



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

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Office of West Virginia
Secretary Of State

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

AGENCY: Education TITLE-SERIES: 126-143

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: County Superintendent Performance Evaluations
(5309)

CITE STATUTORY 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); and, W. Va. Bd. of Educ. V. Bd. of
Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

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

September 15, 2021

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

Yes

Michele L Blatt -- 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.

126CSR143

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 143
COUNTY SUPERINTENDENT PERFORMANCE EVALUATIONS (5309)

§126-143-1. General.

1.1. Scope. -- This rule governs the approval of processes by which county boards of education (county board) annually evaluate the performance of their superintendents.

1.2. Authority. -- W. Va. Constitution, Article XII, §2 and W. Va. Code §18-2-5 and §18-4-6.

1.3. Filing Date. -- August 16, 2021.

1.4. Effective Date. -- September 15, 2021.

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. 126CSR143, Policy 5309, County Superintendent Performance Evaluations, filed December 12, 2003, and effective January 11, 2004.

§126-143-2. Purpose.

2.1. The purpose of this policy is to prescribe how the West Virginia Board of Education (WVBE) will exercise authority set forth in W. Va. Code §18-4-6 which requires the WVBE to authorize the processes by which county boards shall annually evaluate the performance of county superintendents.

§126-143-3. Responsibilities.

3.1. Each county board shall annually evaluate the performance of its superintendent in accordance with a process authorized by the WVBE pursuant to this policy.

3.2. A county board shall not evaluate its superintendent using a process that has not been approved by the WVBE.

3.3. Nothing in this policy shall be interpreted to require a county board to evaluate an interim superintendent serving pursuant to W. Va. Code §18-4-1.

3.4. During any period the WVBE intervenes in the operation of a school system pursuant to W. Va. Code §18-2E-5, the county board shall not evaluate the superintendent's performance unless directed to do so by the State Superintendent of Schools (State Superintendent).

§126-143-4. Evaluation Processes for School Year 2022-2023 and Subsequent Years.

4.1. Beginning with the 2022-2023 school year, before evaluating the annual performance of the superintendent, the county board shall submit to the State Superintendent, for approval by the WVBE, a written description of the proposed evaluation process adopted by the county board, including a copy of evaluation forms to be used as part of the process.

4.1.a. In order to receive WVBE approval by July 1, the county board must submit its proposed evaluation process to the State Superintendent before the preceding December 31.

4.1.b. If the State Superintendent determines a proposed evaluation process submitted by the county board meets the mandatory requirements of section 5, the State Superintendent shall bring the proposal to the WVBE for consideration.

4.1.c. If the State Superintendent determines an evaluation process proposed by the county board does not meet the requirements of section 5, the State Superintendent shall return the proposal to the county board, identifying areas of noncompliance. After revising the proposed process to comply with the requirements of section 5, the county board shall submit to the State Superintendent the revised evaluation process for approval by the WVBE.

4.2. If the WVBE does not approve a county board's proposed evaluation process, the county board shall revise the evaluation process to address the WVBE's concerns and submit the revised evaluation process to the State Superintendent for approval by the WVBE.

4.3. Once the WVBE approves the county board's process for evaluating the superintendent's performance, the county board shall continue to utilize the approved process until the WVBE authorizes or requires the county board to employ a different process.

4.4. If a county board wishes to revise the superintendent evaluation process, the county board must submit the process for review to the State Superintendent and obtain WVBE approval.

§126-143-5. Required Criteria.

5.1. The process by which the county board shall annually evaluate the performance of the superintendent shall include the following criteria:

5.1.a. Before September 15, the county board and the superintendent shall annually establish written, measurable, and timely goals or objectives for the superintendent to accomplish. Each goal or objective shall include a specific timeline for completion. The timeline need not be the same for each goal or objective, and the timeline for any goal or objective may extend beyond the end of the current school year. At least one goal must relate to student achievement.

5.1.a.1. Goals addressing student success and well-being, including the required student achievement goal, must support progress of the established county strategic plan goals.

5.1.b. The process shall specify how the goals or objectives will be established when the county board and the superintendent seem unable to agree. The process may provide that the parties petition the WVBE to designate an individual to facilitate agreement on goals or objectives, that the county board will engage the West Virginia School Board Association and the West Virginia Association of School Administrators to facilitate agreement, or that another specific procedure will be followed to break the impasse.

5.1.b.1. In a manner determined by the county board and superintendent, the process considers input from other parties, such as citizens and school employees.

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5.1.c. The process shall require the county board to annually assess the superintendent's achievement of the written goals or objectives before June 30, except that the assessment shall be made before March 1 if the superintendent's contract is set to expire on the ensuing June 30.

5.1.d. The process shall require the county board to annually, before June 30, evaluate the superintendent's success in improving student achievement generally across the county and specifically as it relates to the management and administration of low performing schools, except that this evaluation shall be made before March 1 if the superintendent's contract is to expire on the ensuing June 30.

5.1.e. The process shall require the county board to evaluate the superintendent's performance in executive session, and to make available to the public a general statement about the evaluation process and the overall result and progress in meeting goals. The process shall specify how the county board will arrive at the general statement about the evaluation process and the overall result.

5.1.f. The process shall allow for the release of additional information about the evaluation only by mutual consent of the superintendent and the county board.

§126-143-6. Optional Criteria.

6.1. The process by which the county board shall annually evaluate the performance of its superintendent may include these criteria:

6.1.a. The process may require or allow the county board to annually, before June 30, assess the superintendent's performance in the areas of community relations, school finance, personnel relations, curricular standards and programs, and overall leadership of the across the county as indicated primarily by improvements in student achievement, testing and assessment, except that this assessment shall be made before March 1 if the superintendent's contract is to expire on the ensuing June 30. If the process includes such assessments, the process shall specify how the assessments will be made, including any ratings or rankings that will be employed.

6.1.b. The process may require or allow the county board to assess annually, before June 30, the superintendent's performance of any of the other duties of the chief executive officer of the county board as delineated in the superintendent's contract or other written agreement with the county board [W. Va. Code §18-4-10(1)], and the degree to which the superintendent keeps the county board apprised continuously of any issues that affect the county board or its schools, programs, and initiatives. [W. Va. Code §18-4-10(9).]

§126-143-7. Catalog of Evaluation Instruments.

7.1. The West Virginia School Board Association shall maintain a catalog of evaluation instruments which comply with this policy and shall make them available to county boards.

§126-143-8. Use of Evaluation Results.

8.1. A county board may use the results of its evaluation of the superintendent's performance to determine whether to offer the superintendent a new contract and the level of compensation or benefits to offer the superintendent in any new contract.

§126-143-9. Evaluation Training.

9.1. As an integral part of the process for evaluating the performance of superintendents for the 2022-2023 school year and subsequent school years, all county board members and superintendents shall receive evaluation training approved by the WVBE and conducted jointly by the West Virginia School Board Association and the West Virginia Association of School Administrators.

§126-143-10. Severability.

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