

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

1989 AUG 29 AM 10:54

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: Legislative; CITE AUTHORITY W.Va. Code 18-2-5a and 29A-3A-1

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 3A (Policy 1242)

TITLE OF RULE BEING PROPOSED: STATE BOARD OF EDUCATION POLICY MAKING
PROCESS/WEST VIRGINIA DEPARTMENT OF EDUCATION REGULATIONS FOR
IMPLEMENTATION OF POLICY 1242

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 October 9, 1989 AT 9:00 a.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

John E. Cook, Executive Assistant
West Virginia Department of Education
Capitol Complex, Building 6, Rm. 362
1900 Kanawha Boulevard, East
Charleston, WEST VIRGINIA 25305

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

Barbara L. Estep
August 24, 1989

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

HD NO _____ DRAFT NO _____

SUBJECT _____ FUND _____

SOURCE OF REVENUE: GENERAL SPECIAL OTHER (SPECIFY) _____

COST 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 AND ITEM 3 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	\$	\$	\$	\$	\$
PERSONAL SERVICES	\$	\$	\$	\$	\$
CURRENT EXPENSE					
REPAIRS AND ALTERATIONS					
EQUIPMENT					
OTHER					
2. ESTIMATED TOTAL REVENUES	\$	\$	\$	\$	\$

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

IMPACTS
FISCAL:

STATE STAFF:

DATE _____ AGENCY _____ AUTHORIZED REPRESENTATIVE _____

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA STATE BOARD OF EDUCATION POLICY

POLICY 1242

Title: State Board of Education Policy Making Process

The Board of Education recognizes that the general public, parents, students and staff members have vast resources of training and experience useful to schools. The strength of the state school system is in large measure determined by the degree to which these resources are tapped in an advisory way and to the degree that these resources are involved in supporting the improvement of the state educational program.

The Board shall encourage the involvement of all individuals mentioned above both as individuals and as groups to act in the development of Board Policies and Regulations for the guidance of professional staff to use in the management of schools.

State Department of Education personnel shall develop a comprehensive system for policy development and review that ensures that all applicable laws, regulations and policies are fully observed. A manual of state board of education policies shall be published and updated periodically.

1208c
7/27/89

EXECUTIVE SUMMARY

STATE BOARD OF EDUCATION POLICY RULE MAKING PROCESS

The prescribed process on rule making was changed in the Second Extraordinary Session of the Legislature in 1988 requiring legislative rule making review of policies proposed and adopted by the State Board of Education. A subsequent challenge to this section of the code caused the repeal of §29A-3A 12 and 13. However, many requirements continue in effect regarding the policy making process that must be followed by the state board in the promulgation and adoption of its policies. The proposed policy meets the requirements of the state code, both formal and informal, in the processing of policies by the State Board of Education.

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.

JC:bb/1204c

WEST VIRGINIA DEPARTMENT OF EDUCATION
IMPACT STATEMENT FOR
STATE BOARD POLICIES

INSTRUCTION: ..

NONE -

LEADERSHIP: .

NONE

STAFF DEVELOPMENT:

NONE ==

ADMINISTRATION:

Consistent procedures will be used in the processing, maintenance and distribution of all future State Board of Education policies.

1204c/5 =

TITLE 126
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EDUCATION

SERIES 3A
STATE BOARD OF EDUCATION POLICY MAKING PROCESS

§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. (§29A-3A-4)

1.2. Authority - Art. XII, §32, Constitution of West Virginia; W.Va. Code 18-2-5a and 29A-3A-1 et seq.

1.3. Filing Date - October 19, 1989.

1.4. Effective Date - November 30, 1989.

1.5. Repeal of Former Rule - None.

§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-3A-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 time that spans two consecutive regular state board meetings unless otherwise noted by the state board and shall also be filed in the state register pursuant to W.Va. Code §29A-3A-5(a) and with West Virginia Legislative Oversight Commission on Education Accountability pursuant to §18-2-5a, and 29A-3-1 and 29A-3A-2 and 3.

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 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 W.Va. Code §29A-3A-6.

§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". (§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 an to ensure that all applicable laws, regulations and policies are fully observed.

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

5.3. A manual of state board of education policies shall be published periodically.

TITLE 126
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EDUCATION
CHAPTERS 18-2 & 29A-3A
SERIES 3A
POLICY 1242

Title: State Board of Education Policy Making Process

Section 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. (§29A-3A-4)

1.2 Authority - Art. XII, §32, Constitution of West Virginia; W.Va. Code 18-2-5a and 29A-3A-1 et seq.

1.3 Filing Date - August 14, 1989

1.4 Effective Date - October 13, 1989

1.5 Repeal of Former Rule - None.

Section 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-3A-1 et seq. and with this policy.

Section 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 time that spans two consecutive regular state board meetings unless otherwise noted by the state board and shall also be filed in the state register pursuant to W.Va. Code §29A-3A-5(a) and with West Virginia Legislative Oversight Commission on Education Accountability pursuant to §18-2-5a, 29A-3-1 and 29A-3A-2 and 3.

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 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 W.Va. Code §29A-3A-6.

Section 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." (§18-2-5a)

Section 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 A manual of state board of education policies shall be published periodically.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

Handwritten signature

TO: Barbara Estep
AGENCY: Bd. of Education
FROM: JUDY COOPER, DIRECTOR ADMINISTRATIVE LAW DIVISION
DATE: January 17, 1991

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF YOUR RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES 3A TITLE State Bd of Ed Policy Making Process (1242)

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____
TITLE OF PERSON SIGNING: _____
DATE: _____

THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING CORRECTIONS HAVE BEEN MARKED.

SIGNED: Barbara L. Estep
TITLE OF PERSON SIGNING: Secretary to W Board of Ed.
DATE: Jan. 28, 1991

FILED
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STATE OF WEST VIRGINIA

WEST VIRGINIA DEPARTMENT OF EDUCATION REGULATIONS
FOR
IMPLEMENTATION OF POLICY 1242
STATE BOARD OF EDUCATION POLICY-MAKING PROCESS

BACKGROUND

S.B. 14 (W.V. Code 18-2-5a and 29A-3A-1 et seq.) prescribes the procedure for rule-making. Additionally, 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, are contained in Policy 1242 "State Board of Education Policy-Making Process". These regulations were developed to ensure the appropriate processes and procedures are followed.

PURPOSE

These regulations specify requirements of state department of education personnel and establish procedures to be followed and forms to be used throughout the policy-making process of the state board of education, including the maintenance of a central file of adopted policies along with the periodic distribution of adopted policies.

PROCEDURE

Content

Policies proposed for consideration and ultimate adoption by the state board of education are to be submitted to the superintendent through the appropriate bureau chief. Policies more than two pages are to have a summary. An impact statement is to be developed for each policy identifying the potential or expected effect on education at all levels. The same fiscal note used in describing costs to the legislature for proposed legislation will accompany each policy. Finally, all policies are to have attached a checklist for processing state board policies. The "Checklist for Processing State Board Policies" outlines each step involved in the process, identifies persons responsible, and provides a means for determining the status of policies in process.

All proposed policies are to be reviewed by the legal staff of the department of education for validity and structure.

Review of Superintendent and Executive Council

Copies of policies along with accompanying documents required are to be placed on the pre-board agenda for review of the superintendent and executive council prior to placement on the state board agenda. After acceptance of the policy as proposed, the state superintendent may elect to place the policy on the agenda of the state board of education.

State Board of Education Action

The state board of education, after acceptance of proposed rules, may direct proposed policies be placed on comment for a period spanning one state board of education regular meeting, two state board of education meetings, which is customary or in an emergency may adopt a rule that is effective immediately upon acceptance.

Consideration of Comments Received From Public Hearing

Comments received from placement of the proposed policy on public comment will be organized in an understandable manner and presented to the state board of education at the appropriate meeting at which time recommendations for acceptance or rejection of suggestions made through the comments will be made along with proposed changes in the policy originally submitted being made.

FINAL ACTION ON POLICIES BY THE STATE BOARD OF EDUCATION .

The state board of education may elect to accept or reject the proposed policy along with recommended changes occurring from the comment period. Action to adopt the policy will necessitate distribution of copies to the secretary of state's office for filing and distribution of copies to all interested parties.

Central Filing of Adopted Policies

All policies adopted by the state board of education will be maintained in the deputy superintendent's office. All policies which have been adopted will be published periodically.

Attachment

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FOR INTERNAL USE ONLY
CHECKLIST FOR PROCESSING STATE BOARD POLICIES

	<u>PERSON RESPONSIBLE</u>	<u>DATE</u>	<u>INITIALS</u>
1. Proposed policy with checklist attached, fiscal note (see attachment #1), summary, impact statement (see attachment #2) and cover sheet if necessary is prepared and submitted to deputy	Bureau Chief	_____	_____
2. Legal staff shall review proposed policy for initial opinion on validity and structure	Staff Attorney	_____	_____
3. Policy and series numbers are assigned (current list of department's pending rules are maintained by executive assistant)	Executive Assistant	_____	_____
4. Copies of policies, fiscal note, summary, impact statements and cover sheet if necessary are prepared and approved at preboard	Bureau Chief	_____	_____
5. Board mailing			
a. Preparation and provision of copies to board members as part of agenda items; compiling and executing mailing	Superintendent's Secretary	_____	_____
6. Board meeting requirements			
a. Provision of extra copies at the board meeting	Bureau Chief	_____	_____
b. Board acceptance of proposed rules for placement on comment period recorded in Board Minutes	Board Secretary	_____	_____
7. Policy placed on comment for a period of time spanning two consecutive regular state board meetings			
a. Distribute proposed policy for comment with comment forms to persons on standard mailing list	Board Secretary	_____	_____
b. Distribution to other interested parties	Bureau Chief	_____	_____

- b. File 15 copies with Legislative Oversight Commission on Education Accountability Executive Assistant _____
- c. Transmittal of proposed policies to Secretary of State's office with appropriate forms attached for publication in the State Register (see attachment #4) Executive Assistant _____

8. Policy comments

- a. Policy comments received by executive assistant pursuant to publication in State Register, Legislative Oversight Commission, and distribution for comment by state department personnel and forwarded to bureau chief Executive Assistant _____
- b. Original comments to be kept on file for five years Executive Assistant _____
- c. Analyze public comments and make changes in policy if needed a result of comments Bureau Chief _____

NOTE: Substantive changes in a policy as a result of comments may require all processing steps to again be completed

- 9. Proposed policy is resubmitted to State Board for action Bureau Chief _____

- 10. Preparation of minutes of the board meeting reflecting action of the board regarding policy Board Secretary _____

11. Distribution of adopted policies

- a. Distribute copies of all adopted policies to Secretary of State with appropriate forms attached (see attachment #5) Executive Assistant _____
- b. Distribute copies of all adopted policies to persons on standard mailing list Board Secretary _____
- c. Distribution to other interested parties Bureau Chief _____

- 12. Compile and maintain a comprehensive central file of all adopted board policies Deputy Superintendent _____

WEST VIRGINIA DEPARTMENT OF EDUCATION
IMPACT STATEMENT FOR
STATE BOARD POLICIES

INSTRUCTION:

Indicate the manner in which the policy will improve the instruction which occurs in the classrooms of West Virginia. For those items which are of an instructional nature, the department should be able to predict, with some degree of confidence, the effect that will be felt by students and teachers.

LEADERSHIP:

Show that the policy is an exercise of the proper leadership and provides needed direction for education in the state.

STAFF DEVELOPMENT:

Identify training required for existing staff, changes which will have to occur in teacher preparation programs, training which will be required of state department or others.

ADMINISTRATION:

Identify additional paperwork, administrative procedures or requirements which will be placed upon the county, department or other agencies.