

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In this Box

**FILED**

JUL 18 3 19 PM '95

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: West Virginia Board of Education TITLE NUMBER: 126  
RULE TYPE: Procedural; CITE AUTHORITY W.Va. Const., Article XII, §2  
and W.Va. Code 18-2-5  
AMENDMENT TO AN EXISTING RULE: YES  NO   
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3  
TITLE OF RULE BEING AMENDED: Notice and Conduct of Meetings (1241)  
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 August 21, 1995 AT 5 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Dr. Henry Marockie  
State Superintendent of Schools  
West Virginia Department of Education  
Building 6, Room 358  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0330

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Victor A. Barone  
Victor A. Barone  
Director, Legal Services

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

3.40

## EXECUTIVE SUMMARY

### POLICY 1241: NOTICE AND CONDUCT OF MEETINGS

#### Background

Policy 1241 sets forth the parameters for meetings of the West Virginia Board of Education. It was last amended in 1978.

West Virginia Code Section 18-2-3 provides that the West Virginia Board of Education shall hold at least six meetings in every year at such times and places as it may prescribe. Policy 1241 currently provides that the Board shall meet monthly on the second Thursday and Friday of each month in the Board conference room. It further provides that the Board may, upon due notice to the public, change the date, time and location of its regular meetings.

#### Purpose

The proposed revisions to Policy 1241 make two changes. The first would establish monthly one day meetings on the second Thursday of each month. The second would change the time limit for presentations to the Board from seven or eight minutes to five minutes unless otherwise designated by the Board.

#### Content

The changes are consistent with the Board's recent practice. One day meetings appear to provide time for the State Board to conduct its business. Should a two day meeting be necessary, Policy 1241 provides that the Board can so designate a meeting. The five minute time limit applies only to presentations, and it does not preclude the Board from allowing speakers additional time or from asking questions and seeking further information from presenters.

126CSR3

**TITLE 126  
PROCEDURAL RULE  
BOARD OF EDUCATION**

**SERIES 3  
NOTICE AND CONDUCT OF MEETINGS (1241)**

**§126-3-1. General.**

1.1. Scope - This procedural rule establishes requirements for notice of general and special meetings and general rules for conduct of said meetings.

1.2. Authority - W.Va. Constitution, Article XII, Section 2 and W.Va. Code 28-2-5

1.3. Filing Date -

1.4. Effective Date -

**§126-3-2. Preface.**

2.1. Whereas, the Constitution of West Virginia provides in Article II, Section 2, that: "the powers of government reside in all the citizens of the State, and can be rightfully exercised only in accordance with their will and appointment;"

2.2. Whereas, this constitutional mandate is reiterated in various forms in Sections 1, 2, 3, 10, 16 and 20 of Article III of the Constitution of West Virginia;

2.3. Whereas, the West Virginia Legislature has provided in Article 9A of Chapter 6 that all regular and special meetings of governing bodies shall be open to the people of the State and that the people shall be given reasonable advance notice of the time, date and location of their being convened: Provided, however, that governing bodies may hold executive sessions as part of duly convened regular, special or emergency meetings under certain circumstances as specified in Section 4, Article 9A, Chapter 6, of the West Virginia Code;

2.4. Whereas, the Legislature has provided in Section 3, Article 9A, Chapter 6, of the West Virginia Code that:

Each governing body shall promulgate rules by which the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings are made available, in advance, to the public and news media, except in the event of an emergency requiring immediate official attention; and,

2.5. Whereas, the Legislature, in Section 1, Article 1, Chapter 29B, of the West Virginia Code has:

. . . declared [it] to be the public policy of the State of West Virginia that all persons are, unless otherwise expressly provided by law, entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees; and,

2.6. Whereas, the West Virginia Board of Education, in pursuance of Article XII of the Constitution of West Virginia, recognizes that it has a responsibility to see that the people of the State are thoroughly, efficiently and freely educated, and that this responsibility takes many forms.

**§126-3-3. Notice of Meetings.**

Now, therefore, be it resolved that:

3.1. The West Virginia Board of Education shall meet at the State Capitol or at some other place convenient to the people of the State.

3.2. Regular meetings shall be held on the second Thursday ~~and Friday~~ of each month, ~~the Thursday meeting convening at 1:30 p.m., the Friday meeting~~ convening at 9:00 a.m. , in Room No. B-353, Building No. 6, State Capitol: Provided, however, that the State Board may, upon due notice to the public, change the time, date and location of its regular meetings.

3.3. Special meetings may be held at such other times as may be necessary, such meetings to be held upon the State Board's own resolution or at the call of its president.

3.4. Notice of all regular, special and emergency meetings shall be given through the regular public information services--including newspapers of the State, wire services, radio and television--at least one week in advance of all regular meetings, and a reasonable time in advance of all special and emergency meetings.

3.5. The notice given of any meeting shall include the time, date and place it is to be convened; the notice given of any special meeting shall also include a statement of its purpose.

3.6. The public will be provided copies of the agenda of any meeting on the day it is held and before it has been convened.

3.7. The minutes of the West Virginia Board of Education will be open to inspection of any member of the public, as provided by West Virginia Code 29B-1-1, et seq.

**§126-3- 4. Conduct of Meetings.**

Be it further resolved, that the West Virginia Board of Education recognizes that:

4.1. All meetings must be open to the public, although the State Board may, either on its own initiative or upon the request of an interested party, hold an executive session during a regular, special or emergency meeting after its presiding officer has identified the authorization under Article 9A of Chapter 6 for the holding of such executive session and has presented it to the governing body and to the general public, as required by Section 4, Article 9A, Chapter 6, of the West Virginia Code.

4.2. Persons desiring to address the State Board of Education are encouraged to make arrangements in advance with the State Superintendent or the President of the Board. However, advance arrangements are not necessary as such person may sign in prior to the scheduled commencement of any regular or special meeting. Any speaker shall provide his/her name, mailing address, telephone number(s) and the subject to be addressed. Presentations shall be limited to ~~seven~~ ten ~~five~~ minutes, unless otherwise designated by the State Board. Delegations are encouraged to use a spokesperson to present their concerns or proposals. ~~Delegations will be heard during the early part of the agenda during the Board's conference session.~~ However, the Board may choose to schedule the presentation of a delegation to coincide with a topic on the agenda, and may limit the total period of time to be devoted to comment on a particular issue or agenda item.

4.3. Although inquiry, consultation and discussion may be had in an executive session, no decisions (as defined in Section 2, Article 9A, Chapter 6, of the West Virginia Code) may be made in an executive session.

4.4. For purposes of this policy statement, the State Board of Education shall also mean the State Board of Vocational Education as designated by Section 2, Article 10A, Chapter 10, of the West Virginia Code, and the business of the State Board of Vocational Education shall be conducted in the same manner as that specified in this policy statement for the State Board of Education.

4.5. This policy statement amends the policy statement filed by the Board of Education in the Secretary of State's office on the ~~9th~~ 3rd day of June, ~~1978~~ 1991. Until this statement becomes effective in accordance with the provision of Section 2, Article 1, Chapter 29A, of the West Virginia Code, the original policy statement promulgated by the State Board of Education shall remain in full force and effect.

**RESPONSE FORM**  
**POLICY 1241: NOTICE AND CONDUCT OF MEETINGS**

Directions: Please use this form to comment on proposed Policy 1241: Notice and Conduct of Meetings

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Individual/Organization: \_\_\_\_\_

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

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General Comments:

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Comments for Section §126-3-1:

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Comments for Section §126-3-2:

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Comments for Section §126-3-3:

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Comments for Section §126-3-4:

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***Return comments by August 21, 1995 to:***

*Dr. Henry Marockie  
State Superintendent of Schools  
West Virginia Department of Education  
Building 6, Room 358  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0330*

**FISCAL NOTE WORKSHEET**  
(Submit 4 Copies)

HD NO \_\_\_\_\_ DRAFT NO \_\_\_\_\_ BILL NO \_\_\_\_\_ RESOLUTION NO \_\_\_\_\_

SUBJECT Notice and Conduct of Meetings FUND \_\_\_\_\_

SOURCE OF REVENUE:  GENERAL FUND  SPECIAL  OTHER (SPECIFY) \_\_\_\_\_

COST OF ESTIMATE BASED ON:  AN ORIGINAL ESTIMATE  BUDGET BILL  OTHER (SPECIFY) \_\_\_\_\_

INCOME ESTIMATE BASED ON:  AN ORIGINAL ESTIMATE  BUDGET BILL  OTHER (SPECIFY) \_\_\_\_\_

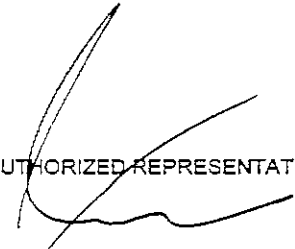
SHOW OVER-ALL EFFECT IN ITEMS 1 AND 2 & GIVE EXPLANATION OF BREAKDOWN BY FISCAL YEAR INCLUDING LONG-RANGE EFFECT

| EFFECT OF PROPOSAL   | ANNUAL   |          | FISCAL YEAR |        |            |
|--|----------|----------|-------------|--------|------------|
|  | INCREASE | DECREASE | CURRENT     | NEXT   | THEREAFTER |
| 1. ESTIMATED TOTAL COST  | \$ -0-   | \$ -0-   | \$ -0-      | \$ -0- | \$ -0-     |
| PERSONAL SERVICES<br>CURRENT EXPENSES<br>REPAIRS/ALTERATIONS<br>EQUIPMENT<br>OTHER | \$ -0-   | \$ -0-   | \$ -0-      | \$ -0- | \$ -0-     |
| 2. ESTIMATED TOTAL REVENUES  | \$ -0-   | \$ -0-   | \$ -0-      | \$ -0- | \$ -0-     |

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

DATE  
6/30/95

AGENCY  
Department of Education

AUTHORIZED REPRESENTATIVE  
  
Associate State Superintendent