



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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Office of West Virginia  
Secretary Of State

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**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL  
RULE**

AGENCY: Secretary Of State TITLE-SERIES: 153-17

RULE TYPE: Interpretive Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: SUBMISSION OF DOCUMENTS FOR  
QUALIFIED NEWSPAPERS

CITE STATUTORY AUTHORITY: 29-19-3(c); 29-19-5(a); 29-19-5(c); 29-19-8; 29-19-9; 29-19-15(d)

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

January 3, 2019

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

**Yes**

**Stephen Robert Connolly -- 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 153  
INTERPRETIVE RULE  
SECRETARY OF STATE**

**SERIES 17  
SUBMISSION OF DOCUMENTS FOR QUALIFIED NEWSPAPERS**

**§153-17-1. General.**

1.1. Scope. -- This interpretive rule establishes the conditions for approval of documents filed by a newspaper with the Secretary of State seeking to publish legal advertisements under the provisions of Article 3, Chapter 59 of the Code of West Virginia.

1.2. Authority. -- W. Va. Code §§ 29-19-3(c); 29-19-5(a); 29-19-5(c); 29-19-8; 29-19-9; 29-19-15(d).

1.3. Filing Date. -- December 4, 2018

1.4. Effective Date. -- January 3, 2019

**§153-17-2. Other Documents Prescribed by the Secretary of State.**

2.1. Each newspaper shall submit to the Secretary of State:

2.1.1. An original Affidavit of Circulation and Qualification (Form NW-1);

2.1.2. A copy of the newspaper's "Statement of Ownership, Management and Circulation" filed with the United States Postal Service (U.S.P.S.);

2.1.3. A copy of the mailing permit issued by the U.S.P.S.; and

2.1.4. Any other documents that are required by the Secretary of State to approve the filing of the document.

**§153-17-3. Examination of Affidavit and Records.**

3.1. The Secretary of State shall examine each affidavit to insure conformity with the Newspapers and Legal Advertisements Article of the Code. Such examination shall include the following areas:

3.1.1. The affiant shall swear or affirm in the affidavit how the newspaper satisfies the statutory requirements:

3.1.1.1. The date the Board of Directors of the newspaper authorized the filing of the affidavit;

3.1.1.2. The average paid circulation in the preceding calendar year;

3.1.1.3. The number of years and months the newspaper has been continuously published;

3.1.1.4. An attestation that the newspaper has been published at least weekly for fifty (50) weeks or more in the subject calendar year;

3.1.1.5. An affirmation that the newspaper is published by having been first placed in circulation in a specified municipality and county of this State.

3.1.1.5.a. For the purpose of this rule, the phrase "first placed in circulation" shall mean the city and county in which the newspaper has a physical office location, and which is designated on the postal permit issued by the U.S.P.S.;

3.1.1.6. An affirmation that the newspaper is of general circulation and interest;

3.1.1.7. An affirmation that the newspaper has actual circulation throughout the publication area large enough to give a reasonable belief that a legal advertisement will give effective notice to the residents of the publication area;

3.1.1.8. That the newspaper averages four (4) or more pages in length per issue, exclusive of any cover;

3.1.1.9. The definite price of the newspaper circulated to the general public;

3.1.1.10. An affirmation that the newspaper is relied upon by the general public for events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements and other notices.

3.1.2. The Secretary of State shall also examine the Statement of Ownership, Management and Circulation filed with the U.S.P.S. Such examination shall include the following areas:

3.1.2.1. Verification that the information provided in the Statement is consistent with that provided in the Affidavit.

3.1.3. The Secretary of State shall also examine the mailing permit with the U.S.P.S. Such examination shall include the following areas:

3.1.3.1. Verification that the information provided in the mailing permit is consistent with that provided in the Affidavit.

**§153-17-4. Copies to be Filed.**

4.1. At the time a publisher or proprietor of a qualified newspaper files an affidavit with the Secretary of State, as required by this subsection, the publisher or proprietor shall:

4.1.1. Notify the clerk of the county commission and the board of Education of the county in which the qualified newspaper is published of the circulation classification of the qualified newspaper and of the applicable rate for publishing legal advertisements in the qualified newspaper during the ensuing twelve-month period commencing July 1<sup>st</sup>.

4.1.2. If the qualified newspaper is published in a municipality, the publisher or proprietor shall at the same time also furnish the same notification to the clerk or recorder of the municipality.

**§153-17-5. Duties of the Secretary of State.**

5.1. No later than December 31<sup>st</sup> of each year, the Secretary of State shall:

5.1.1. Publish and maintain a publically accessible database available on the Secretary of State's website to allow the local government and general public verify the filing of the qualified newspapers.

5.1.2. Issue a Certificate to each approved qualified newspaper.