



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

8/9/2022 2:33:51 PM

Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Human Services

TITLE-SERIES: 78-25

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes

RULE NAME: Goals for Foster Children

CITE STATUTORY AUTHORITY: former 49-126-2(c)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 09/08/2022 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Cammie Chapman

ADDRESS: One Davis Square, Suite 100 E

Charleston, WV 25301

EMAIL: cammie.l.chapman@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule establishes and sets forth the goals for children and youth in foster care; identifies each individual goal established for children and youth in foster care; and, establishes a process by which children and youth in foster care can make their concerns known to the Circuit Court when the West Virginia Department of Health and Human Resources, Bureau for Children and Families, does not meet the goals established pursuant to provisions of W. Va. Code 49-2-126(a) et seq.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

The authorizing statute was amended in 2020; HB4092 struck the specific mandate for the rule. Since the former subsection (c) of W. Va. Code 49-126-2 no longer exists, the rule is technically void pursuant to W. Va. Code 29A-1-3b(b) and must be repealed.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

n/a

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

n/a

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

n/a

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			0
Personal Services			0
Current Expenses			0
Repairs and Alterations			0
Assets			0
Other			0
2. Estimated Total Revenues			0

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

n/a

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

Yes

April L Robertson -- 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.

**TITLE 78
LEGISLATIVE RULE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**SERIES 25
GOALS FOR FOSTER CHILDREN**

~~§78-25-1. General.~~

~~1.1. Scope and Purpose. — This rule establishes and sets forth the goals for children and youth in foster care; identifies each individual goal established for children and youth in foster care; and, establishes a process by which children and youth in foster care can make their concerns known to the Circuit Court when the West Virginia Department of Health and Human Resources, Bureau for Children and Families, does not meet the goals established pursuant to provisions of W. Va. Code § 49-2-126(a) et seq.~~

~~1.2. Authority. — W. Va. Code §49-2-126(c).~~

~~1.3. Filing Date. — April 28, 2016.~~

~~1.4. Effective Date. — July 1, 2016.~~

~~§78-25-2. Definitions.~~

~~2.1. Department — Means the West Virginia Department of Health and Human Resources.~~

~~2.2. Emergency Shelters — Means substitute care providers who deliver short term care for children just entering the foster care system or who are between placements.~~

~~2.3. Extra-Curricular Activities — Means activities that are sponsored by and usually held at school but are not part of the standard academic curriculum.~~

~~2.4. Family Of Origin — Means the individual or family home with whom the child was residing prior to state intervention.~~

~~2.5. Foster Care Setting — Means 24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, and pre-adoptive homes.~~

~~2.6. Foster Child — Means a child under the age of 18; 18 to 21, if under the jurisdiction of the court; or, 18 to 21 who has signed an agreement to remain in the care, custody and control of the West Virginia Department of Health and Human Resources.~~

~~2.7. Foster Family Home — Means a person certified by the West Virginia Department of Health and Human Resources, who acts as parent and guardian for a child in place of the child's family of origin family but without legally adopting the child.~~

~~2.8.— Foster Home For Relative — Means a kinship caregiver is a relative or fictive kin who provides care to a child. This is the least restrictive alternate living arrangement since the placement often allows for more interacting with the child's own family and relatives.—~~

~~2.9.— Group Homes — Means a group home for several foster children licensed by the state. Group homes are run by house parents, who live with the children, or by shift staff, who transfer in and out during every 24 hour period.~~

~~2.10.— Pre-adoptive Home — Means a home of an individual or family licensed or approved as meeting the standards established by the Department to provide 24 hour out of home care for a child and is intended to be the adoptive home.—~~

~~2.11.— Specialized Education — Means a practice of educating students with special needs in a way that addresses their individual differences and needs.~~

~~2.12.— Transition Plan — Means a plan developed with a youth in foster care age 16 and up that establishes goals and a plan to help move a youth from foster care to independence.~~

~~§78-25-3.— Goals for Foster Children.—~~

~~3.1.— A child in foster care should have:~~

~~3.1.a.— Protection by a family of his or her own, and be provided readily available services and support through care of an adoptive family or by plan, a continuing foster family;~~

~~3.1.b.— Nurturing by foster parents who have been selected to meet his or her individual needs, and who are provided services and support, including specialized education, so that the child can grow to reach his or her potential;~~

~~3.1.c.— A safe foster home free of violence, abuse, neglect and danger;~~

~~3.1.d.— The ability to communicate with the assigned social worker or case worker overseeing the child's case and have calls made to the social worker or case worker returned within a reasonable period of time;~~

~~3.1.e.— Permission to remain enrolled in the school the child attended before being placed in foster care, if at all possible;~~

~~3.1.f.— Participation in school extracurricular activities, community events, and religious practices;~~

~~3.1.g.— Communication with the family of origin. Communication is necessary if the child placed in foster care receives any immunizations and if any additional immunizations are needed, if the child will be transitioning back into a home with his or her family of origin;~~

~~3.1.h.— A bank or savings account established in accordance with state laws and federal regulations;~~

~~3.1.i.— Identification and other permanent documents, including a birth certificate, social security card and health records by the age of sixteen, to the extent allowed by federal and state law;~~

~~3.1.j.— The use of appropriate communication measures to maintain contact with siblings if the child placed in foster care is separated from his or her siblings; and—~~

~~3.1.k.— Meaningful participation in a transition plan for those transitioning out of foster care.—~~

~~§78-25-4.— Means of Being Heard.~~

~~4.1.— Should a foster child believe that the goals enumerated in section three have not been met, the foster child shall notify his or her caseworker.~~

~~4.2.— The foster child's caseworker shall meet with the foster child within ten (10) days and discuss why the foster child believes a goal or goals have not been met and reach a resolution.—~~

~~4.3.— In the event the foster child and the foster child's caseworker is unable to reach a resolution, a meeting between the foster child, the foster child's caseworker and the caseworker's supervisor shall immediately occur in an effort to reach a resolution.—~~

~~4.4.— In the event no resolution is agreed upon, the caseworker shall notify the foster child's attorney and the matter should be made known to the Circuit Court with jurisdiction at the next scheduled review hearing for resolution.~~

~~§78-25-5.— Burden of Proof.~~

~~5.1.— In any hearing conducted pursuant to the provisions of this rule, the WV Department of Health and Human Resources, Bureau of Children Families assigned caseworker has the burden of proving that he or she has made reasonable efforts to insure goals were established, expected and pursued on behalf of the foster child or youth.—~~