

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

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FILED IN THE OFFICE OF  
THE SECRETARY OF STATE  
THIS DATE April 16, 1998  
ADMINISTRATIVE LAW DIVISION

Form #2

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION TITLE NUMBER: 127

RULE TYPE: LEGISLATIVE RULES : CITE AUTHORITY: WV CODE 18-2-25

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Constitution

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON May 22, 1998 AT 5:00 PM. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

WVSSAC

ROUTE 9, BOX 76

PARKERSBURG, WV 26101

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$3.80

\*10 TITLE 127  
LEGISLATIVE RULES  
WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES  
COMMISSION

SERIES 1  
CONSTITUTION

**§127-1-1. General.**

- 1.1 **Scope** — These rules establish the organization and duties of the West Virginia Secondary School Activities Commission.
- 1.2 **Authority** — WV Code 18-2-25
- 1.3 **Filing Date** —
- 1.4 **Effective Date** — July 1, 1987

**§127-1-5. Administration.**

- 5.1 The administration of the West Virginia Secondary School Activities Commission shall be vested in the secondary school principals heretofore defined as members and who shall constitute a Board of Control. Said Board of Control shall determine the regulation of interscholastic athletic events and band activities among the schools represented by the member of said Commission and shall have charge of all funds of said Commission, and in order to expedite the regulations of said activities shall delegate and assign to the Board of Appeals hereinafter constituted, and the executive secretary, hereinafter constituted and working through the Board of Appeals, authority to interpret and enforce these regulations. Said Board of Control shall delegate and assign to the Board of Trustees, hereinafter constituted, the power and authority to hold title to and manage the property owned by said Commission. These regulations of said Commission shall be the articles, rules, explanations and interpretations which have been voted upon and approved by a majority vote of the members of the Board of Control present and voting at the annual meeting of said Commission. Fifty (50) members shall constitute a quorum for the transaction of all business at said annual meeting and approved by a majority vote of the members of the Board of Control present and voting at the annual meeting of said Commission.
- 5.2 At all annual or called meetings of the Board of Control of the West Virginia Secondary School Activities Commission each member shall have one vote on each question or proposition under consideration. A member may appoint, by a written statement to the president of said Commission, his assistant principal or other member of his faculty to represent him at meetings of the Board of Control but no such appointment shall absolve the member of his responsibility as defined in these regulations.
- 5.3 The Board of Control of the West Virginia Secondary School Activities Commission shall, at its annual meetings, elect officers of the Commission and define their duties as provided in §127-1-6 of these regulations. The officers so elected shall be members of the Board of Appeals of the West Virginia Secondary School Activities Commission with the powers and duties assigned to it by §127-1-8 of the regulations of said Commission. Said Board of Appeals shall be the executive body of the Commission and shall administer the regulations of the Commission. Further, said Board of Appeals shall enforce the provisions of these regulations through the application of penalties provided under §127-6-2 of these regulations. Adjudication of disagreements and disputes among members of the Commission shall be one of the chief duties of the Board of Appeals. Such adjudication may, however, be subject to review by the Review Board.

**Proposal 1**

Amend §127-1-5 - **Administration** - (pg. 4) as follows:

- 5.4 The Board of Control of the West Virginia Secondary School Activities Commission shall delegate and assign to the Board of Appeals, hereinafter constituted, the power and authority to define, devise and/or create ~~five (5)~~ eight (8) administrative districts in the State of West Virginia.
  - (a) Effective July 1, ~~1974~~ 1998, and until such time as it is necessary to change the boundaries of such districts, the ~~five (5)~~ eight (8) administrative districts and shall be as follows:
    - (1) First District: ~~Brooke, Calhoun, Doddridge, Gilmer, Hancock, Harrison, Marion, Marshall, Ohio, Taylor, Tyler, and Wetzel.~~ Mercer, Monroe, McDowell, Raleigh, Summers, and Wyoming.
    - (2) Second District: ~~Barbour, Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Tucker, and Upshur.~~ Cabell, Lincoln, Logan, Mason, Mingo, and Wayne

- (3) ~~Third District: Boone, Braxton, Clay, Kanawha, Lewis, Nicholas, Putnam, and Roane.~~ Boone, Clay, Kanawha, and Putnam.
- (4) ~~Fourth District: Cabell, Jackson, Lincoln, Logan, Mason, Pleasants, Ritchie, Wayne, Wirt, and Wood.~~ Braxton, Fayette, Greenbrier, Nicholas, Pocahontas, and Webster.
- (5) ~~Fifth District: Fayette, Greenbrier, Mercer, Mingo, McDowell, Monroe, Pocahontas, Raleigh, Summers, Webster, and Wyoming.~~ Calhoun, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt, and Wood.
- (6) ~~Sixth District: Brooke, Hancock, Marshall, Ohio, and Wetzel.~~
- (7) ~~Seventh District: Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Preston, Randolph, Taylor, Tucker, and Upshur.~~
- (8) ~~Eighth District: Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, and Pendleton.~~

**Rationale:**

This proposal is submitted due to the creation and current success of RESAs. A correlation should be implemented that reflects our total educational delivery. In addition, a need exists to transfer knowledge generated in the field of secondary athletics in practical functions that are vested in the secondary principals. In the past five years, 1992 and 1997, similar proposals were backed by the Board of Control but turned down by the State Board. Detailed rationale will be provided at the spring meeting.

- (b) Any change in the boundaries of said administrative districts adopted by the Board of Appeals shall be submitted for approval to the Board of Control at its annual meeting. Such adopted change may be remanded to the Board of Appeals for further study and action only by a two-thirds (2/3) vote of the members of the Board of Control present and voting at the annual meeting. If the adopted change in boundaries is not remanded for further study and action, it shall be considered approved.
- (c) Any adopted and approved changes in the boundaries of the administrative districts shall not be cause for reducing the length of the regular term of office of an incumbent officer-member.

**\*10 TITLE 127  
LEGISLATIVE RULES  
WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES  
COMMISSION  
  
SERIES 1  
CONSTITUTION**

**§127-1-1. General.**

- 1.1 Scope** — These rules establish the organization and duties of the West Virginia Secondary School Activities Commission.
- 1.2 Authority** — WV Code 18-2-25
- 1.3 Filing Date** —
- 1.4 Effective Date** — July 1, 1987

**§127-1-6. Officers and Duties.**

- 6.1 There shall be five (5) elected officer-members of the West Virginia Secondary School Activities Commission, each of whom shall be a principal of a secondary school in West Virginia.
- (a) The elected officer-members shall constitute the Board of Appeals of the West Virginia Secondary School Activities Commission.
- (b) One (1) officer-member shall be elected to a regular term each year at the annual meeting of said Commission. The runner-up candidate in each election shall be declared the alternate-officer-member and shall serve any portion of the officer-member's unexpired term which may occur. If the alternate-officer-member is not thus determined, then a separate election shall be held to do so. Said officer-member and alternate-officer-member shall be from the same administrative district.

**Proposal 2**

Amend §127-1-6 **Officers and Duties** - (pg. 4) as follows:

- 6.1 (c) The regular term of an elected officer-member shall be a period of ~~five (5)~~, two (2) years, and said term shall begin immediately following the close of the annual meeting in which he was elected.
- (d) An elected officer-member shall be eligible to serve two (2) regular ~~five (5)~~ two (2) year terms, in succession. Upon completion of the two successive terms, a former officer-member shall not be appointed to nor elected to fill a vacancy of an unexpired term during the ~~five (5)~~ two (2) year period immediately following the expiration of his regular term. An alternate-officer-member who serves ~~more than one (1) year~~ less than six (6) months of an officer member's expired term shall be eligible to be elected to the next succeeding regular ~~five (5)~~ two (2) year term.

**Rationale:**

More membership involvement.

- (e) The election shall be by ballot when more than one (1) candidate from the same administrative district in West Virginia is nominated for officer-member. When more than two (2) candidates from the same administrative district are nominated for officer-member, the balloting shall continue until one (1) of said candidates shall receive a majority of the votes cast. The candidates with the least number of votes on each ballot shall be dropped from each subsequent ballot.
- (f) At the first meeting of the Board of Appeals following the close of the annual meeting of the Commission said Board of Appeals shall designate one (1) of its officer-members to serve as president and one (1) to serve as vice president.

### **Proposal 3**

Amend §127-1-6 **Officers and Duties** - (pg. 4) by adding the following: (Will only be voted on if Proposal 3 is adopted.)

**6.1(e) Effective July 1, 1998, member principals shall elect Board of Appeals members based upon RESA districts. Principals will only vote for members in their districts. Therefore, each RESA district will have representation which would be inclusive. (Reletter)**

#### **Rationale:**

This proposal is submitted due to the creation and current success of RESAs. A correlation should be implemented that reflects our total educational delivery. In addition, a need exists to transfer knowledge generated in the field of secondary athletics in practical functions that are vested in the secondary principals. In the past five years, 1992 and 1997, similar proposals were backed by the Board of Control but turned down by the State Board. Detailed rationale will be provided at the spring meeting.

- 6.2 Two (2) or more members serving as principals of secondary schools located in the same administrative district of West Virginia shall be ineligible to serve as officer-members at the same time.
- 6.3 The term of an officer-member shall end immediately upon his agreement to accept a position that would make him ineligible to hold office in this commission.
- 6.4 The annual honorarium of the officer-members shall be three hundred (\$300.00) dollars each.
- 6.5 The executive secretary shall act as treasurer and shall pay out monies from the funds belonging to this Commission in payment of bills only upon order of the president.
- 6.6 The president shall furnish bond in the amount of twenty thousand (\$20,000) dollars. The Executive Secretary shall furnish bond in the amount of one hundred thousand (\$100,000) dollars. The premium for both of these bonds shall be paid by the Commission.
- 6.7 The officers of the Commission may submit questions for discussion by mail and ascertain sentiment of the schools by means of questionnaires. No vote to alter these regulations shall be taken except at the annual meeting of the Commission, except that these regulations may, in case of emergency, with the consent of the Board of Appeals, enact and adopt all necessary rules and regulations, whether by deletion, amendment, revision or addition, and which emergency rules and regulations shall be submitted at the next annual meeting of the Commission for formal adoption or rejection.

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**§127-1-8. Board of Appeals.**

- 8.1** The Board of Appeals shall have authority to administer the regulations of the West Virginia Secondary School Activities Commission.

**Proposal 4**

Amend §127-1-8 **Board of Appeals** (pg. 5) as follows:

- 8.2** The State Superintendent of Schools or his representative designated to act in his stead, a representative from the State Board of Education, a representative selected by the West Virginia School Boards Association, a representative selected by the West Virginia School Administrators Association and a representative selected by the West Virginia Athletic Directors Association shall serve, as appointive members of the Board of Appeals. Said appointive members shall be accorded full voting privileges ~~but shall be ineligible to be elected or to serve as an officer of the West Virginia Secondary School Activities Commission. and shall only be eligible to be elected to serve two (2) regular two (2) year terms in succession to serve as an officer or as a member of the West Virginia Secondary School Activities Commission.~~

**Rationale:**

To bring terms of the appointed Board of Appeals members in line with the elected Board of Appeals members and to make all members eligible to serve as an officer.

- (a) The president of the Association of Secondary School Principals shall serve as an ex-officio member of the Board of Appeals. However, serving the one (1)-year term as an ex-officio member shall not render said member ineligible to be elected to a regular five (5)-year term as an officer-member provided he is otherwise eligible.
- 8.3** The Board of Appeals shall have authority to appoint an Executive Secretary, except as hereinafter provided, and such additional assistance as may be necessary to assure efficient functioning of the work of the West Virginia Secondary School Activities Commission. Furthermore, said Board of Appeals shall have authority to fix and to pay salaries to the Executive Secretary and to other staff personnel appointed to assist said Executive Secretary. The Board of Appeals shall also have authority to devise a plan of retirement benefits for the Executive Secretary and other full-time staff personnel appointed to assist said Executive Secretary.
- (a) At least one of the staff personnel appointed to assist the Executive Secretary shall have the status of Assistant Executive Secretary. The appointment of said Assistant Executive Secretary shall be made by the Board of Appeals only upon the nomination and recommendation by the Executive Secretary. In case the Board of Appeals refuses to appoint the person so nominated, the Executive Secretary shall nominate and recommend another person and submit the name to the Board of Appeals at such time as said Board may direct. The length of the contract term of office of the said Assistant Executive Secretary shall be the same as that prescribed for the Executive Secretary in subsections 11.1 and 11.2 of these regulations. The said Assistant Executive Secretary shall not be removed during the contract term of office except for just and reasonable cause as prescribed in subsection 11.3.
- (b) All other staff personnel to assist the Executive Secretary shall be recommended by the Executive Secretary before being considered for employment by the Board of Appeals.

- 8.4 The Board of Appeals shall have power of appointment to fill vacancies in its membership until the vacancies are filled regularly at the next annual meeting of the Commission.
- 8.5 The Board of Appeals shall have power to decide all cases of eligibility of athletes and participants in band activities. The Board may also exercise discretionary powers it may deem necessary for the furtherance of education and interscholastic athletic events and band activities in the secondary schools of West Virginia.
- 8.6 The Board of Appeals shall appoint Deputy Board Members who will serve during the will and pleasure of the Board of Appeals.
- 8.7 At the request of the Board of Appeals a Deputy Board Member shall investigate matters of eligibility and other violations of the rules and regulations of the West Virginia Secondary School Activities Commission. Said Deputy Board Member shall submit to said Board of Appeals a written report of his findings and recommendations for disposition of the case(s).
- 8.8 The Board of Appeals shall have the power to investigate through the Deputy Board Member, or in such other manner as may be found advisable, matters of eligibility and other violations of rules when the said Board deems it advisable to do so on the basis of information furnished, even though a formal protest is not filed.
- 8.9 The Board of Appeals may divide the state into regions and sections for the purpose of administration and for tournaments or meets of any interscholastic athletic or band activity.
- 8.10 The Board of Appeals shall approve or reject all emergency rules and regulations adopted by the Constitution and Bylaws Committee.
- 8.11 The Board of Appeals shall hold hearings and render decisions in all contested cases.
- 8.12 The Board of Appeals shall have power to resolve disputes concerning the validity of any interscholastic athletic contest.
- 8.13 Five (5) officer-members present and voting at any meeting of the Board of Appeals shall constitute a quorum for said Board of Appeals to transact all business.
- 8.14 The minutes of regular and special meetings of the Board of Appeals will be submitted to principals of all member schools.

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**§127-1-10. Amendments.**

The articles, bylaws, rules and regulations of the West Virginia Secondary School Activities Commission may be amended as provided in the sections immediately following. Provisions for adoption of emergency rules and regulations are made in subsection 6.7 and subsection 8.10 of these regulations. Before any proposed amendment or regulation other than any emergency rule or regulation becomes effective, it shall be approved by a majority vote of the members of said Commission present and voting at an annual or called meeting.

- 10.1** A Constitution and Bylaws Committee, consisting of five (5) members of the Commission, shall be appointed by and shall serve during the will and pleasure of the Board of Appeals. Said Board of Appeals shall designate one (1) of the members so appointed to serve as the chairman of such committee.
- 10.2** The Board of Appeals shall give due consideration to maintaining a fair balance of representation of a secondary school as defined in subsection 4.2 of these regulations when making new appointments to the Constitution and Bylaws Committee. However, an incumbent member of said committee shall not be ruled ineligible to continue to serve on said committee solely because he/she becomes principal of a secondary school different from that from which he/she was originally appointed.
- 10.3** It shall be the function and purpose of the Constitution and Bylaws Committee to provide continuity and cohesion in the rules and regulations governing the interscholastic athletic and band activity programs in West Virginia. Further, it shall be the function and purpose of the Constitution and Bylaws Committee, in cases of emergency and with the consent of the Board of Appeals, to enact and adopt all necessary interim rules and regulations, whether by deletion, amendment, revision or addition and which emergency rules and regulations shall be submitted for formal adoption or rejection at the next annual or called meeting of the West Virginia Secondary School Activities Commission.
- 10.4** Expenses for authorized meetings of the Constitution and Bylaws Committee shall be defrayed from the funds of the West Virginia Secondary School Activities Commission.
- 10.5** Proposed changes to these regulations may be submitted by any member of the West Virginia Secondary School Activities Commission. Such proposed changes, whether by revision, addition or deletion, shall be postmarked or received by the WVSSAC office by January 15 of each year in order to permit the Constitution and Bylaws Committee to study such proposed changes and to submit them, by mail, to the membership thirty (30) days prior to the annual meeting of said Commission.
- 10.6** At the annual meeting of the West Virginia Secondary School Activities Commission each, and only each, such proposed change received by the Constitution and Bylaws Committee, and those interim emergency rules and regulations enacted by the said Committee shall be presented to the membership of said Commission for discussion and formal adoption or rejection. Said Committee may accompany each presentment with an explanation of the effect of said proposed change upon present rules and objectives of the Commission. Said Committee may also recommend adoption or rejection of said proposition.
- 10.7** The president of the Commission shall appoint a parliamentarian to serve at the meetings of the Commission to decide questions of procedure during said meetings.

**Proposal 5**

Amend §127-1-10 **Amendments** (pg. 9) by adding the following:

- 10.8 An amendment to the regulations of the West Virginia Secondary School Activities Commission shall not become effective until July 1 immediately following the annual meeting at which such amendment was adopted and such adoption is formally approved by the West Virginia State Board of Education, following presentation by the original person proposing the amendment.

**Rationale:**

The author of the recommended proposal should have the privilege of defending the amendment.

- 10.9 Nothing in these regulations shall be construed as limiting or in any way effecting the validity of emergency rules and regulations which have been duly approved by the Board of Appeals in accordance with subsection 6.7 of these regulations. Emergency rules and regulations will be effective upon the date they are filed with the Secretary of State of the State of West Virginia and remain in effect until the next meeting of the Commission.