

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #3

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: W. Va. Department of Health and Human Resources *Human Services* TITLE NUMBER: 78

CITE AUTHORITY: W. Va. Code 49-2-126(c)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 25

TITLE OF RULE BEING PROPOSED: Goals for Foster Children

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Goals for Foster Children

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Health and Human Resources

Address: Bureau for Children and Families
Attn. Jim Weekley, CFO
350 Capitol Street, Rm. 730
Charleston, W. Va. 25301

Phone Number: (304) 356-4544 Email: Jim.K.Weekley@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

No impact on costs or revenue.

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.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title: Goals for Foster Children

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

MEMORANDUM

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.

Since the Department already had policy in place regarding foster children, it is not anticipated that there will be a fiscal impact.

Date: 7/30/2015

Signature of Agency Head or Authorized Representative

Karen Bow

GOALS FOR FOSTER CHILDREN

BRIEF SUMMARY OF THE RULE

This rule establishes and delineates goals for children in foster care and ensures that a child has an effective means of being heard if he or she believes the goals established have not been met.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE PROPOSED RULE

This rule has been legislatively mandated by House Bill 2527, which was passed on March 13, 2015. By establishing goals for children in foster care and providing a means to be heard, the delivery of child welfare services is enhanced for children in foster care.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: _____

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No) West Virginia Department of Health and Human Resources
Division of Children and Adult Services
Attn. Carla Harper, Program Manager

350 Capitol Street, Rm. 691
Charleston, W. Va. 250301

(304) 356-4571

LEGISLATIVE RULE TITLE: _____
Goals for Foster Children

1. Authorizing statute(s) citation W Va Code 49-2-126(c)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 26, 2015

b. What other notice, including advertising, did you give of the hearing?

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 26, 2015

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.
Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Carla Harper, Program Manager
350 Capitol Street, Rm. 691
Charleston, W. Va. 2502

(304) 356-4571

(304) 558-4563 (fax)
Carla.J.Harper@wv.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

78 CSR 25

Title 78

Legislative Rule

Department of Health and Human Resources

SERIES 25

Goals for Foster Children

RESPONSE TO PUBLIC COMMENTS

On June 26, 2015, the Department of Health and Human Resources commenced a 30-day public comment period, accepting written comments through 5:00 p.m. on July 26, 2015. The Department did not receive any comments regarding the proposed legislative rule.

78 CSR 25

FILED

TITLE 78
LEGISLATIVE RULE

2015 JUL 31 A 10:03

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 25

Goals for Foster Children

1. General.

1.1. Scope. -- This rule establishes and sets forth the goals for children and youth in foster care; identifies each individual goal established for children and youth in foster care; and, establishes a process by which children and youth in foster care can make their concerns known to the Circuit Court when the West Virginia Department of Health and Human Resources, Bureau for Children and Families, does not meet the goals established pursuant to provisions of W. Va. Code § 49-2-126(a) et seq.

1.2. Authority. - W. Va. Code § 49-2-126(c)

1.3 Filing date. _____, 2015

1.4 Effective date. _____, 2015

1.5 Purpose -- This rule sets forth the establishment of goals for children in foster care; provides process by which foster children may resolve issues of goals not completed; and, establishes due process procedures in cases when goals for foster children are not completed by the West Virginia Department of Health and Human Resources. In developing this rule, the Department has considered best practice standards which ensure better outcomes for children and youth in foster care.

2. Definitions.

2.1 Foster Care Setting - means 24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes.

2.2 Foster Child - Child under the age of 18 or 18 to 21 if under the jurisdiction of the court, or, 18 to 21 who has signed

an agreement to remain in the care, custody and control of the West Virginia Department of Health and Human Resources;

2.3 Department -- The West Virginia Department of Health and Human Resources.

2.4 Specialized Education - practice of educating students with special needs in a way that addresses their individual differences and needs.

2.5 Foster Family - a person certified by the West Virginia Department of Health and Human Resources, who acts as parent and guardian for a child in place of the child's natural parents but without legally adopting the child.

2.6 Extra-Curricular Activities - activities that are sponsored by and usually held at school but that are not part of the standard academic curriculum.

2.7 Transition Plan - A plan developed with a youth in foster care age 16 and up that establishes goals and a plan to help move a youth from foster care to independence.

3. Goals for Foster Children.

3.1 A child in foster care should have:

3.1.a. Protection by a family of his or her own, and be provided readily available services and support through care of an adoptive family or by plan, a continuing foster family;

3.1.b. Nurturing by foster parents who have been selected to meet his or her individual needs, and who are provided services and support, including specialized education, so that the child can grow to reach his or her potential;

3.1.c. A safe foster home free of violence, abuse, neglect and danger;

3.1.d. The ability to communicate with the assigned social worker or case worker overseeing the child's case and have calls made to the social worker or case worker returned within a reasonable period of time;

3.1.e. Permission to remain enrolled in the school the

child attended before being placed in foster care, if at all possible;

3.1.f. Participation in school extracurricular activities, community events, and religious practices;

3.1.g. Communication with the biological parents. Communication is necessary if the child placed in foster care receives any immunizations and if any additional immunizations are needed, if the child will be transitioning back into a home with his or her biological parents;

3.1.h. A bank or savings account established in accordance with state laws and federal regulations;

3.1.i. Identification and other permanent documents, including a birth certificate, social security card and health records by the age of sixteen, to the extent allowed by federal and state law;

3.1.j. The use of appropriate communication measures to maintain contact with siblings if the child placed in foster care is separated from his or her siblings; and

3.1.k. Meaningful participation in a transition plan for those transitioning out of foster care.

4. Means of Being Heard.

4.1 Should a foster child believe that the goals enumerated in section three have not been met, the foster child shall notify his or her caseworker.

4.2 The foster child's caseworker shall immediately meet with the foster child and discuss why the foster child believes a goal or goals have not been met and reach a resolution.

4.3 In the event the foster child and the foster child's caseworker is unable to reach a resolution, a meeting between the foster child, the foster child's caseworker and the caseworker's supervisor shall immediately occur in an effort to reach a resolution.

4.4 In the event no resolution is agreed upon, the caseworker shall notify the foster child's attorney and the matter should be made known to the Circuit Court at the next scheduled review hearing.

5. Burden of Proof.

5.1 In any hearing conducted pursuant to the provisions of this rule, the WV Department of Health and Human Resources, Bureau of Children Families assigned caseworker has the burden of proving that he or she has made reasonable efforts to insure goals were established, expected and pursued on behalf of the foster child or youth.