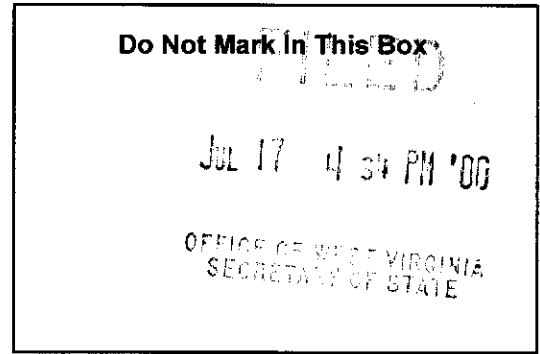


WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5



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

AGENCY: West Virginia Board of Education SSAC TITLE NUMBER: ~~126~~ 127

CITE AUTHORITY: W.Va. Constitution, Article XII, §2, W.Va. Code §18-2-25

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE X

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). WV Code 29-1-1-3(B)

AMENDMENT TO AN EXISTING RULE: YES XX NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

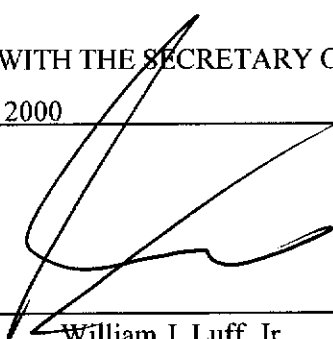
TITLE OF RULE BEING AMENDED: WV Secondary School Activities Commission §127-1-1

Series 1: Constitution

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

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

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS September 15, 2000

  
\_\_\_\_\_  
William J. Luff, Jr.  
Associate State Superintendent

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\*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

DEPARTMENT OF STATE  
SECRETARIAT OF STATE

JUL 17 4 31 PM '87

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§127-1-2 Name.

The name of this organization shall be the West Virginia Secondary School Activities Commission, a voluntary organization. Extracurricular activities of the students in the public secondary schools are controlled by the local county boards of education, pursuant to West Virginia Code article two, chapter eighteen, and authority for the delegation of such control to said Commission is granted by statute.

§127-1-3 Objects.

3.1 This Commission through the employment of the instrumentalities hereinafter established, shall supervise and control interscholastic athletics and band activities among member schools.

3.2 In the performance of these functions it shall be the aim of the Commission

(a) To stress the cultural values, the appreciations and skills involved in these interscholastic activities and to promote cooperation and friendship;

(b) To limit these interscholastic programs in both character and quantity so that such activities and such events may reasonably be looked upon as promoting the generally accepted objectives of secondary education and as such shall not unduly interfere with nor abridge the regular program

of teachers and students in the performance of their regular day to day school duties;

(c) To encourage economy in the time that the student and the teacher-personnel devote to these interscholastic activities;

(d) To encourage economy in expenses of these interscholastic activities;

(e) To discourage long trips for large groups of students;

(f) And, to establish minimum standards of conduct for both active and spectator participants, coaches and all other school personnel at all interscholastic athletic events approved, sponsored or controlled by this Commission.

#### **§127-1-4 Membership.**

4.1 The West Virginia Secondary School Activities Commission shall be composed of the principals, or their representatives, of those secondary schools which county boards of education have certified in writing to the State Superintendent of Schools that they have elected to delegate the control, supervision and regulation of their interscholastic athletic and band activities of the students in the public secondary schools in their respective counties to said Commission; the principals, or the representatives, of those Catholic secondary schools whose West Virginia Diocesan Board of Education has certified in writing to the Board of Appeals (hereinafter defined) that they have elected to delegate control, supervision and regulation of their interscholastic athletic and band activities of the students in said Catholic secondary schools to said Commission; and the principals or headmasters of those private secondary schools whose governing body has certified that they have elected to delegate control, supervision and regulation of their interscholastic athletic and band activities in their respective schools to said Commission. (Hereinafter in these regulations "secondary schools" means a school consisting only of those grades above the sixth (6th), organized by departments or the seventh (7th) and eighth (8th) grades of a school in which these grades are organized for instruction by departments and which has at least five (5) teachers in these grades - West Virginia Code section two, article nine-a, chapter eighteen. Furthermore, the term "member schools" or any modification thereof refers to a school whose principals or headmaster is a member of this Commission.) Membership is on a voluntary basis and rests in the sound discretion of each county board of education or governing body of the member school.

Membership in the Commission shall be predicated upon accepting the

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following conditions:

(a) The principal or his successor is and shall be the sole representative of the school in all matters pertaining to the constitution, bylaws, rules and regulations of the Commission;

(b) The principal or his successor is and shall be responsible for conducting interscholastic athletic events and band activities of the school in accordance with the constitution, bylaws, rules and regulations of the Commission which have been adopted by the Board of Control of the Commission for the governing of such activities;

(c) Pay the annual dues charged by the Commission;

(d) The principal, or headmaster, or the successor of either, shall file a statement with the executive secretary of the Commission agreeing to abide by and support the constitution and the rules and regulations of the Commission.

At the annual meeting of the Board of Control, the executive secretary shall announce the names of the principals or headmasters who have become new members and who have met each of the several qualifications and requirements as defined in these regulations.

4.2 A middle school shall be a school approved by the State Department of Education.

A junior high school shall be a school approved by the State Department of Education.

A senior high school consists of grades nine (9), ten (10), eleven (11) and twelve (12), established by law and approved by the State Department of Education.

4.3 A school, through its principal, coach or other official, is not permitted to enter into an agreement with any other school to waive the standards of eligibility of students, or waive or change any other requirement established in these regulations.

4.4 Any member violating the regulations of this Commission and refusing to abide by the decision of the Board of Appeals or the Review Board shall be subject to the penalties hereinafter set forth. (See §127-6-2 of these regulations.)

§127-1-5 Administration.

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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.

5.4 The Board of Control of the West Virginia Secondary School Activities Commission shall delegate and assign to the Board of Appeals,

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hereinafter constituted, the power and authority to define, devise and/or create five (5) administrative districts in the State of West Virginia:

(a) Effective July 1, 1971, and until such time as it is necessary to change the boundaries of such districts, the five (5) administrative districts shall be as follows:

(1) First District: Brooke, Calhoun, Doddridge, Gilmer, Hancock, Harrison, Marion, Marshall, Ohio, Taylor, Tyler and Wetzel.

(2) Second District: Barbour, Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Tucker, and Upshur.

(3) Third District: Boone, Braxton, Clay, Kanawha, Lewis, Nicholas, Putnam and Roane.

(4) Fourth District: Cabell, Jackson, Lincoln, Logan, Mason, Pleasants, Ritchie, Wayne, Wirt and Wood.

(5) Fifth District: Fayette, Greenbrier, Mercer, Mingo, McDowell, Monroe, Pocahontas, Raleigh, Summers, Webster and Wyoming.

(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.

**§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.

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(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.

(c) The regular term of an elected officer-member shall be a period of five (5) 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)-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)-year period immediately following the expiration of his regular term. An alternate-officer-member who serves more than one (1) year of an officer-member's unexpired term shall be eligible to be elected to the next succeeding regular five (5)-year term.

(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.

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.

#### **§127-1-7 Meetings.**

7.1 The annual meeting of the West Virginia Secondary School Activities Commission shall be planned by the executive secretary and the Board of Appeals of said Commission.

7.2 Special meetings may be called by order of the president of the Commission. Fifty (50) principals constitute a quorum to transact business.

#### **§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.

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.

(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.

(c) The Board of Appeals will annually evaluate the performance of the Executive Secretary. It shall be the responsibility of the Executive Secretary to evaluate assistant executive secretaries.

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.

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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.

### **§127-1-9 Funds.**

9.1 The annual dues for members of this Commission shall be based upon the student enrollment of the school they represent.

(a) A thirty (\$30.00) dollar flat membership fee for all three (3)-and four (4)-year schools on the first one hundred (100) students, or fraction thereof, enrolled in a school.

(b) After the first one hundred (100) students enrolled, the

membership will be ten (\$10.00) dollars per one hundred (100) additional students, or fraction thereof, up to one thousand (1,000) students.

(c) For each one hundred (100) students above one thousand (1,000) an additional five (\$5.00) dollars per one hundred (100) students, or fraction thereof, is to be added.

(d) A six (6) year high school shall pay a flat fee of thirty (\$30.00) dollars for grades seven (7) and eight (8) and ten (\$10.00) dollars per hundred (100), or fraction thereof, for grades nine (9), ten (10), eleven (11) and twelve (12) up to one thousand (1,000) students and five (\$5.00) dollars per hundred (100), or fraction thereof, above one thousand (1,000) students.

(e) A thirty (\$30.00) dollar fee is the ceiling for all regular junior high schools and middle schools.

Dues for the year are payable on or before February 1 of each year. Membership in the Commission shall extend from July 1 to June 30 in any year and shall be lapsed if dues are not paid on or before February 15. The enrollment figure to be used to determine the amount of dues shall be the gross enrollment of boys and girls at the close of the second (2nd) month of the current school year. In case a membership has been allowed to lapse, it may not be reinstated until the dues for the year of such lapsed membership, plus a penalty of twenty-five (\$25.00) dollars reinstatement fee, have been paid to the Commission.

9.2 The Board of Appeals may reduce the amount of annual dues of the members for any year.

9.3 The Board of Appeals is authorized to levy entry fees and assessments for the conducting of any interscholastic athletic event or band activity when it is not self-supporting. Fees and assessments from one (1) activity division shall not be used for the support of another.

9.4 The Commission shall determine the expenditures of money but special power is given to the Board of Appeals to use funds as are necessary to carry on its work.

9.5 The fiscal year of this Commission extends from July 1 to June 30. All monies paid as dues to the Commission as well as all monies derived from any contest or other event sponsored by the Commission become quasi public funds and as such shall be subject to an annual audit by the West Virginia State Tax Commissioner. A written summary of the audit shall be a part of the annual report of the executive secretary to the Board of Control.

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9.6 In case of dissolution of the West Virginia Secondary School Activities Commission, all funds of said Commission shall be prorated equally and distributed to the County Boards of Education of the members of said Commission. Provided, however, that governing boards of those who become members of said Commission subsequent to January 1, 1968, shall be entitled to a prorated share of only that portion of the said Commission's fund which have been collected, earned, and accumulated between the inception of such membership and the actual dissolution of said Commission.

### §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.

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.

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.

**§127-1-11 Executive Secretary.**

11.1 The Board of Appeals shall employ the Executive Secretary and Assistant Executive Secretary. At the discretion of the Board of Appeals these positions will be given from one-year to four-year contracts. These contracts will be re-negotiated at their conclusion. If new contracts are

not negotiated, people in these positions will be notified in writing six months prior to the end of the contract period. A letter to this effect shall be sent to the President of the West Virginia Secondary School Principals Commission.

11.2 If a vacancy occurs in the office of the Executive Secretary or Assistant Executive Secretary position during any contract period, the Board of Appeals shall fill such vacancy. The exception will be that if a person serving as a Board of Appeals member or one who has served in that capacity within the preceding one year prior to the vacancy becomes a candidate for one of the positions, the authority to fill the vacancy of said position shall be vested in the Constitution and Bylaws Committee.

11.3 The executive secretary shall serve during the will and pleasure of the Board of Appeals but shall not be removed during his/her term of office except for just and reasonable cause, inefficiency, failure to carry out duties hereinafter set forth shall be deemed sufficient cause for removal of the executive secretary.

#### **§127-1-12 Duties of the Executive Secretary.**

12.1 The executive secretary shall carry on the work incident to the efficient functioning of the Activities Commission. The general management and administration of the program of officiating for the interscholastic athletic activities sponsored by this Commission is considered one and a proper function of said Commission.

(a) He/She shall be responsible for assigning general areas of responsibilities and directing the activities of the assistant executive secretary as such responsibilities relate to the work of said Commission.

12.2 The executive secretary shall receive complaints and make investigations concerning the eligibility of secondary school athletes and participants in band activities. He/She shall also receive complaints and make investigations concerning violations of the rules of the Commission.

12.3 The executive secretary shall render decisions and impose penalties in athletic eligibility and other disputes subject to review by the Board of Appeals. The Executive Secretary shall have the discretion to grant exceptions to the rules based upon previous Board of Appeals decisions on cases of a similar nature. Appeals of rendered decisions by the Executive Secretary shall be filed within thirty (30) days of the decision unless otherwise stated.

12.4 It shall be the duty of the executive secretary to make a full and complete written report to the county board of education regarding any

disciplinary action taken by the Board of Appeals against a member school which is located in the county in which the said board of education has jurisdiction.

12.5 The executive secretary shall attend state meetings of the West Virginia Secondary School Principals Association and report, when requested by the principals, on the work of his/her office.

12.6 The executive secretary shall attend the meetings, when practicable, of the National Federation of State High School Associations and bring to the attention of the Commission and the Board of Appeals reports from the national meeting.

12.7 The executive secretary shall devote his/her full time to the work assigned to him/her by the Board of Appeals. He/She shall hold no other remunerative office or position. He/She shall not officiate at any interscholastic contest.

12.8 The executive secretary shall represent West Virginia in conferences and controversies involving other states.

12.9 The executive secretary shall exercise all rights and privileges pertaining to eligibility and to representation with the National Federation of State High School Associations granted to members by the Board of Appeals and Principals by these regulations.

**§127-1-13 Review Board.**

13.1 (a) A West Virginia Secondary School Activities Commission Review Board is hereby established.

(b) Said Review Board shall consist of seven (7) members to be appointed by the West Virginia State Board of Education upon recommendation by the State Superintendent of Schools. No person, other than a county superintendent of schools, and a representative of the West Virginia Athletic Directors Association, shall be appointed or shall serve who is employed by the West Virginia State Board of Education or any county board of education. All members of the Review Board shall be residents of the State of West Virginia.

(c) Each of the following associations shall be requested to present three (3) nominations to the State Superintendent of Schools for membership on the Review Board:

- (1) West Virginia Bar Association
- (2) West Virginia School Administrators Association

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(3) West Virginia State Committee of the North Central Association of Colleges and Secondary Schools

(4) West Virginia State Medical Association

(5) West Virginia Sportswriter Association

(6) West Virginia Athletic Directors Association

(7) West Virginia Retired School Employees Association

(d) Members of the Review Board need not be members of the association which submitted their names in nomination and shall be appointed for a term of five (5) years. Prior to the expiration date of the term of each member of the Review Board, the respective association will nominate three (3) representatives to the State Superintendent of Schools who shall subsequently recommend one (1) to the West Virginia State Board of Education.

(e) The term of office of each member of the Review Board will begin upon the acceptance of the appointment and will expire on June 30 of the year in which the term expires.

(f) The member with the shortest remaining tenure on the Review Board shall serve as its chairman. Each appointed member of said Review Board shall have equal voting privileges.

(g) In the same manner as prescribed in subsection 13.1(d) of these regulations, the West Virginia State Board of Education shall have power to fill any vacancy which occurs in the membership of the Review Board. Such appointments shall be made at the next regular or called meeting of said Board of Education following the existence of a vacancy and shall be for the unexpired term of the position vacated.

(h) Members of the Review Board shall serve without pay but shall be reimbursed for actual expenses incident to the performances of their duties upon presentation to the West Virginia State Department of Education an itemized sworn statement thereof. Costs shall be taxed by the Review Board at its discretion, not to exceed the actual expenses incurred, against the party who fails to prevail and the Review Board may, in its discretion, if it so desires, require any appealing party to post security for costs with the State Superintendent of Schools the sum of two hundred (\$200) dollars.

(i) The Review Board will sit for hearings within a reasonable time after the aggrieved party having a matter for review files an appeal but not longer than thirty (30) days after such appeal is filed, and at such other times as the Review Board may determine, at the State Capitol in Charleston, or in such other place as the Chairman of said Review Board may elect.

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13.2 The West Virginia State Department of Education shall make available adequate and competent secretarial services to record the proceedings and transactions of each meeting of the Review Board and to prepare the official written report, required elsewhere in these regulations, on each decision rendered by said Review Board.

13.3 (a) Any decision of the Board of Appeals involving a penalty, protest, or interpretation of the rules and regulations of this Commission governing interscholastic athletic or band activities may be appealed to the Review Board in the manner hereinafter described. Said appeal may be made by any member of the aggrieved party which is directly affected by the decision of the Board of Appeals and aggrieved by such decision of the Board of Appeals.

(b) Appeals must be filed with the State Superintendent of Schools of West Virginia within fifteen (15) days after any final decision of the Board of Appeals of the West Virginia Secondary School Activities Commission.

(c) Upon receipt of said appeal, the State Superintendent of Schools shall immediately notify each member of the Review Board of said appeal and the chairman of said Review Board who shall forthwith set a date, time and place for hearing and shall immediately notify all interested parties, in writing, of the same.

(d) The filing of any appeal shall not stay enforcement nor act as a supersedeas thereto of the prior ruling or decision of the Board of Appeals. However, pending the hearing of any appeal, at its discretion, the Board of Appeals may grant a stay of enforcement upon such terms as it deems proper.

13.4 (a) Proceedings for review shall be instituted by filing a petition, in quintuplicate, with the State Superintendent within fifteen (15) days after the date upon which such party received notice of the final order or decision of the Board of Appeals. A copy of the petition shall be served upon the West Virginia Secondary School Activities Commission or its executive secretary and all other parties of record by registered or certified mail. The petition shall state whether the appeal is taken on questions of law or questions of fact, or both. No appeal bond shall be required to effect any such appeal.

(b) Within fifteen (15) days after receipt of a copy of the petition by the West Virginia Secondary School Activities Commission, or its Executive Secretary, or within such further time as the Review Board may allow, said Commission or said Executive Secretary shall transmit to such Review Board, the original or a certified copy of the entire record of the

proceedings under review, including a transcript of all testimony and all papers, motions, documents, evidence and records as were before the said Commission, all Commission staff memoranda submitted in connection with the case, and a statement of matters officially noted; but, by stipulation of all parties to the review proceedings, the record may be shortened. The expense of preparing such record shall be taxed as a part of the costs of the appeal. The appellant shall provide security for costs involved. Upon demand by any party to the appeal, said Commission shall furnish, at the cost of the party requesting same, a copy of such record. In the event the complete record is not filed with the Review Board within the time provided for in this section, the appellant may apply to the Review Board to have the case docketed, and the Review Board shall order such record filed. Failure of the said Commission to file the record within the time stipulated shall automatically stay the enforcement of the order or decision of the Board of Appeals, in that particular case, and such stay shall continue until such record is filed.

(c) Appeals taken on questions of law, fact or both, shall be heard upon assignment of error filed in the cause or set out in the briefs of the appellant. Errors not argued by brief may be disregarded, but the Review Board may consider and decide errors which are not assigned or argued.

(d) The review shall be conducted by the Review Board without a jury and shall be upon the records made before the Commission, except that in cases of alleged irregularities in procedure before the Commission not shown in the record, testimony thereon may be taken before the Review Board. The Review Board may hear oral arguments and require written briefs.

13.5 After hearing all evidence and arguments, the Review Board shall render a decision in one (1) of three (3) forms:

- (a) Sustaining the ruling of the Board of Appeals;
- (b) Reversing the ruling of the Board of Appeals; or
- (c) Remanding the matter to the Board of Appeals for further action.

(a) The Board of Review shall reverse, vacate or modify the order or decision of the Board of Appeals if the substantial rights of the petitioner or petitioners have been prejudiced because of the administrative findings, inferences, conclusions, decisions or orders are

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the Commission;
- (3) Made upon unlawful procedures;

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- (4) Affected by other error of law;
- (5) Clearly wrong in view of the reliable probative and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(b) Four (4) members, present and voting, shall constitute a quorum for the Review Board to transact all business.

(c) A majority vote of those members of the Review Board in attendance at any hearing shall be required to render a decision. Such decision shall be final and binding on all parties concerned.

(d) Within thirty (30) days from the date of any hearing, the Review Board shall make a written report of its decision, stating briefly therein its reasons for such a decision. Copies of the report shall be mailed to the State Superintendent of Schools, the executive secretary of the West Virginia Secondary School Activities Commission and, upon written request, to other interested parties.

13.6 (a) Nothing in these regulations shall be construed to limit the Board of Appeals in performing its regular duties as provided in the regulations of the West Virginia Secondary School Activities Commission; in making investigations and initiating proceedings against any member of said Commission in making interpretations of the rules of eligibility of student athletes of band members; or in imposing penalties for the violations of any rules, regulations or bylaws of said Commission.

(b) §127-1-8.5 of the Constitution, and §127-6-3.2 of these regulations which infer or state that decisions of the Board of Appeals are final are hereby modified only to the extent that such final ruling of the Board of Appeals may be appealed within the time limit in the manner prescribed elsewhere in these regulations and affirmed, reversed or remanded by the Review Board.

**§127-1-14 Rules and Regulations.**

The Constitution and Bylaws of the West Virginia Secondary School Activities Commission are the rules and regulations of said Commission.

**§127-1-15 Board of Trustees.**

15.1 The Board of Appeals shall appoint a five (5)-member Board of Trustees. Each trustee shall be a principal of a secondary school in West

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Virginia and shall serve during the will and pleasure of said Board of Appeals. 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 trustees at the same time.

15.2 The Board of Trustees and their lawfully appointed successors shall hold title to all real estate and other property owned by the West Virginia Secondary School Activities Commission except as shall be directed otherwise by the Board of Control.

15.3 The Board of Trustees shall elect from the membership thereof, to hold office for a term of one (1) year or until a successor shall be elected, a chairman and, if need, requires a vice-chairman, secretary and treasurer.

15.4 The Board of Trustees shall serve without pay or honorarium.

15.5 If it so elects, the Board of Control shall direct the Board of Trustees to incorporate in accordance with the pertinent laws of West Virginia and in such manner as will fully protect and exempt from any and all legal liability the individual officers and members, jointly and severally, of the West Virginia Secondary School Activities Commission for an account of the debts and other obligations of every kind and description of said Commission.

15.6 Should a trustee withdraw from membership of the Commission or be excluded therefrom, his trusteeship therein shall automatically cease from the date of such withdrawal or exclusion.

15.7 Should a trustee refuse, within five (5) days from the receipt thereof, to execute a legal instrument relating to any property of the Commission, when directed to do so by the Board of Control or the Board of Appeals, and when all legal requirements have been satisfied with reference to execution, the Board of Appeals may declare his/her membership on the Board of Trustees vacated.

15.8 The Board of Control and/or the Board of Appeals may direct the trustees with respect to the purchase, sale, mortgage, encumbrance, construction, repairing, remodeling and maintenance of any and all property, real and personal, as may be committed to said trustees by said Board of Control or Board of Appeals.

**EXECUTIVE SUMMARY**  
**WEST VIRGINIA BOARD OF EDUCATION**

**POLICY NUMBER AND TITLE:** Policy \_\_\_\_\_  
West Virginia Secondary School Activities Commission  
Proposed Changes in Rules and Regulations

**PUBLIC COMMENT PERIOD ENDS:** May 17, 2000    **ADOPTED:** September 15, 2000

**BACKGROUND**

The majority of public and most private schools in West Virginia belong to the West Virginia Secondary School Activities Commission. Each year, the principals of member schools submit revisions to the rules and regulations. The submitted proposals are presented and voted upon at the annual Board of Control meeting. Any approved changes are then submitted to the West Virginia State Board of Education for their review and approval.

**PURPOSE**

These amendments are brought forth to keep the West Virginia Secondary School Activities Commission current and updated on changes, trends and problems in the band and athletic programs.

These proposals were distributed for public comment in April and May. The West Virginia Secondary School Activities Commission will present to the Board the comments received for your review at the June meeting.

The West Virginia Secondary School Activities Commission staff, Constitution and Bylaws Committee, and Board of Control respectfully request that the proposed rule changes to the West Virginia Secondary School Activities Commission Rules and Regulations Handbook be approved.

**CONTENT**

Eleven proposals are being submitted to the State Board by the Secondary School Activities Commission. Each rule change is presented with the whole rule being included. This will help the State Board members understand the significance of the rule change.

The following is a brief summary of the effect of each proposal:

1. Allows sixth grade students to participate in all middle school interscholastic sport teams except football. (Vote: Yes-70 No-25)
2. Allows the WVSSAC to issue Complimentary Courtesy and Identification Cards to retired athletic directors with at

- least 20 years as a coach, athletic director, or combination of coaching and athletic director experience. (Vote: Yes-93 No-1)
3. Allows 31 baseball games if participating in a tournament with a minimum of four participating teams. (Vote: Yes-76 No-23)
  4. Changes the beginning of the junior high/middle school cheer season to be consistent with other junior high/middle school fall sports. (Vote: Yes-94 No-2)
  5. Allows 19 soccer matches if participating in a conference tournament. (Vote: Yes-54 No-38)
  6. Establishes rules for junior high/middle school swim teams. (Vote: Yes-64 No-13)
  7. Changes the end of the high school volleyball season. (Vote: Yes-102 No-0)
  8. Changes the end of the junior high/middle school volleyball season. (Vote: Yes-94 No 0)
  9. Allows ninth grade instrumental music students from feeder schools to participate in the marching band program if the feeder school does not offer a marching band program. (Vote: Yes-53 No-35)
  10. Changes WVSSAC office notification procedures for appeal cases. (Vote: Yes-104 No-0)

#### IMPACT

##### Instruction

None

##### Leadership

None

##### Financial

One proposal would result in an increased expense of \$10,000.00. Two other proposals would collectively result in decrease of revenue of \$6,000.00. Specific amount of increase for these proposals are explained on the Fiscal Note Worksheet.

##### Administrative

Athletic directors/principals will need to be aware of the changes in order to administer their school programs in accordance with the current rules. There is no major change that would impact administration negatively or cause extra administrative work at the school level.

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## **BELIEFS AND OBJECTIVES**

The Commission believes that a controlled activities program is a strong factor in the development of courage, personality, cooperation, and leadership. The Commission believes that representatives of a school should be good citizens of that school, hence the need for requirements and regulations governing eligibility that have been standardized.

The Commission is designed to provide means for the unbiased and amicable settlement of disputes regarding activities.

The Commission seeks to present proper ideals of sportsmanship so that coaches, players, school authorities, game officials, and spectators may combine to make any activity enjoyable and productive of physical and social benefits to both sides involved in the contest, with partisanship and prejudice eliminated as far as possible.

To accomplish these objectives the Commission asks the cooperation of its members, all lovers of clean, wholesome activities, and all fans, young and old, who believe in our American system of interscholastics.

## **HISTORICAL SKETCH**

The West Virginia High School Athletic Association was organized June 17, 1916, during a meeting of the West Virginia State Education Association. The original draft of the Constitution and Bylaws as formulated by Mr. R.J. Gorman, Charleston, West Virginia, was submitted to the principals of the high schools by Principal W.C. McKee of Charleston High School.

The charter members were Bluefield, Charleston, Clarksburg (Washington Irving), Elkins, Fairmont West, Grafton, Huntington, Parkersburg, St. Marys, Sistersville and Wheeling.

The first officers were: President, John G. Graham, Principal of Huntington High School; Vice President, Benjamin H. Williams, Principal of Beaver High School, Bluefield; and Secretary-Treasurer, H. P. Johns, Principal of Wheeling High School.

The officers of the association were to be three in number; namely, a president, a vice president, and a secretary-treasurer.

After a few minor changes of the original draft, the eleven charter member schools met and adopted the Constitution and Bylaws by an unanimous vote.

The Association grew very rapidly during the ensuing years, and the work on the part of the secretary-treasurer especially became very burdensome. During these years on three or four occasions, moves were made to employ a full time executive secretary, a step that had been taken in several other states. However, on each occasion, such proposal was defeated.

It was not until 1946 that the Board of Control of the Association realized that a principal of a member school could not serve his school in an acceptable manner and at the same time serve as secretary-treasurer of the High School Athletic Association.

As a result of a meeting of the Board of Control held in Bluefield, West Virginia, on April 6, 1946, "the report of the Committee on the Executive Secretary was distributed to the members in mimeographed form, and on motion of Principal W. C. Whaley, East Fairmont, and seconded by Principal Robert L. Bryan, South Charleston, the report was accepted by a majority vote."

The report accepted was as follows:

"The president, vice president and treasurer shall constitute a Board of Appeals, which board shall have authority to appoint an executive secretary to serve for a period of four years or during the will and pleasure of the Board of Appeals. The beginning salary of the executive secretary shall be three thousand four hundred dollars (\$3,400) to four thousand dollars (\$4,000)."

Shortly after the meeting in Bluefield, the Board of Appeals met and employed William R. Fugitt as the first Executive Secretary of the West Virginia School Athletic Association, and Mr. Fugitt immediately set up his office in Beckley, West Virginia.

Mr. Fugitt came into his new position well prepared for the work ahead. A graduate of Marshall College (AB) and the University of Cincinnati (MA), Mr. Fugitt began his career as an elementary principal. He then taught and coached at Proctorville, Ohio, and Dunbar, West Virginia, after which he served for four years as a high school principal in Beckley. From 1933 to 1937, Mr. Fugitt was Assistant County Superintendent of Raleigh County Schools.

During Mr. Fugitt's tenure as Executive Secretary of the Secondary School Activities Commission, he was elected President of the National Federation of State High School Associations, an organization in which some 20,000 senior and junior high schools hold membership.

During Mr. Fugitt's tenure in office, the name of the Association was changed to that of the West Virginia Secondary School Activities Commission. This took place in 1955.

Mr. Fugitt passed away on November 3, 1959 and was succeeded by W. Gordon Eison who, at that time, was a member of the Board of Appeals. The office was moved to Charles Town for a short time and then to Parkersburg upon Mr. Eison's relocation.

Mr. Eison was a graduate of Glenville State College (AB) and West Virginia University (MA). He served the Wirt County Board of Education for a period of 14 years as teacher, coach, principal, and county superintendent of schools before moving on to the principalship of Charles Town High School in Jefferson County.

Mr. Eison was in his 12th year as principal at Charles Town when appointed to the Executive Secretary position. During his tenure as Executive Secretary, he, like Mr. Fugitt, was elected President of the National Federation of State High School Associations.

Mr. Eison retired September 1, 1975 and was succeeded by Mr. Sam Williams who, at the time, was serving as West Virginia's first Assistant Executive Secretary.

Mr. Williams was educated at Glenville State College (AB) and received his MA at West Virginia University. He then became Principal of Wirt County High School and served in that capacity for ten years. From Wirt County, Mr. Williams moved to New Matamoras, Ohio, where he served as Executive Head of that school district for two years and moved on to St. Marys High to serve as Principal for five years. For a period of twenty years, Mr. Williams was active as a football official in high schools and colleges in West Virginia and Ohio and was ranked as one of the top football officials in the Mid-Atlantic Conference.

It was during his tenure that the Commission experienced tremendous growth, particularly in the area of girls sports and state level championships. The current SSAC office was also built during this time. Mr. Williams retired on January 1, 1986.

Mr. Bill Hanlin became Executive Secretary on January 1, 1986, after serving as Assistant Executive Secretary since 1975. Mr. Hanlin was educated at Glenville State College (AB). He then coached football at Tyler County High School and Ashland High School, Ashland, Ohio. Mr. Hanlin entered the University of Maryland as a graduate assistant and earned his MA Degree. After receiving his MA at Maryland, he returned to St. Marys High School as football coach for nine years. He returned to Glenville State College as head coach in football from 1966 until 1975 before becoming the Assistant Executive Secretary.

Important programs implemented during Mr. Hanlin's tenure included the officials and schools rating systems, PROJECT TARGET, the Academic Achievement Awards and state-wide cheering competition. He also served on the National Federation of State High Schools Executive Committee as Vice President and was a member of the National Federation TARGET Executive Committee.

Mr. Jim Hamrick assumed the Executive Secretary position on January 16, 1989. A graduate of Glenville State College (AB) and West Virginia University (MA), Mr. Hamrick began his career at his high school Alma Mater, Meadow Bridge High School. After teaching math and coaching there for three years, he moved to Rainelle High School where he was head coach of all sports for four years. From there he went to Clendenin High School for one year. During that time he was a member of the WVSSAC Board of Appeals, directed the State Track Meet and served on numerous other WVSSAC Committees. He was also a member of the National Federation Track Rules Committee on two occasions. From there he moved on to Herbert Hoover High School for seven years. In 1970 he was named as

principal at Clendenin Junior High School where he served until 1989. For twenty-five years he served as a football, basketball, baseball and track official. He also directed numerous state basketball tournaments and was director of the state track meet for thirteen years. He retired in August, 1992.

Mr. Warren Carter assumed the position as Executive Secretary in September 1992. He had served as Assistant Executive Secretary since 1985. He graduated from Shepherd College (AB) and West Virginia University (MA). Mr. Carter taught at Charles Town and later assumed the principalship of Shepherdstown High School. He was the Principal at Jefferson High School at the time of his appointment to the WVSSAC staff. Prior to that time he had served as President of the Board of Appeals and as a member of the National Federation Executive Committee.

Ms. Janet Pannett was appointed Assistant Executive Secretary in January 1993. She was appointed Administrative Assistant of the WVSSAC in July 1986. Ms. Pannett was a graduate and former instructor and coach at West Liberty State College. She received her MA degree from West Virginia University. During her tenure, tremendous growth and development occurred in the girls program and implementation of state-wide competition in cheerleading.

Mr. Gerald Trembush, Principal of Moundsville Jr. High School and past president of the WVSSAC Board of Appeals, was appointed Assistant Executive Secretary on May 1, 1993. He taught and served as Principal at Sherrard Jr. High School and in 1972 assumed the Assistant Principalship at John Marshall High School. He was appointed Principal at Moundsville Junior High School in 1984.

Ms. Elizabeth W. Best, Administrative Assistant of Jefferson High School, was appointed Assistant Executive Secretary on June 13, 1995. She taught mathematics and served as department head at Jefferson High School for eleven years. She was appointed Administrative Assistant at Jefferson High School in 1988.

Mr. C. W. "Butch" Powell, Athletic Director and Boys' Basketball Coach of Nicholas County High School, was appointed Assistant Executive Secretary on August 5, 1997. He taught, coached, and served as athletic director at Kingwood High School from 1969 to 1974 and then assumed similar positions at Nicholas County High School from 1974-1997.

Mr. Mike Hayden, Athletic Director of Parkersburg High School, was appointed Executive Secretary on January 1, 2000. Graduated Parkersburg High School in 1960 and then from Morehead State University in 1965. Taught and coached for three years at Massillion High School before returning to Parkersburg High School in 1968 as teacher/coach. Head football coach at Parkersburg South High School from 1970-84. Assistant Principal Parkersburg High School 1984-December 99. Certified Athletic Administrator (CAA). Masters Degree in Education Administration from West Virginia University.

## REORGANIZATION AND LEGALIZATION

Prior to 1952, the Bylaws consisted of major rules to which had been added, over the years, explanations and rulings based upon interpretations and decisions of various Boards of Appeals. As a result of general acceptance and long usage, these explanations and interpretations acquired force and meaning comparable to the basic rules. Consequently, at the annual meeting of the Board of Control in 1952, official action was taken declaring that, because of usage, explanations and interpretations under the rules are a part of the rules.

At the annual meeting in 1955 a constitution was adopted establishing authority for a reorganization to include all interscholastic activities and the changing of the name of the organization from the "West Virginia High School Athletic Association." The reorganization provided for a division of the Bylaws into two separate parts: "The Athletic Bylaws" and "The Non-Athletic Activities Bylaws."

An act to amend Article 2, Chapter 18 of the Code of West Virginia of 1931 as amended by adding thereto a new section, designated Section 25, pertaining to The West Virginia Secondary School Activities Commission was enacted into law by the West Virginia Legislature on March 11, 1967. The new law created the West Virginia Secondary School Activities Commission as a legal entity, an arm of the county school boards. As such it is authorized by law to make rules and regulations and to adjudicate contested cases.

Prior to the enactment of the law in 1967, the Commission's scope of jurisdiction included supervision, control and regulation of all interscholastic extracurricular activities of the schools of its members. The law now limits the Commission's scope of jurisdiction to interscholastic athletic events and band activities.

The position of the Commission was further strengthened as the result of a decision rendered by the West Virginia Supreme Court of Appeals in a case styled, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION v HARVEY OAKLEY, JUDGE, AND EDWARD LEE, dated September 1968.

The decision rendered is long and need not be recounted here in its entirety. However, a few very significant statements from that decision are important enough to be included in this section on LEGALIZATION. (Boldface is pertinent. Points not necessarily in order in the decision).

1. As a general rule courts should not interfere with the internal affairs of school activities commissions or associations.

2. The West Virginia Secondary School Activities Commission is still for all intents and purposes in the same position as it has been for the past fifty years; that is, that member schools eligible to participate may voluntarily do so, and after such participation, they agree to comply with the rules and regulations that have governed such organization in the past and will govern

in the future.

3. The organization has had rules for eligibility of students to participate in athletics or procedure for declaring such students ineligible to participate and for disciplinary procedures for member schools and for the review of such action or decision made by the officers of boards of the association or organization during its entire existence. Where such procedure is provided for in such organization or association the procedure must be followed and due process of law may be afforded administratively without the use of or application to the courts.

(State ex. rel. Burchett v Taylor, 150 W.Va. 702, 149 S.E. 2d 234.)

The question as to whether a student's participation in interscholastic athletics is a CONSTITUTIONAL RIGHT or a PRIVILEGE was answered in litigation in the UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF WEST VIRGINIA, CHARLESTON, in a Civil Action case No. 79-2497 Harris vs. West Virginia Secondary School Activities Commission, et. al.

On September 2, 1981, Chief Judge Dennis R. Knapp ruled:

"The Supreme Court held that a student's legitimate entitlement to an education is a property interest protected by the due process clause of the Fourteenth Amendment, Gross vs. Lopez, 419 U.S. 754; 95 S. Ct. 729 (1975). However, participating in interscholastic athletics is only a mere expectation rather than a constitutionally protected claim of entitlement and, thus, fall outside the protection of due process. Moreland v. Western Pennsylvania, 572 F. 2d 121 (3rd Cir. 1978). Even if the plaintiff's due process arguments were well founded, the WVSSAC, in both its rules and actions, provided plaintiff with a sufficient review procedure that ultimately resulted in the relief sought."

Judge Knapp's decision was appealed to the UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT in Richmond, Virginia. On May 2, 1982, Senior Circuit Judge Clement F. Haynsworth, Jr. and Circuit Judges H. Emory Widener, Jr. and Robert F. Chapman agreed with and affirmed the District Court's opinion.

In June, 1987, a Petition for Writ of Mandamus was filed by A. James Manchin, Treasurer of State of West Virginia, asking that the WVSSAC comply with statutory requirements of state agencies and that the SSAC deposit with the State Treasurer, within 24 hours, "all monies received or collected by them for or on behalf of the State for any purpose whatsoever."

The Supreme Court ruled and Justice McHugh wrote the opinion in December, 1987. This opinion stated that "Funds received by the West Virginia Secondary School Activities Commission, which operates pursuant to authority granted it by county boards of education under W.Va. Code 18-2-25 (1967), are quasi-public funds" as defined in W.Va. Code 18-5-13 (1987), and are to be accounted for in a manner similar to that provided for funds of county boards of education, but such funds are not to be accounted for under W.Va. Code 12-2-2 (1983) as "monies due the State." Consequently,

the Writ of Mandamus on behalf of Treasurer Manchin was denied.

A partial list showing the number of member schools from 1931:

1931-135	1989-318
1932-193	1990-327
1933-195	1991-320
1934-198	1992-306
1935-196	1993-306
1936-205	1994-306
1937-212	1995-307
1938-218	1996-308
1939-215	1997-307
1940-219	1998-304
1941-220	1999-304
1942-221	
1943-214	
1944-214	
1945-214	
1946-219	
1947-221	
1948-222	
1949-226	
1950-228	
1951-287*	
1952-287	
1953-289	
1954-290	
1955-291	
1956-296	
1957-305	
1958-318	
1959-320	
1960-320	
1961-318	
1962-321	
1963-328	
1964-333	
1965-334	
1966-333	
1967-332	
1968-327	
1969-317	
1970-320+	
1971-323	
1972-318	
1973-322	
1974-322	
1975-320	
1976-313	
1977-312	
1978-310	
1979-311	
1980-313	
1981-311	
1982-311	
1983-313	
1984-321	
1985-314	
1986-313	
1987-316	
1988-316	

\*Hereafter this figure includes Junior High Schools as members.  
+Hereafter this number also includes Private and Parochial School Members.

## **NATIONAL FEDERATION**

The National Federation consists of the fifty individual state high school athletic and/or activities associations and the association of the District of Columbia. Also affiliated are nine interscholastic organizations from the Canadian Provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland-Labrador, Nova Scotia, Ontario, Prince Edward Island, Saskatchewan and Quebec as well as the Canadian School Sports Federation and the associations of the Republic of the Philippines, Guam and Saint Thomas.

These associations have united to secure the benefits of cooperative action which eliminates unnecessary duplication of effort and increases efficiency through the pooling and coordinating of ideas of all who are engaged in the administration of high school athletic and activities programs.

## **ORIGIN AND GROWTH**

The national organization had its beginning in a meeting at Chicago on May 14, 1920. L.W. Smith, secretary of the Illinois High School Athletic Association, issued invitations to neighboring states, and state association representatives came from Illinois, Indiana, Iowa, Michigan and Wisconsin. The primary purpose of the meeting was to discuss problems which had resulted from high school contests which were organized by colleges and universities or by other clubs or promoters. In many cases, little attention was paid to the eligibility rules of the high school associations or to other school group regulations, and chaotic conditions had developed. At this first meeting it was decided that the welfare of the high schools required a more active part in the control of such athletic activities be exercised by the high school through the state associations, and this control necessitated the formation of a national organization. A Constitution and Bylaws were adopted and the group decided on the name "Midwest Federation of State High School Athletic Association." Principal George Edward Marshall, Davenport, Iowa, was elected president and Principal L.W. Smith of Joliet, Illinois, was elected secretary-treasurer.

In 1921, four states - Illinois, Iowa, Michigan and Wisconsin - continued their interest and became charter members through formal ratification of the constitution. Largely due to their efforts, the national organization grew during the early years.

In 1922, the Chicago annual meeting was attended by representatives from eleven states, and the name of the National Federation of State High School Athletic Associations was adopted. A number of college and university representatives who attended the meeting expressed sympathy for and interest in the efforts to introduce a high degree of order in the regulation of interscholastic contests.

Since that time, the National Federation has had a healthy growth to its present nationwide membership. By 1940, a national office with a full-time executive staff became necessary, and such office was established in September of that year.

The legislative body is the National Council made up of one representative from each member state association. Each representative must be a state association chief executive officer or governing board member. The executive body is the Executive Committee of twelve members from the eight territorial sections as outlined in the Constitution. Their election is by the National Council at its summer meeting.

### **STATEMENT OF PHILOSOPHY**

The purpose of the National Federation of State High School Associations is to coordinate the efforts of its member state associations toward the ultimate objectives of interscholastic activities. It shall provide a means for state high school associations to cooperate in order to enhance and protect their interscholastic programs. In order to accomplish this, the National Federation is guided by a philosophy consistent with the accepted purposes of secondary education. Member state associations' programs must be administered in accordance with the following basic beliefs:

Interscholastic activities shall be an integral part of the total secondary school educational program which has as its purpose to provide educational experiences not otherwise provided in the curriculum, which will develop learning outcomes in the areas of knowledge, skills and emotional patterns and will contribute to the development of better citizens. Emphasis shall be upon teaching "through" activities in addition to teaching the "skills" of activities.

Interschool activities shall be primarily for the benefit of the high school students who participate directly and vicariously in them. The interscholastic activity program shall exist mainly for the value which it has for students and not for the benefit of the sponsoring institutions. The activities and contests involved shall be psychologically sound by being tailored to the physical, mental and emotional maturity levels of the youth participating in them.

Any district and/or state athletic meet competition to determine a so-called champion shall provide opportunities for schools to demonstrate and to evaluate the best taught in their programs with the best taught in other schools and in other areas of the state.

Participation in interscholastic activities is a privilege to be granted to those students who meet the minimum standards of eligibility adopted cooperatively by the schools through their state associations and those additional standards established by each school for its own students.

The state high school associations and the National Federation shall be concerned with the development of those standards, policies and regulations essential to assist their member schools in the implementation of their philosophy of interscholastic activities.

Nonschool activities sponsored primarily for the benefit of the participants in accordance with a philosophy compatible with the school philosophy of interscholastics may have values for youth. When they do not interfere with the academic and interscholastic programs and do not result in exploitation of youth, they shall be considered as a worthwhile supplement to interschool activities.

The welfare of the schools demands a united front in sports direction policies and the high school associations provide opportunity for this unity. **They must be kept strong!**