

WEST VIRGINIA
SECRETARY OF STATE

JOE MANCHIN III

ADMINISTRATIVE LAW DIVISION

Form #5

Do Not Mark In This Box

FILED

2002 JAN 10 P 2:04

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

CITE AUTHORITY: W. Va. Const., Article XII, § 2, W. Va. Code §§ 18-2-5a and 29A-3B-1, et seq.

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

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).

AMENDMENT TO AN EXISTING RULE: YES X NO _____

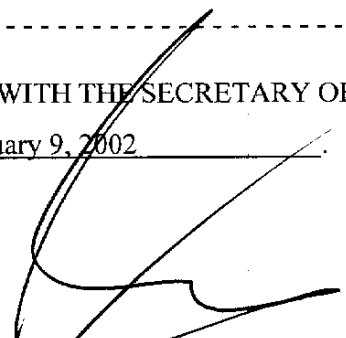
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3A

TITLE OF RULE BEING AMENDED: State Board of Education Policy Making Process
(1242)

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS February 9, 2002



William J. Luff, Jr.

Deputy State Superintendent of Schools

**EXECUTIVE SUMMARY
WEST VIRGINIA BOARD OF EDUCATION**

POLICY NUMBER AND TITLE: Policy 1242
State Board of Education Policy
Making Process

PUBLIC COMMENT PERIOD ENDS: December 11, 2001 **ADOPTED:**
January 9, 2002

BACKGROUND:

This policy has not been revised since 1989. The West Virginia Code has since been revised necessitating citation changes. Additionally, the West Virginia State Board of Education needs more flexibility in the length of time the policies are placed on comment.

PURPOSE:

This procedural rule modifies what was formerly labeled a Legislative Rule to update the proper West Virginia Code citations, allows flexibility for the length of time policies are placed on public comment, and clarify how the policies are made available to the public.

No comments were received nor other changes made to the proposed revision of Policy 1242.

**TITLE 126
PROCEDURAL RULE
BOARD OF EDUCATION**

FILED

2002 JAN 10 P 2:04

**SERIES 3A
STATE BOARD OF EDUCATION POLICY MAKING PROCESS (1242)**

WEST VIRGINIA
SECRETARY OF STATE

§126-3A-1. General.

1.1. Scope. -- This policy establishes the procedure for meeting rule-making requirements imposed by law plus additional requirements for public comment, distribution, and processes adopted as procedure by the state board of education including rules of practice before the board, together with forms and instructions. (West Virginia Code §29A-3B-2)

1.2. Authority. -- Art. XII, §2, Constitution of West Virginia; W.Va. Code §§18-2-5a and 29A-3B-1 et seq.

1.3. Filing Date. -- January 10, 2002

1.4. Effective Date. -- February 9, 2002

1.5. Repeal of Former Rule. This procedural rule repeals and replaces Legislative Rule WV 126CSR3A "State Board of Education Policy Making Process" filed and effective November 30, 1989.

§126-3A-2. Rationale.

2.1. Every rule and regulation (including any amendment of a rule to repeal any other rule) shall be promulgated by the West Virginia Board of Education only in accordance with West Virginia Code §§18-2-5a and 29A-3B-1 et seq. and with this policy.

§126-3A-3. Procedures.

3.1. The state board of education reviews and approves a proposed policy for public comment and review.

3.2. Each proposed policy shall then be placed on public comment and review for a period of time that extends at least thirty (30) days from the date the proposed policy is filed with the Secretary of State in the state register pursuant to West Virginia Code §29A-3B-4(a). The proposed rule shall also be filed with the West Virginia Legislative Oversight Commission on Education Accountability pursuant to West Virginia Code §§18-2-5a and 29A-3B-9.

3.3. Proposed policies are to be sent to interested parties, inclusive of county board of education offices and RESA centers, where they shall be made accessible to the public.

3.4. All public comments received on a proposed policy are to be reviewed by the

126CSR3A

state board and the state department of education prior to the proposed policy's final reading.

3.5. Regional public hearings on major education policies may be held at the state board's direction in addition to the public comment and review period.

3.6. The state board may suspend the comment and review period in the case of an emergency as per West Virginia Code §29A-3B-10.

§126-3A-4. Definition.

4.1. Policy as used by the state board of education shall mean a "rule" or "... a regulation, standard statement of policy or interpretation of general application and future effect". (West Virginia Code §18-2-5a)

§126-3A-5. System of Maintenance, Distribution and Publication.

5.1. A comprehensive system shall be adopted by the state board of education to maintain, publish, and distribute all policies and to ensure that all applicable laws, regulations and policies are fully observed.

5.2. An employee of the state department of education shall be named who shall be responsible for the implementation of the system.

5.3. Policies shall be made available to the public in paper and/or electronic format.

FISCAL NOTE WORKSHEET

(Submit 4 Copies)

HD NO _____ DRAFT NO _____ BILL NO _____ RESOLUTION NO _____

SUBJECT Policy 1242: State Board of Education Policy Making Process 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 97-98	THEREAFTER
1. ESTIMATED TOTAL COST	\$ - 0 -	\$ - 0 -	\$ - 0 -	\$ - 0 -	\$ - 0 -
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER	\$	\$	\$	\$	\$
2. ESTIMATED TOTAL REVENUES	\$ - 0 -	\$ - 0 -	\$ - 0 -	\$ - 0 -	\$ - 0 -

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

DATE
October 1, 2001

AGENCY
West Virginia Department of Education

AUTHORIZED REPRESENTATIVE

