



**WEST VIRGINIA
SECRETARY OF STATE**

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cFILED

12/12/2013 8:45:16 AM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR
A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY Education

RULE TYPE Legislative Exempt AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 126-

RULE NAME School Calendar (3234) 073

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d
839 (1988)

RULE IS LEGISLATIVE EXEMPT

Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839
(1988)

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

Monday, January 13, 2014

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: 126-073



Rule Id: 9291



Document: 25504

126CSR73

**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

**SERIES 73
SCHOOL CALENDAR**

§126-73-1. General.

1.1. Scope. - This legislative rule sets forth general regulations related to the adoption of the annual school calendar by the county boards of education (county boards) and multi-county vocational centers.

1.2. Authority. - W. Va. Constitution, Article XII, §2 and W. Va. Code §§18-5A-5, 18-5-45 and 18A-5-2.

1.3. Filing Date. December 12, 2013.

1.4. Effective Date. January 13, 2014.

1.5. Repeal of Former Rule. - This legislative rule repeals and replaces W. Va. 126CSR73, West Virginia Board of Education (WVBE) Policy 3234, “Year-Round Education Programs,” filed March 13, 2001, and effective April 12, 2001.

§126-73-2. Purpose.

2.1. The purpose of this rule is to set forth general criteria for adoption of the annual school calendar to provide county boards of education and multi-county vocational centers as much flexibility as possible so that they can develop a calendar that meets their individual needs.

§126-73-3. Application.

3.1. These regulations apply to the adoption of the school calendars for the 2014-15 school year and all subsequent years.

§126-73-4. Definitions.

4.1. Accrued instructional time - Instructional time earned during the instructional term from time added to the instructional day beyond the minimum instructional time required by W. Va. 126CSR42, West Virginia Board of Education Policy 2510, Assuring the Quality of Education: Regulations for Education Programs (Policy 2510) .

4.2. Cocurricular activity - An activity that is closely related to identifiable academic programs or areas of study that serve to complement the academic and technical curricula.

4.3. County boards - The governing body charged with the supervision and control of a county board school district, which is composed of five members, nominated and elected by the voters of the respective county.

4.4. Extracurricular activity – An activity that is not part of the required instructional day or curricular offerings but that is under the supervision of the school. Examples include athletics, noninstructional

assemblies, social programs, entertainment and other similar activities.

4.5. Instructional day – Pursuant to W. Va. Code §18-5-45, an instructional day means a day within the 180 instructional term, including the days used to reschedule canceled instructional days, that meets the following criteria:

4.5.a. Instruction is offered to students for at least the minimum amount of hours specified by W. Va. 126CSR28, West Virginia Board of Education Policy 2525, West Virginia's Universal Access to Early Education System (Policy 2525) for pre-kindergarten and Policy 2510 for grades kindergarten through twelve.

4.5.b. Instructional time is used for instruction and/or cocurricular activities.

4.5.c. The instruction provided meets the content standards and objectives (CSOs) prescribed by the WVBE.

4.6. Minimum employment term – An employment term for regular, full-time county board employees of at least 200 days, exclusive of Saturdays and Sundays, which do not need to be successive. Pursuant to W. Va. Code §18A-4-8, the minimum employment term shall be no less than ten months with each month defined as 20 employment days.

4.7. Multi-County vocational center – One of the seven vocational centers created by the WVBE of Education pursuant to the provisions of W. Va. Code §18-2B-2 to provide vocational programs to students of two or more counties.

4.8. Noninstructional day - A day within the minimum 200 day employment term during which either no instruction is provided to students, or the instruction provided does not meet the criteria defined in Section 4.5.

4.8. Out of calendar day – A nonpaid day that is not included as a part of the minimum 200 day employment term.

4.9. School year – Pursuant to W. Va. Code §18-1-2, the school year begins on the first day of July and ends on the thirtieth day of June.

§126-73-5. School Calendar.

5.1. Each county board of education and multi-county vocational center must develop a school calendar each year and submit the proposed calendar to the State Superintendent of Schools (State Superintendent), or designee, by the established deadline.

5.2. The school calendar shall provide an instructional term for students of no less than 180 separate days of instruction and a minimum employment term for employees of no less than 200 days.

5.3. A county board may provide for a longer instructional term for students, but must increase the employment term by a comparable number of days.

5.4. Each county board of education must develop an inclement weather and emergencies policy designed to guarantee that 180 separate days of instruction are provided to students.

5.5. The minimum instructional term may be decreased by order of the State Superintendent in any

county declared a federal disaster area and where the event causing the declaration is substantially related to a reduction of instructional days.

5.6. The WVBE is authorized under W. Va. Code §18-5-45(o) to grant a waiver to a county board for noncompliance with the provisions of W. Va. Code §§18, 18A, 18B and 18C to maintain compliance in reaching the mandatory 180 separate days of instruction. Waiver requests are to be submitted in accordance with the procedures established by the WVBE, using the waiver request form developed for this purpose. The procedures and form can be found on the West Virginia Department of Education's website.

§126-73-6. Employment Term.

6.1. The school calendar shall provide for an employment term that meets the following criteria:

6.1.a. An employment term of at least 200 days, excluding Saturdays and Sundays, for all regular, full-time employees, which need not be successive.

6.1.b. The length of the employment term (from the beginning to closing dates) cannot exceed 48 weeks, in accordance with W. Va. Code §18-5-45(c)(1).

6.1.c. The minimum employment term shall consist of no less than 180 separate days of instruction, and 20 noninstructional days, comprised of the following:

6.1.c.1. Seven paid holidays (any combination of the school holidays included in W. Va. Code §18A-5-2, which are: Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, New Year's Day, Martin Luther King's Birthday, Memorial Day, or West Virginia Day)

6.1.c.2. An election day, as specified in W. Va. Code §18A-5-2;

6.1.c.3. Six days to be designated as outside of the school environment, four of which must be scheduled after the 130th day of instruction of the school calendar;

6.1.c.4. The remaining days to be designated by the county board for purposes to include, but not be limited to:

6.1.c.4.A. Curriculum development;

6.1.c.4.B. Preparation for opening and closing school;

6.1.c.4.C. Professional development;

6.1.c.4.D. Teacher-pupil-parent conferences;

6.1.c.4.E. Professional meetings;

6.1.c.4.F. Making up days when instruction was scheduled but not conducted;

6.1.c.4.G. At least four two-hour blocks of time for faculty senate meetings with each two-hour block of time scheduled once at least every 45 days; and,

6.1.c.4.H. Scheduled out-of-calendar days that are to be used for instructional days in

the event school is canceled for any reason.

6.1.c.5. Pursuant to W. Va. Code §18-5A-5, county boards are required to provide to each faculty senate a two-hour block of time for a faculty senate meeting on a day scheduled for the opening of school prior to the beginning of the instructional term.

6.1.c.6. County boards are also required to provide to all professional and service personnel employed at least 18 hours of professional development annually and the school calendar must be developed in such a manner that the requirement can be met during the minimum 200-day employment term. All professional and service personnel are required to complete the number of hours of professional development provided each year by their respective county boards.

6.1.d. School calendars must be developed in compliance with W. Va. Code §18-5-45, which requires that the minimum two hundred day employment term be comprised of seven school holidays. The remaining school holidays are to be scheduled as nonpaid, out of calendar days, and are to be considered as such for all 200-day employment contracts.

§126-73-7. Instructional Term.

7.1. The school calendar shall provide an instructional term for students of no less than 180 separate days of instruction.

7.2. Each county board of education must develop a policy that requires additional minutes of instruction be added to the school day, or that entire additional days of instruction be added, to recover time lost due to late arrivals and early dismissals due to inclement weather or by the closing of schools because of the prevalence of contagious disease, conditions of weather or any other calamitous cause over which the board has no control.

7.3. County boards of education, however, will not be required to add additional minutes to the instructional day if all affected schools have accumulated sufficient accrued instructional time through their regular schedules that can be used to make-up the missed time caused by late arrivals and early dismissals.

7.4. Accrued instructional time may be only used to recover instructional time lost due to: the late arrival or early dismissal of students due to inclement weather; the closing of school because of the prevalence of contagious disease, conditions of weather or any other calamitous cause over which the board has no control; professional development activities; or, to accommodate the scheduling of faculty senate meetings on instructional days. Accrued instructional time cannot be used to avoid one hundred eighty separate days of instruction.

7.5. If it is not possible to provide 180 separate instructional days within the school calendar as originally scheduled, the county board must schedule instruction on any available noninstructional day (other than holidays, election day, or Saturdays and Sundays), regardless of the purpose for which the day was originally scheduled, or use a day that was scheduled as an out-of-calendar day. County boards have the ability to apply for a waiver in accordance with the provisions of W. Va. Code §18-5-45(o) to assist with meeting the mandatory 180 days of instruction.

7.6. If an out-of-calendar day is used as a make-up instructional day, the originally scheduled instructional day that was canceled becomes the out-of-calendar day (unpaid day). In accordance with W. Va. Code §18A-5-2, an employee's pay is not to be adjusted during a pay period because of this revision in the school calendar.

7.7. In accordance with Policy 2510, co-curricular activities may, by their nature, be scheduled without regard to the use of accrued instructional time.

7.8. Extracurricular activities do not count towards meeting the minimum instructional time for an instructional day. Accrued instructional time may not be used to accommodate the scheduling of extracurricular activities during instructional days.

§126-73-8. Faculty Senate Meetings.

8.1. In accordance with W. Va. Code §18-5A-5, the school calendar must provide to each faculty senate a two-hour block of time for a faculty senate meeting on a day scheduled for the opening of school prior the beginning of the instructional term.

8.2 The school calendar must also provide four additional two-hour blocks of time during noninstructional days, with each two-hour block of time scheduled once at least every 45 instructional days. The portion of the noninstructional day scheduled for the faculty senate meeting shall be considered as part of the purpose for which the noninstructional day is scheduled.

8.3. Faculty senates may also schedule a meeting during an instructional day if sufficient accrued instructional time has been earned by a school; however, every school in the district must have earned sufficient time for all faculty senates in the district to meet in this manner.

8.4. A faculty senate may also meet for an unlimited block of time during a noninstructional day to discuss and plan strategies to improve student instruction and to conduct other faculty senate business.

8.5. A faculty senate may elect to schedule a meeting on an instructional day outside of the instructional time for students, and take compensatory time off on the noninstructional day that is provided by the county board for its meeting, as long as the meeting takes place prior to the day that is scheduled in the school calendar.

8.6. If a noninstructional day that is originally scheduled for faculty senates to meet is canceled due to inclement weather, the county board may, but is not required, to reschedule the noninstructional day in order for the faculty senates to meet.

§126-73-9. Public Hearings.

9.1. Prior to voting on a final school calendar, each county board of education must hold at least two public hearings that allow all interested parties to discuss the school calendar.

9.2. According to W. Va. Code §18-5-45, public notices of the hearings must be published as a Class II legal advertisement in accordance with the provisions of W.V. Code §59-3-1 et seq. This means the legal advertisement must be published once a week for two successive weeks in a qualified newspaper published in the publication area. Notices for both hearings can be published in one advertisement. The first notice must be published at least ten days prior to the first meeting to provide sufficient time for interested parties to plan on attending the hearing.

§126-73-10. Submission of School Calendar to WVBE for approval.

10.1. In accordance with W. Va. Code §18-5-45(k), county boards must obtain approval of the school calendar from the WVBE prior to its implementation.

10.2. Unless the WVBE requests otherwise, the authority to approve the annual school calendars is delegated to the State Superintendent. This does not include the approval of waiver requests.

10.3. The school calendar, and any additional requested information, must be submitted in accordance with the annual instructions issued by the State Superintendent.

§126-73-11. Severability.

11.1. 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.