



**WEST VIRGINIA  
SECRETARY OF STATE**

**NATALIE E. TENNANT**

**ADMINISTRATIVE LAW DIVISION**

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2/9/2012 3:31:56 PM

OFFICE OF  
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)**

AGENCY

Education

TITLE NUMBER

126

RULE TYPE

AMENDMENT TO EXISTING RULE

CITE AUTHORITY

Legislative Exempt

Yes

W. Va. Code §§29A-3B-

SERIES NUMBER OF RULE BEING AMENDED

069t seq.; W. Va. Board  
of Education v.

COMMENTS LIMITED TO

Written

Hechler, 180 W. Va.

451; 376 S.E.2d 839

(1988)

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS

Monday, March 12, 2012 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO

Fran Warsing, Superintendent

Office of Institutional Education Programs

WVDE - Capitol Building 6, Room 728

1900 Kanawha Boulevard, East

Charleston, West Virginia 25305-0330

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

Yes

Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-069



Rule Id: 8520



Document 23396



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**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 2)**

AGENCY

Education

RULE TYPE

Legislative Exempt

SERIES NUMBER OF RULE BEING AMENDED

AMENDMENT TO EXISTING RULE

Yes

TITLE NUMBER

126

CITE AUTHORITY

W. Va. Code §§29A-3B-

069t seq.; W. Va. Board

of Education v.

Hechler, 180 W. Va.

451; 376 S.E.2d 839

(1985)

**PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL**

This policy establishes regulations for education programs in the States secure predispositional juvenile centers. A specialized education program is required to assist these court-involved youth in making appropriate decisions concerning their future in school, home, and community life.

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

Yes

Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)**

AGENCY

Education

RULE TYPE

Legislative Exempt

SERIES NUMBER OF RULE BEING AMENDED

AMENDMENT TO EXISTING RULE

Yes

TITLE NUMBER

126

CITE AUTHORITY

W. Va. Code §§29A-3B-  
069t seq.; W. Va. Board  
of Education v.

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

Hechler, 180 W. Va.  
451; 376 S.E.2d 839  
(1988)

No costs or revenues will be impacted by the proposed amendment of W. Va. 126CSR69, Policy 2800: Regulations for the Education of Juveniles Placed in Secure Predispositional Juvenile Centers.

Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-069



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY		TITLE NUMBER
Education		126
RULE TYPE	AMENDMENT TO EXISTING RULE	CITE AUTHORITY
Legislative Exempt	Yes	W. Va. Code §§29A-3B-
SERIES NUMBER OF RULE BEING AMENDED		069t seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451, 376 S.E.2d 839 (1988)

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-069



Rule Id: 8520



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)**

**AGENCY**

**Education**

**TITLE NUMBER**

**126**

**RULE TYPE**

**AMENDMENT TO EXISTING RULE**

**CITE AUTHORITY**

**Legislative Exempt**

**Yes**

**W. Va. Code §§29A-3B-**

**SERIES NUMBER OF RULE BEING AMENDED**

**069t seq.; W. Va. Board  
of Education v.**

**3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECTS) PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.**

**Hechler, 180 W. Va.  
451, 376 S.E.2d 839  
(1988).**

**No costs or revenues will be impacted by the proposed amendment of W. Va. 126CSR69, Policy 2800: Regulations for the Education of Juveniles Placed in Secure Predispositional Juvenile Centers.**

**Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 126-069



Rule Id: 8520



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)**

AGENCY

Education

RULE TYPE

Legislative Exempt

SERIES NUMBER OF RULE BEING AMENDED

AMENDMENT TO EXISTING RULE

Yes

TITLE NUMBER

126

CITE AUTHORITY

W. Va. Code §§29A-3B-

069t seq.; W. Va. Board  
of Education v.

Hechler, 180 W. Va.

451, 376 S.E.2d 839

(1988)

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

No costs or revenues will be impacted by the proposed amendment of W. Va. 126CSR69, Policy 2800: Regulations for the Education of Juveniles Placed in Secure Predispositional Juvenile Centers. The proposed policy amendments update the language included in the rule.

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

Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-069



Rule Id: 8520



Document 23396

**EXECUTIVE SUMMARY**  
**WEST VIRGINIA DEPARTMENT OF EDUCATION**

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**Policy Number and Title:** **Policy 2800:** Regulations for the Education of Juveniles Placed in Secure Predispositional ~~Detention~~ Juvenile Centers.

**Background:** This policy establishes regulations for education programs in the State's secure predispositional juvenile centers. A specialized education program is required to assist these court-involved youth in making appropriate decisions concerning their future in school, home, and community life.

**Proposals:** Revisions to Policy 2800 are being recommended due to the agency changes. The juvenile programs are currently being operated by Division of Juvenile Services. When the original policy was written the Division of Corrections was the agency in charge of juvenile detention centers.

**Impact:** None

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**Response to Comments:**

STAKEHOLDERS RESPONSIBLE FOR PROPOSED AMENDMENTS TO POLICY 2800

Dr. Kathy D'Antoni

Dr. Fran Warsing

Jacob Green

Dewayne Duncan



**126CSR69**

**TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION**

**SERIES 69  
REGULATIONS FOR THE EDUCATION OF JUVENILES PLACED IN SECURE  
PREDISPOSITIONAL ~~DETENTION~~ JUVENILE CENTERS (2800)**

**§126-69-1. General.**

1.1. Scope - This policy establishes regulations for education programs in the state's secure predispositional juvenile ~~detention~~ centers.

1.2. Authority – W.Va. Constitution, Article XII, §2; W. Va. Code §§18-2-5; 49-5A-6a; and, 49-5E-6.

1.3. Filing Date. – ~~August 13, 1998.~~

1.4. Effective Date. – ~~September 12, 1998.~~

1.5. Repeal of Former Rule. – This legislative rule amends W. Va. 126CSR69, West Virginia Board of Education Policy 2800, “Regulations for the Education of Juveniles Placed in Secure Predispositional Detention Centers” filed August 13, 1998, and effective September 12, 1998.

**§126-69-2. Purpose.**

2.1. Juveniles placed in secure predispositional ~~detention~~ centers represent a population at-risk for school failure, dropping out of school, delinquency, incarceration, chemical addiction, and a future of alienation and dependency. Consequently, a specialized education program is required to assist these court-involved youth in making appropriate decisions concerning their future in school, home, and community life. In addition, juveniles placed in ~~detention~~ juvenile centers also have a fundamental constitutional right to an education regardless of their custodial circumstance.

2.2. The purpose of these regulations is to provide an intervention program for at-risk youth in secure predispositional ~~detention~~ centers and to ensure they receive appropriate educational opportunities during their period of detention and thereafter.

**§126-69-3. Responsibility for Education.**

3.1. The West Virginia Department of Education (hereafter WVDE) will establish and maintain education programs and services for youth placed in secure predispositional juvenile centers in accordance with these regulations.

**§126-69-4. Program.**

4.1. The WVDE will design and deliver a short-term, high-impact intervention program to achieve the following:

4.1.a. provide students with the opportunity to examine attitudes and behaviors for the purpose of promoting positive changes;

4.1.b. assist students in building positive beliefs in themselves and recognizing how preconceived ideas and low self-esteem can limit their personal growth;

4.1.c. provide information concerning prosocial life skills (e.g., social problem solving; anger control; coping and refusal skills; and sound habits of personal health);

4.1.d. provide students with the opportunity to continue basic instructional programming including remedial, special and General Educational Development (hereinafter GED) educational services;

4.1.e. complete an assessment of each student's education status and prepare a report of findings and recommendations;

4.1.f. provide transitional planning and linkages to service providers and other resources; and

4.1.g. work in cooperation with detention center staff to achieve the mission of the institution and the juvenile justice system (viz., prevention of delinquency; habilitation of youth; and protection of the juvenile and the public).

**§126-69-5. Curriculum and Instruction.**

5.1. The ~~detention~~ juvenile center education program will implement curriculum and instruction in accordance with the following standards:

5.1.a. the ~~detention~~ juvenile education program will have a written curriculum for implementing the program;

5.1.b. the curriculum will be organized and sequenced in a series of short-term, high-impact modular units which address specified instructional goals and objectives;

5.1.c. instructional activities will be consistent with the written curriculum and appropriate for the student's developmental level;

5.1.d. instructional materials will be age-appropriate, functionally-appropriate, and of high interest level for students;

## 126CSR69

5.1.e. the program will include a library area which houses a variety of age-appropriate books and materials;

5.1.f. each student will have a written set of individualized educational goals which culminate in a transitional plan;

5.1.g. the instructional program will accommodate the frequent entry and exit of students;

5.1.h. curricular and instructional practices will reflect high expectations for students;

5.1.i. the instructional program will be delivered in a climate conducive to learning; and

5.1.j. sufficient instructional materials, supplies and equipment will be available to deliver the curricular content.

### **§126-69-6. Transfer of Student Records.**

6.1. The ~~detention~~ juvenile center education program will establish and implement written procedures for the immediate transfer of student records from the public schools to the institution, from the institution to the public schools, and from institution to institution. Procedures will include a protocol for insuring the confidentiality of school records when sent or received via ~~FAX~~ facsimile. County school districts throughout the state shall provide school records to ~~detention~~ juvenile education programs in a forthwith manner.

### **§126-69-7. Assessment of Education Status.**

7.1 The ~~detention~~ juvenile center education program will include an assessment of each student's educational status. Staff will refer the student for comprehensive educational assessments in suspected areas of need as appropriate. A report of findings and recommendations will be prepared for each student and made available to the court for purposes of disposition.

### **§126-69-8. School Calendar.**

8.1. The WVDE will establish a calendar for the ~~detention~~ juvenile center education program in consultation with the director of the juvenile ~~detention~~ centers. The calendar for the ~~detention~~ juvenile education program will include a regular school term in compliance with state law concerning the required number of instructional and non-instructional days. The WVDE will also provide, and the calendar include, an extended school term of up to 40 days (viz., a 12-month education program) to the extent funds are provided to the WVDE for such programs.

### **§126-69-9. Length of Instructional Day.**

## 126CSR69

9.1. The ~~detention~~ juvenile education program will provide students the opportunity for a full instructional day in accordance with State Board of Education Policy 2510.

### **§126-69-10. Educational Facilities and Security.**

10.1. The Division of Juvenile Services or its public or private service provider has the responsibility to provide the WVDE with an area of adequate size to implement the program and appropriate security to insure the safety of staff and students. The area shall be safe, meet the needs of students, and provide for an environment conducive to learning.

### **§126-69-11. Professional Staff Qualifications.**

11.1. The professional educator(s) assigned to provide instructional services in the ~~detention~~ juvenile center will hold or qualify for a West Virginia professional or temporary teaching certificate. At least one professional will be endorsed in multi categorical special education. ~~endorsed to provide special education to behavior disordered students or specific learning disabled students.~~

### **§126-69-12. Maintenance of Educational Records.**

12.1. Educational records will be kept separate from the resident filing system within the ~~detention~~ juvenile facility center and maintained in accordance with applicable regulations under W. Va. 126-CSR-16, WVBE ~~State Board of Education~~ Policy 2419, Regulations for the Education of Students with Exceptionalities.

### **§126-69-13. Special Education.**

13.1. Exceptional students placed in a secure predispositional juvenile ~~detention~~ center will receive a free appropriate public education in accordance with applicable regulations under W. Va. 126-CSR-16, WVBE ~~State Board of Education~~ Policy 2419, Regulations for the Education of Students with Exceptionalities.

### **§126-69-14. Staffing.**

14.1. The WVDE will provide staff appropriate in number to implement the provisions of these regulations.

### **§126-69-15. Written Operational Procedures.**

15.1. The State Superintendent of Schools or designee is authorized to develop written operational procedures to implement the intent and provisions of this policy.

### **§126-69-16. Monitoring.**

16.1. The WVDE will monitor compliance with these regulations.

**§126-69-17. Severability.**

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

**POLICY 2800: Regulations for the Education of Juveniles Placed in Secure Predispositional ~~Detention~~ Juvenile Centers**

**COMMENT PERIOD ENDS: March 12, 2012**

**COMMENT RESPONSE FORM**

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The following form is provided to assist those who choose to comment on Policy 2800: Regulations for the Education of Juveniles Placed in Secure Predispositional Juvenile Centers. Additional sheets may be attached, if necessary.

Name : \_\_\_\_\_ Organization: \_\_\_\_\_

Title: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Please check the box below that best describes your role.

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> School System Superintendent | <input type="checkbox"/> School System Staff | <input type="checkbox"/> Parent/Family     |
| <input type="checkbox"/> Principal                    | <input type="checkbox"/> Teacher             | <input type="checkbox"/> Business/Industry |
| <input type="checkbox"/> Professional Support Staff   | <input type="checkbox"/> Service Personnel   | <input type="checkbox"/> Community Member  |

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<b>COMMENTS/SUGGESTIONS</b>
<b>§126-69-2. Purpose.</b>
<b>§126-69-3. Responsibility for Education.</b>
<b>§126-69-4. Program.</b>

**§126-69-5. Curriculum and Instruction.**

**§126-69-6. Transfer of Student Records.**

**§126-69-7. Assessment of Education Status.**

**§126-69-8. School Calendar.**

**§126-69-9. Length of Instructional Day.**

**§126-69-10. Educational Facilities and Security.**

**§126-69-11. Professional Staff Qualifications.**

**§126-69-12. Maintenance of Educational Records.**

**§126-69-13. Special Education.**

**§126-69-14. Staffing.**

**§126-69-15. Written Operational Procedures.**

**§126-69-16. Monitoring.**

**§126-69-17. Severability.**

**Please direct all comments to:**

Fran Warsing, Superintendent  
Office of Institutional Education Programs  
West Virginia Department of Education  
Capitol Building 6, Room 728  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0330  
E-Mail Address: [rmahan@access.k12.wv.us](mailto:rmahan@access.k12.wv.us)  
Fax No.: (304) 558-8833