.

5.1. If any provision of this rule or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this rule.