

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark In this Box

FILED

APR 28 12 55 PM '94

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES TITLE NUMBER: 127

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

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 09-127-1-5

TITLE OF RULE BEING AMENDED: ADMINISTRATION

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 JUNE 14, 1994 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

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

***09 SECTION 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

1.5 **Revision of Current Rule**

Proposal 1

Amend *09 §127-1-5 - Administration - (pg. 3) as follows:

5.2 5.2 At the 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 ~~or the Board of Appeals, but no such representative shall have the right to hold office in the Commission and~~ no such appointment shall absolve the member of his responsibility as defined in these regulations.

***09 §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 the 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 ~~or the Board of Appeals~~, but ~~no such representative shall have the right to hold office in the Commission and 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, 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.

Rationale:

This change is to allow the Board of Appeals a better working order. A person sent as a substitute would not have the knowledge base for this decision-making process. There is an internship that is necessary for understanding and efficient functioning of the Board of Appeals. A quorum can conduct business and a substitute is not necessary.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: 09-127-1-6 OFFICERS AND DUTIES

Type of Rule: Legislative Interpretive Procedural

Agency WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION

Address ROUTE 9, BOX 76
PARKERSBURG, WV 26101

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES	1,500		1,500		SAME
CURRENT EXPENSE	15,000		15,000		SAME
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

THE \$300 HONORARIUM FOR EACH BOARD MEMBER WOULD INCREASE 100% FROM \$1,500 CURRENTLY TO A TOTAL OF \$3,000. THE CURRENT EXPENSES FOR EACH BOARD MEMBER IS \$3,000 ANNUALLY. THIS TOO WOULD INCREASE 100% TO TOTAL OF \$30,000.

3. Objectives of these rules:

INCREASE PARTICIPATION OF PRINCIPALS IN THE ADMINISTRATION OF THE WVSSAC.

Rule Title: 09-127-1-6 OFFICERS AND DUTIES

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

TOTAL INCREASE FOR THE WVSSAC WOULD BE \$16,500 ANNUALLY.

C. Economic Impact on Citizens/Public at Large.

N/A

Date: 4/22/94

Signature of Agency Head or Authorized Representative

Waverly

TITLE 127
LEGISLATIVE RULES
WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION

SERIES 1
CONSTITUTION

***09 SECTION 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

1.5 **Revision of Current Rule**

Proposal 2

Amend *09 §127-1-6 - **Officers and Duties** - (pg. 5) as follows:

6.1 There shall be ~~five (5)~~ ten (10) 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.

6.1(b) ~~One (1)~~ Two (2) officer-members shall be elected to a regular term each year at the annual meeting of said Commission. The runner-up candidate for each officer-member in each election shall be declared the alternate-officer-members 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-members and alternate-officer-members shall be from the same administrative district.

6.1(e) The election shall be by ballot when more than ~~one (1)~~ two (2) candidates from the same administrative district in West Virginia ~~is are~~ nominated for officer-members. When more than ~~two (2)~~ three (3) candidates from the same administrative district are nominated for officer-members, the balloting shall continue until ~~one (1)~~ two (2) 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.

6.2 ~~Two (2)~~ Three (3) 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.

***09 §127-1-6. Officers and Duties.**

6.1 There shall be ~~five (5)~~ ten (10) 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)~~ Two (2) officer-members shall be elected to a regular term each year at the annual meeting of said Commission. The runner-up candidate for each officer-member in each election shall be declared the alternate-officer-members 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-members and alternate-officer-members 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)~~ two (2) candidates from the same administrative district in West Virginia ~~is~~ are nominated for officer-members. When more than ~~two (2)~~ three (3) candidates from the same administrative district are nominated for officer-members, the balloting shall continue until ~~one (1)~~ two (2) 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 ten thousand (\$10,000) dollars. The Executive Secretary shall furnish bond in the amount of fifty thousand (\$50,000) 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.

Rationale:

The WVSSAC is a site-base managed organization. The Principals establish the rules and regulations and are directly responsible for their administration. A total of ten (10) principals will increase their input into the operations of the SSAC.

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

***09 SECTION 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

1.5 **Revision of Current Rule**

Proposal 3

Amend *09 §127-1-8 - **Board of Appeals** - (pg. 6) 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.

Proposal 4

Amend *09 §127-1-8 - **Board of Appeals** - (pg. 7) as follows:

8.3(a) At least one of the staff personnel appointed to assist the Executive Secretary shall have the status of Assistant Executive Secretary ~~and at least one shall have the status of Administrative Assistant.~~ The appointment of said Assistant Executive Secretary ~~and Administrative Assistant~~ 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 ~~and Administrative Assistant~~ 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 ~~and Administrative Assistant~~ shall not be removed during the contract term of office except for just and reasonable cause as prescribed in subsection 11.3.

Proposal 5

Amend *09 §127-1-8 - Board of Appeals - (pg. 8) as follows:

8.13 ~~(5/9) Eight (8) 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.

***09 §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 ~~and at least one shall have the status of Administrative Assistant.~~ The appointment of said Assistant Executive Secretary ~~and Administrative Assistant~~ 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 ~~and Administrative Assistant~~ 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 ~~and Administrative Assistant~~ 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 ~~(5/9) Eight (8) 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.

Rationale:

127-1-8.2: The State Board of Education is ultimately responsible for all education in our State. An appeals board member from the State Board would enhance the communication between the WVSSAC and the State Board of Education. A State Board member brings to the Board of Appeals a valuable perspective for appeals and general administration of the Commission.

127-1-8.3(a): The position of administrative assistant is taken out of the Rules and Regulations Handbook because of the creation of a second Assistant Executive Secretary.

127-1-8.13: If the number of board members increases to 15 from 9, then it is only logical that the quorum needs to be increased.