



**WEST VIRGINIA
SECRETARY OF STATE**

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OFFICE OF
WEST VIRGINIA 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-**

RULE NAME **Innovation in Education (Policy 3236)** **075**

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, November 14, 2016

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

Yes

Jill M Newman -- 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: 126-075



Rule Id: 10269



Document: 32049

126CSR75

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 75
INNOVATION IN EDUCATION (3236)

§126-75-1. General

1.1. Scope. -- This policy implements the Innovation in Education Act, W. Va. Code §§18-5E-1 through 18-5E-7, and sets forth the process by which public schools may apply and be designated by the West Virginia Board of Education (hereinafter WVBE) as an Innovation in Education school.

1.2. Authority. -- W. Va. Constitution, Article XII, §2, W. Va. Code §§18-2-5, 18-5B-14, 18-5E-1, 18-5E-2, 18-5E-3, 18-5E-4, 18-5E-5, 18-5E-6, and 18-5E-7.

1.3. Filing Date. -- October 13, 2016.

1.4. Effective Date. -- November 14, 2016.

1.5. Repeal of Former Rule. -- This legislative rule repeals and replaces W. Va. 126CSR75, WVBE Policy 3236, *Education Innovation Zones*, filed September 12, 2014, and effective October 14, 2014.

§126-75-2. Purpose.

2.1. The purpose of this policy is to encourage and incentivize public schools to improve overall student outcomes through the implementation of key innovational priorities for improving education in the following areas: (1) science, technology, engineering, and math (hereinafter STEM); (2) community school partnership; (3) entrepreneurship; (4) career pathways; and (5) the arts. This act provides a mechanism for public schools designated by the WVBE as Innovation in Education schools to redesign their curriculum, instructional delivery and instructional strategies, to enhance student engagement, to develop meaningful community partnerships and to operate under greater flexibility to increase student achievement.

§126-75-3. Innovation in Education school defined.

3.1. An Innovation in Education school is a public school in this state that applies to and is designated by the WVBE as an Innovation in Education School with a principal focus in one of the following areas: (1) STEM; (2) community school partnership; (3) entrepreneurship; (4) career pathways; and (5) the arts. An Innovation in Education school is not prohibited from incorporating more than one of the five attributes into its program design, notwithstanding the primary designation under which it applies or is subsequently designated.

3.2. An Innovation in Education school shall: provide a program of public education that includes one or more of the grade levels prekindergarten to grade twelve including any associated post-secondary dual credit, advanced placement, and industry or workforce credential programs:

3.3. Shall design its educational program to meet or exceed the approved content standards and is subject to all student assessment, accreditation and federal accountability requirements applicable to other public schools in this state. However, nothing shall prohibit an Innovation in Education school from establishing additional student assessment measures or implementing competency-based course completion strategies that go beyond state requirements;

3.4. Shall operate according to an Innovation in Education Plan developed by the school's principal and faculty with input from its local school improvement council, the county board, the county superintendent and, if the school is a high school, the students of the school;

3.5. Shall, if designated by the WVBE as an Innovation in Education Demonstration School, host visits and tours of its facility and programs to provide information and an opportunity to observe any successful innovations which may be replicated in other schools. The school may require the payment of a fee to off-set the cost of hosting such visits and tours; and

3.6. May solicit and accept gifts, donations, or grants for school purposes from public or private sources in any manner that is available to a local school district and expend or use such gifts, donations, or grants in accordance with the conditions prescribed by the donor except that a gift, donation, or grant may not be accepted if subject to a condition that is contrary to any provision of law or term of the school's Innovation in Education Plan. Any monies received by an Innovation in Education school from any source remaining in the school's accounts at the end of a fiscal year shall remain in its accounts for use during subsequent fiscal years.

3.7. Previously designated Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones may continue with their approved plans. All funding received through the previous Innovation Zone designations must be utilized prior to June 30, 2019. If the previous Innovation Zone designations are not granted an Innovation in Education designation by June 30, 2019 they will then need to apply for a waiver for exceptions of any state policy previously granted under Innovation Zones. All Innovation Zones are encouraged to reapply under the Innovation in Education Act.

§126-75-4. Application for Innovation in Education school designation.

4.1. Applicants must submit an application and a plan outlining their Innovation in Education focus in STEM, community school partnership, entrepreneurship, career pathways, or the arts to the West Virginia Department of Education (hereinafter WVDE). The application and Innovation in Education Plan guidelines are available through the WVDE Division of Teaching and Learning.

4.2. Application and Innovation in Education Plans must follow the established timelines and rubrics, as well as all regulations indicated in law and policy, secure the necessary support, and include all the components outlined in WVDE guidance documents.

4.3. Application and plans must include:

4.3.a. documentation of participation of the principal, faculty, if the school is a high school, students, with input from the local school improvement council, the county board of education, and the county superintendent in the plan's development;

4.3.b. the proposed mission and vision of the school as it pertains to becoming an Innovation in

Education school, including identification of the designation it seeks to obtain as a primary focus on which may include: (1) STEM; (2) community school partnership; (3) entrepreneurship; (4) career pathways; or (5) the arts;

4.3.c. an executive summary and the school's proposed academic program, including a description of the school's instructional design, learning environment, class structure, curriculum overview, teaching methods, research basis, and other elements required in the school's Innovation in Education Plan;

4.3.d. a clear articulation of the areas of autonomy and flexibility in curriculum, budget, school schedule and calendar, professional learning, and staffing policies and procedures which would require an exception of policy or code;

4.3.e. requests for exceptions of any state policy, rule, statute, or interpretation except from an assessment program administered by the WVDE; or required approved content standards any provision of law or policy required by the *Every Student Succeeds Act of 2015* (hereinafter ESSA), Public Law No. 107-110, or other federal law.

4.3.e.1. A request for an exception to a statute, policy, rule, or interpretation must contain the following information:

4.3.e.1.A. a description of the program or initiative the school system intends to implement as an innovative strategy to improve student achievement if the request is approved by the WVBE;

4.3.e.1.B. an explanation of the specific exception to a statute, policy, rule, or interpretation, in the singular or plural, that the school system has identified as prohibiting or constraining the implementation of the program or initiative;

4.3.e.1.C. why the exception is necessary; and

4.3.e.1.D. an explanation of how the program or initiative contributes to the activities contemplated in the school system Innovation in Education Plan.

4.3.e.2. A request for an exception to a state policy, rule, statute or interpretation must be approved by a vote of the affected employees. Requests for exceptions may be submitted at any point during the Innovation in Education designation.

§126-75-5. Innovation in Education Plan; required contents; measurable annual performance goals; uses.

5.1. The Innovation in Education Plan shall include each of the following components:

5.1.a. A description of how the school will address the overall climate and culture of the school as a high performing learning environment in which every child may succeed to the best of his or her ability, including but not limited to measurable annual goals to increase overall student achievement; address dropout prevention, and transform school culture;

5.1.b. A curriculum plan that includes a detailed description of the curriculum and related

programs for the proposed school and how the curriculum is expected to improve school performance and student achievement;

5.1.c. Measurable annual performance goals to assess the school's performance and student success across multiple measures and that will serve as the basis evaluating the Innovation in Education school, including but not limited to, goals relating to: (1) student attendance; (2) student safety and discipline; (3) student promotion and graduation and dropout rates; (4) student performance on the state-wide summative assessment and other assessment required by the WVBE; (5) progress in areas of academic underperformance; (6) progress among subgroups of students, including, but not limited to, low-income students and students receiving special education; (7) with respect to high school, postsecondary readiness, including the percentage of graduates submitting applications to postsecondary institutions, and postsecondary enrollment or employment; and (8) parent and community engagement;

5.1.d. A budget plan that includes a detailed description of how funds will be used in the proposed school to support school performance and student achievement that is or may be different than how funds are used in other public schools in the district;

5.1.e. A school schedule plan that includes a detailed description of the ways the program or calendar of the proposed school may be enhanced or expanded;

5.1.f. A staffing plan and professional learning plan that includes a detailed description of how the school may provide professional learning to its administrators, teachers, and other staff;

5.1.g. A policies and procedures plan that includes: (1) a detailed description of the unique operational policies and procedures to be used by the school seeking designation and how the procedures will support school performance and student achievement; and (2) any exemptions to rule, policy, or statute the school is seeking; provided, that a school may not request an exemption nor may an exemption be granted from any assessment program required by the WVBE, required approved content standard polices, or any provision of law or policy required by ESSA or other federal law;

5.1.h. The school's plan, if any, for using additional internal and external metrics of the performance agreed to by the school and the county board to measure the school's performance and student success;

5.1.i. Opportunities and expectations for parent involvement; and

5.1.j. Any other information the WVBE requires.

§126-75-6. Innovation in Education application review and approval.

6.1. The WVBE and its designees will determine the selection committee to include stakeholders from the areas of STEM, community schools, entrepreneurship, career pathways and the arts.

6.2. The selection committee shall review plans, including WVDE staff recommendations, based on a review of applications that meet the required criteria. Applicants will be independently assessed based on the established evaluation rubric.

6.3. The Selection Committee shall recommend applications to the WVBE for approval.

6.4. After thorough consideration the WVBE will make the following determinations:

6.4.a. Grant a designation only to applicants who have demonstrated competence in each element of the evaluation factors and who have demonstrated their capacity to operate an Innovation in Education school that will increase student achievement;

6.4.b. Determinations based on documented evidence collected through the application review process;

6.4.c. If appropriate, include in a designation determination reasonable conditions that the applicant must meet before commencing operation under the designation, including resubmission of the application;

6.4.d. Decline weak or inadequate applications and clearly state its reasons for denial;

6.4.e. Make and announce all designations of Innovation in Education schools in a meeting open to the public and clearly state in a resolution the reasons for the decisions. A copy of the resolution shall be submitted to the Legislative Oversight Commission on Education Accountability; and

6.4.f. Convey its determination on an application in writing to the applicant.

6.5. An Innovation in Education school may not commence or continue operations without a signed operational agreement between the county board and the school principal.

6.6. The WVDE shall at least annually review the progress of the Innovation in Education program and provide a report to the WVBE and the Legislative Oversight Committee on Education Accountability.

6.7. Following the annual review/report, if the WVDE determines that adequate progress has not been made, a report identifying areas of concern shall be submitted to the WVBE.

6.7.a. The WVDE may conduct an additional review within six months of submitting the report.

6.7.b. Within this review, if the WVDE determines that the Innovation in Education school has not made adequate progress, the WVBE may revoke the designation as an Innovation in Education designation.

§126-75-7. Operational agreement between Innovation in Education school and county board.

7.1. An Innovation in Education school designated by the WVBE may not commence or continue operations without a signed operational agreement between the county board and the school principal which sets forth at least the following:

7.1.a. Any conditions which must be met before the Innovation in Education school may begin full operations. If necessary, the full implementation of an Innovation in Education school may be postponed for up to one school year following its initial designation to enable all conditions necessary for full operation to be met;

7.1.b. Any terms of the school's Innovation in Education Plan concerning curriculum, budget, school schedule, calendar, staffing, professional learning, and policies and procedures to be adhered to by both the county board and the school;

7.1.c. An agreed-upon process for amending or refining the school's Innovation in Education Plan to improve the school's performance and student success, including but not limited to, the request for additional exception of rules, policies, interpretations, and statutes through the local school improvement council process;

7.1.d. The annual performance targets set by the county board and the school to assess and evaluate the school's progress in achieving its annual measurable goals as set forth in its Innovation in Education Plan, including any additional internal and external metrics of performance agreed to by the school and the county board to measure the school's performance and student success. The annual performance targets may be refined or amended by mutual agreement of the county board and the school after the school has been fully operational for one year and has collected baseline performance data;

7.1.e. The process and criteria that the county board will use to annually monitor and evaluate the overall performance and student success of the school, including a process to conduct annual school visits;

7.1.f. Any information needed by the county board from the school for the purposes of accountability and reporting by the school on the implementation of its mission as an Innovation in Education school;

7.1.g. The process the county board will use to notify the school of any deficiencies and the process by which the school may submit an improvement plan; and

7.1.h. In the event that an Innovation in Education school's performance appears unsatisfactory, specific provisions addressing the parameters under which the county board may promptly notify the school in writing of perceived problems and provide reasonable opportunity for the school to remedy the problems, or if not remedied, may intervene or recommend to the WVBE that it place the school's designation on probationary status, require a remedial action plan, and potentially revoke the designation. At a minimum, these parameters shall include the circumstances of poor fiscal management and a lack of academic progress.

§126-75-8. Evaluation of Innovation in Education designated schools.

8.1. The WVBE and/or its designees will systematically review the performance and student success of Innovation in Education schools, reaffirm or reconsider the designation of a school, and identify exemplary schools to serve as demonstration sites.

8.2. During its third full year of operation the county superintendent shall issue a performance report on the Innovation in Education school. The performance report shall summarize the school's performance record to date based on the data collected under the school's Innovation in Education Plan and operational agreement, and shall provide notice of any weaknesses or concerns perceived by the superintendent concerning the school that may jeopardize its designation if not timely rectified. The

school and the superintendent shall mutually agree to a reasonable time period for the school to respond to the performance report and submit any corrections to the report.

8.3. After its fourth full year of operation, and periodically thereafter as may be provided by the WVBE, the Innovation in Education school shall be evaluated by the county superintendent. The county superintendent shall submit the evaluation to the county board and the WVBE. The evaluation shall determine whether the school has met the annual goals outlined in its Innovation in Education Plan and operational agreement, and assess the implementation of the Innovation in Education Plan at the school.

8.4. The county superintendent may recommend to the county board and WVBE in the evaluation:

8.4.a. To amend or suspend one or more components of the Innovation in Education Plan and operational agreement if the county superintendent determines an amendment or suspension is necessary to improve the performance and student success of the school;

8.4.b. To amend or suspend one or more components of the Innovation in Education Plan and operational agreement if the county superintendent determines an amendment or suspension is necessary because of subsequent changes in the district that affect one or more components of such Innovation in Education Plan;

8.4.c. To support continued operation of the Innovation in Education school in accordance with its Innovation in Education Plan and operational agreement; or

8.4.d. To recommend to the WVBE that the school be designated as an Innovation in Education demonstration school based on its exemplary performance and student success.

8.5. Based on the county superintendent's evaluation and a data analysis conducted by the WVDE, the WVBE may:

8.5.a. Amend or recommend an amendment to one or more components of the school's Innovation in Education Plan and operational agreement;

8.5.b. Suspend one or more components of the school's Innovation in Education Plan and operational agreement; or

8.5.c. Affirm continuation of the Innovation in Education school under its current Innovation in Education Plan and operational agreement.

8.5.d. If it is determined that the school has substantially failed to meet the goals outlined in its Innovation in Education Plan and operational agreement, terminate the Innovation in Education designation of the school.

8.6. An amendment, suspension, or termination may not take place before the completion of the school year.

§126-75-9. Innovation in Education fund.

9.1. There is hereby created in the State Treasury a special revenue fund to be known as the *Innovation in Education Fund*. The fund shall consist of all moneys received from whatever source to further the purpose of this *Innovation in Education Act*. The fund shall be administered by the WVBE solely for the purposes of this article, including providing grants and other financial assistance to Innovation in Education designated schools to implement and carry out such school Innovation in Education Plans. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Fund balances shall be invested with the state's consolidated investment fund and any and all interest earnings on these investments shall be used solely for the purposes that moneys deposited in the fund may be used pursuant to this *Innovation in Education Act*.

§126-75-10. Severability

10.1. 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.