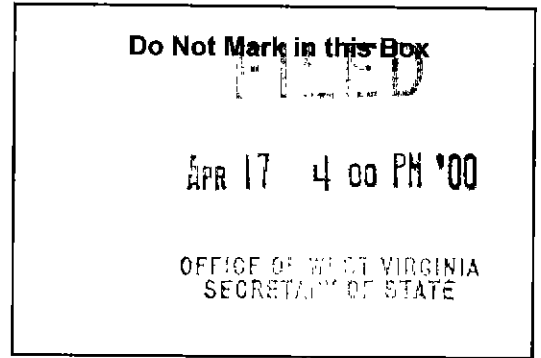


WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2



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. Constitution, Article XII, §2, W.Va. Code §18-2-5 and §29B-1-3(5)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 10

TITLE OF RULE BEING PROPOSED: Policy 1230: Freedom of Information Requests

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 May 17, 2000 AT 4:45 p.m.. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Mr. William J. Luff, Jr., Associate Superintendent
Office of the Superintendent
West Virginia Department of Education
1900 Kanawha Boulevard East, Bldg. 6, Room 360
Charleston, West Virginia 25305-0330

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

William J. Luff, Jr.
Associate State Superintendent

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

POLICY 1230
FREEDOM OF INFORMATION REQUESTS
EXECUTIVE SUMMARY

COMMENT PERIOD ENDS: May 17, 2000

This policy provides procedures for implementation of West Virginia Freedom of Information Act requests made to the West Virginia Board of Education or the West Virginia Department of Education, including establishment of a cost per page for copies of public records furnished pursuant to a request.

**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

FILED

APR 17 4 07 PM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**SERIES 10
FREEDOM OF INFORMATION REQUESTS
POLICY 1230**

§126-10-1. General.

1.1. Scope - This legislative rule establishes a procedure for obtaining public records from the West Virginia Board of Education and/or the Department of Education under the Freedom of Information Act (W. Va. Code §29B-1-1 et seq).

1.2. Authority - W. Va. Constitution, Article XII, §2; W. Va. Code§18-2-5 and § 29B-1-3(5).

1.3. Filing Date - April 17, 2000

1.4. Effective Date -

1.5. Amendments - None; this is a new policy.

§126-10-2. Purpose.

2.1. The West Virginia Freedom of Information Act (W. Va. Code §29-1-1) provides that persons have a right to inspect or copy any public record of the State Board or Department of Education. W. Va. Code §29B-1-2 provides that a “public record includes any writing containing information related to the conduct of the public’s business, prepared, owned and retained by a public body.” W. Va. Code §29B-1-3(5) provide that the State Board and/or Department “...may establish fees reasonably calculated to reimburse it for its actual cost in making reproductions of such records.”

§126-10-3. Availability of Public Record.

3.1. Persons requesting to inspect or copy (a) public record(s) of the State Board or Department of Education under the Freedom of Information Act must do so in writing addressed to the state superintendent of schools. The request must state with reasonable specificity the information sought.

3.2. Neither the State Board nor the Department of Education are required to provide information pursuant to a FOIA request that is specifically exempted from disclosure under W. Va. Code §29B-1-4.

3.3. The state superintendent or designee will notify the person making a FOIA request of either: (a) the date, time and place where the requested information may be inspected; (b) the date, time and place where the requested information may be picked up if the requestor has asked that the state superintendent provide copies of the information requested; or (c) the denial of the request (in writing) with the reasons for the denial.

3.4. The state superintendent will provide reasonable facilities during regular business hours for making memoranda or abstracts from the public records. The state superintendent, if necessary to prevent undue interference with the regular discharge of the duties of the State Board and Department of Education, may, provided they neither violate the spirit and intent of the Freedom of Information Act nor prevent the requestor from obtaining the information requested, impose restrictions on employee time and agency resources that are reasonably necessary in order to allow the State Board and Department of Education to function normally.

§126-10-4. Fees.

4.1. Persons seeking (a) public record(s) under the Freedom of Information Act (W. Va. Code §29B-1-1 et seq) and who request that the information contained in the public record(s) be reproduced in copy form, will be required to reimburse the Department of Education 40 cents per page payable prior to release of the requested copies.

FISCAL NOTE WORKSHEET (Submit 4 Copies)

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

SUBJECT Policy 1230 Freedom of Information Requests 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 01-02	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):

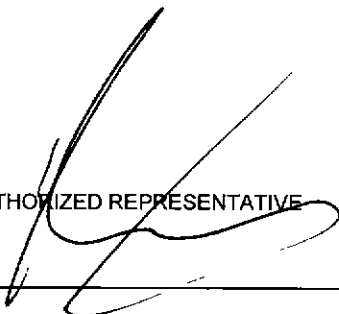
DATE

AGENCY

AUTHORIZED REPRESENTATIVE

April 17, 2000

West Virginia Department of Education



RESPONSE FORM

Policy 1230: Freedom of Information Requests

Directions: Please use this form to comment on proposed Policy 1230: Freedom of Information Requests.

Individual/Organization: _____

Address: _____

Comments on Policy 1230: Freedom of Information Requests

§126-10-2. Purpose.

§126-10-3. Availability of Public Record.

§126-10-4. Fees.

RETURN BY MAY 17, 2000 TO:

**William J. Luff, Jr.
Associate State Superintendent
West Virginia Department of Education
Capitol Complex, Building 6, Room 360
1900 Kanawha Boulevard East
Charleston, West Virginia 25305-0330**