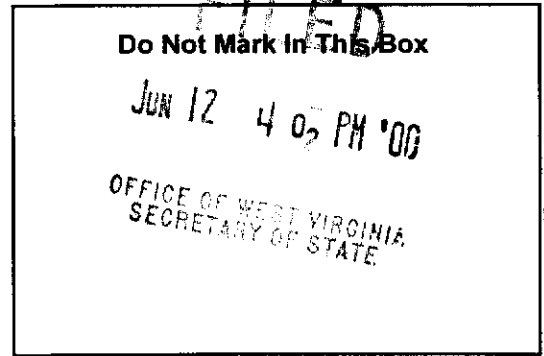


WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5



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

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 XX NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 10

TITLE OF RULE BEING AMENDED: Freedom of Information Requests (1230)

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 July 12, 2000



Dr. David Stewart
State Superintendent of Schools

FILED

JUN 12 4 02 PM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

126CSR10

**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

**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 - June 12, 2000

1.4. Effective Date - July 12, 2000

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."

126CSR10

§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 | | CURRENT | FISCAL YEAR | |
|------------------------------------------------------------------------------------|----------|----------|----------|---------------|------------|
| | INCREASE | DECREASE | | 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 April 17, 2000 AGENCY West Virginia Department of Education AUTHORIZED REPRESENTATIVE _____

126CSR10

Executive Summary

FREEDOM OF INFORMATION REQUESTS

Series 10, Policy 1230

PUBLIC COMMENT PERIOD ENDS: May 17, 2000 Adopted: July 12, 2000

BACKGROUND:

Policy 1230 is a new policy that would create a procedure for persons to request public records under the West Virginia Freedom of Information Act (W. Va. Code §29B-1-1 et seq) from the West Virginia Board of Education and/or the Department of Education.

PURPOSE:

The primary impact of the new policy will be the imposition of a charge of 40 cents per page for a paper copy. Persons are still entitled to review the public records without charge.

The proposed policy was on comment until May 17, 2000. Only two comments were received and no change was made to the policy.

FISCAL NOTE WORKSHEET

(Submit 4 Copies)

NO _____ DRAFT NO _____ BILL NO _____ RESOLUTION NO _____

SUBJECT Policy 1230 Freedom of Information Requests FUND _____

SOURCE OF REVENUE: GENERAL FUND SPECIAL OTHER (SPECIFY) _____

BASIS OF ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

SOURCE 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):

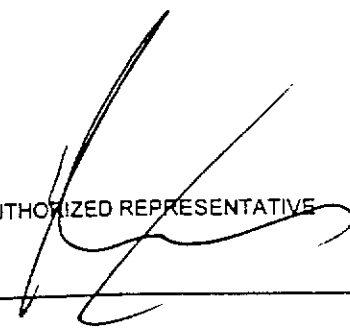
DATE

AGENCY

AUTHORIZED REPRESENTATIVE

April 17, 2000

West Virginia Department of Education



126CSR10

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

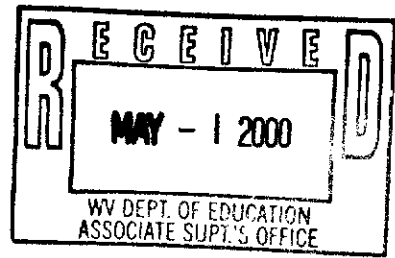
§126-10-2. Purpose.

§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
POLICY 1230**



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: *Zenou Zedsky*

Address: *WVDE*

Comments on Policy 1230: Freedom of Information Requests

§126-10-2. Purpose.

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

Please clarify 3.4 - last sentence is very hard to understand.

§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**

FISCAL NOTE WORKSHEET

(Submit 4 Copies)

ID 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):

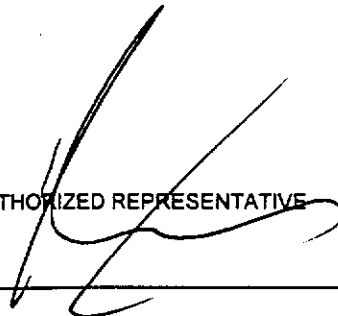
DATE

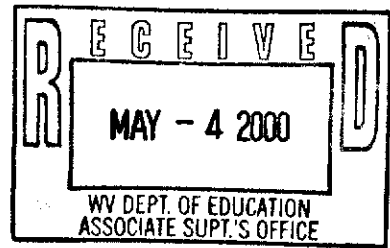
AGENCY

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: John W. Rose

Address: 717 Morrison St.

Charles Town, W. V. 25414
Comments on Policy 1230: Freedom of Information Requests

§126-10-2. Purpose.

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

§126-10-4. Fees. *I believe your fee of 40¢ per page is exorbitant. I believe the federal law stipulates a "reasonable" fee which cannot include the cost of labor.*

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

FISCAL NOTE WORKSHEET

(Submit 4 Copies)

D NO _____ DRAFT NO _____ BILL NO _____ RESOLUTION NO _____

SUBJECT Policy 1230 Freedom of Information Requests FUND _____

SOURCE OF REVENUE: GENERAL FUND SPECIAL OTHER (SPECIFY) _____

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| 1. ESTIMATED TOTAL COST | \$ -0- | \$ -0- | \$ -0- | \$ -0- | \$ -0- |
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| 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

