

Policy 2445.40, Instructional Resources

Comment Period: July 14, 2022 - August 15, 2022

4 distinct commenters provided a total of 5 comments.

Other: 3

Teacher: 2

Action

A/S Comment was accepted and supports the proposed policy

A/C Comment was accepted and resulted in changes to the proposed policy

N Comment was not accepted

DATE	COMMENTER	COMMENTS	ACTION	RATIONALE
§126-35-2 Purpose				
2022-08-15 14:59:33	Campaign for Our Shared Future Campaign for Our Shared Future	<p>The Campaign for Our Shared Future (COSF) is writing to comment on the revision of Policy 2445.40 (Instructional Resources), issued by the West Virginia Department of Education on July 14, 2022. As a campaign dedicated to ensuring every child has access to an excellent K-12 education, inclusive of and accessible to all, we are committed to stopping harmful policy that threatens our children’s freedom to learn.</p> <p>The legislation underlying the proposed rule was unnecessary and will cause untold harm to West Virginia’s students. Federal law, via the Protection of Pupil Rights Amendment (PPRA), already ensures that all parents have access to the materials used in their child’s classroom—all they have to do is ask (1). The West Virginia General legislature’s ill-conceived decision to amend W.</p>	N	The Department will provide counties sample forms and reporting mechanism documents, the process will be up to each county to address within the guidelines of policy and state code.

Va. Code § 18-5-27 was based on a fictional narrative that educators are teaching inappropriate concepts behind parents' backs. The lack of clarity around implementation in the proposed rules, including the lack of safeguards for teachers in the complaint process, further exacerbates the level of potential harm to our children.

We believe the proposed rules fall short of providing sufficient guidance and clarity to educators and school staff—a harmful oversight that has already resulted in needless inventories of classroom libraries and will undoubtedly continue to sow confusion, chaos, and censorship (2). The Department must propose detailed language that institutes fair and transparent complaint processes; safeguards educators from political witch hunts; and prevents the politicization of the state's public schools. The Department must continue to function as a much-needed non-partisan policy-making body amid the state legislature's continued effort to chip away at its autonomy (3). Yet the proposed changes to Policy 2445.40 only double down on the legislature's fictional narrative.

It is our sincere hope that the Department will prioritize clarity, transparency, and stakeholder engagement in its revision and implementation of Policy 2445. To this end, in addition to the changes outlined below, a public hearing is necessary to ensure parents, students, and educators have an opportunity to give input on the proposed rules and any guidance the Department develops on the matter. COSF is disappointed in the proposed language and will continue to monitor the development, implementation,

		<p>and impact of this policy on the availability of high-quality education for all children.</p> <p>References</p> <p>(1) United States Department of Education, Student Privacy Office, Protection of Pupil Rights Amendment (PPRA), https://www.google.com/url?q=https://studentprivacy.ed.gov/sites/default/files/resource_document/file/20-0379.PPRA_508_0.pdf&sa=D&source=docs&ust=1658417837679302&usg=AOvVaw2oP6i74ToP2entZ9BeJ6YT</p> <p>(2) The Dominion Post, “Classroom libraries must be inventoried because of new law,” https://www.dominionpost.com/2022/05/26/classroom-libraries-must-be-inventoried-because-of-new-law/</p> <p>(3) House Joint Resolution 102, https://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=hjr102%20ENR.htm&yr=2022&sesstype=RS&i=102&houseorig=h&billtype=jr</p>		
2022-08-15 15:49:00	Montgomery, Florida	<p>To Mr. Wiseman,</p> <p>I am writing to urge the West Virginia Department of Education (WVDE) to host a public meeting on the proposed rules so my voice can be heard! School districts and educators need better guidance to navigate the new ill-conceived state law that micromanages how parents can be involved in their child’s education.</p>	N	<p>The Department will provide counties sample forms and reporting mechanism documents, the process will be up to each county to address within the guidelines of policy and state code.</p>

When our children were in school, my husband and I never had any problems arranging a meeting with their teachers. We were never refused a meeting with any single teacher. This bill creates problems for teachers.

The proposed rules do nothing to prevent political extremists from gaining greater influence over our children's learning materials. Consider: nothing in the rules stops individuals from targeting our children's teachers with dozens of baseless complaints at once. Because the rule places no limits on when complaints can be filed, individuals can submit bad-faith complaints against a teacher even years after a teacher allegedly failed to abide by the new rules.

Additionally, there are no guidelines for managing investigations into complaints in a fair and transparent manner. This could result in books being quietly banned or our children's teachers being unfairly admonished over baseless complaints.

Our children need teachers who can help them catch up from time lost from the pandemic. At a time when West Virginia schools are experiencing staff shortages, the WVDE should not allow targeted harassment that pushes teachers away from the classroom. To safeguard children from chaos and their teachers from harassment, the WVDE should update its rules to:

Reduce bad-faith complaints, including by adding a time limit on filing complaints;

Prevent censored learning by clarifying what constitutes a valid complaint; and,

Ensure fair and transparent investigations into complaints,

		including by giving districts more time to resolve complaints. Clearer guidelines will reduce fear and uncertainty in public schools and help safeguard our children from dangerous overreach by state politicians. Schedule a public hearing where my voice can be heard NOW!		
§126-35-9 West Virginia Instructional Resources Review Committee (IRRC) Requirements				
2022-08-03 18:02:45	Katie Redd English teacher Wheeling Country Day School Wheeling WV	I had a second question concerning the parent inspection. The form is not specified (what information should be provided? What, if any, vetting process is used to determine a valid parent concern?), neither is the time period in which parents can file the form. Since, at the moment, classroom teachers are held solely liable per this policy for handling parent complaints and inspection of their classroom books, what time frame may parents submit their concerns? Are parents obligated to wait to submit concerns within teachers contracted days of employment? Or are they allowed to submit concerns when teachers are outside of their contracts? Teachers, when not employed, should not have to answer to parent concerns. Does the 'seven business day' clause of returning g parents concerns apply to teachers out-of-contract hours?	N	Teachers will not be required to address any concerns outside of the work day or outside of their 200 days of employment.
§126-35-11 Parental Right to Inspect Instructional Materials				
2022-08-02 19:40:53	Katie Redd English Teacher Wheeling Country Day School	This section to me is frightening as both an English teacher and a parent to two school aged children. I think the use of 'classroom teacher' here as the sole responsibility single party in the la gauge of the document puts the onus of our culture wars on the tea her's shoulders. I think the language should be broadened to include the administration of the building or a teaching/administrative team. I think that making it the 'classroom teacher' will drive more teachers, especially English and Social Studies teachers, out of teaching. I can also see it causing harm to teachers as it makes	N	Any complaints will be first be addressed at the school level. Only if the situation cannot be resolved would the state superintendent be consulted. Each county will only provide in its annual Submission form the number of requests made to review materials and the

	Wheeling WV	<p>these sole individuals responsible for social ills beyond their control.</p> <p>As a parent, this language concerns me as well. I do not want my children being taught in public schools by teachers who are frightened to teach. I think our best and brightest will continue to leave the classroom as long as they are unwittingly out into the middle of political power struggles. I want the public schools in West Virginia to remain strong, but putting the weight of these struggles on ‘the classroom teacher’ is inappropriate. I feel the language in this section should be modified to identify more than ‘the classroom teacher’ as the responsible party. I think in no way, shape, or form should administration not be included in this language. This would ensure in all cases that ‘the classroom teacher’ is alone in the responsibility of book selections and that when books are chosen and delivered in all instances it is with the support of their school behind them. This is too loaded a subject for teachers to be left to handle independently anymore.</p>		<p>number of county-level complaints. It is not required for any school or teachers name to be reported in the annual submission form.</p>
2022-08-15 14:59:33	Campaign for Our Shared Future Campaign for Our Shared Future	<p>The proposed rules have no time limits on when a complaint can be dredged up. Under the current proposal, an individual can file a complaint months, if not years, after an alleged violation occurs. At a minimum, the Department ought to establish a reasonable window for accusations to be made. We recommend that complaints be filed within 10 business days of the alleged violation. This window will ensure details of an alleged violation are not forgotten and that the potential influence by outside parties is limited.</p> <p>Further, the proposed rules are unclear on whether a teacher is required to meet with individuals within 10 business days. One reading of the rules is that teachers have 10 business days to “schedule”—that is, set a date—for the inspection, but such an inspection can take place after the 10-day window. We</p>	N	<p>This requires an annual report; this policy is not retroactive, and the complaints and reports must be completed within in the current school year.</p> <p>Teachers will not be required to address any concerns outside of the work day or outside of their 200 days of employment.</p> <p>Any complaints will be first be addressed at the school level. Only if the situation cannot be resolved would the state superintendent be consulted.</p>

recommend that inspection meetings are allowed to take place outside of the 10-day scheduling window, including during regularly scheduled parent-teacher conferences.

The proposed rules do nothing to protect a teacher from harassment by bad-faith actors. As written, an individual could submit dozens of complaints about a teacher over the same facts. We strongly recommend that the Department include language that expressly prohibits a complainant from filing multiple complaints based on the same allegations. It is also common sense to place a limit on the number of complaints eligible individuals can submit to ensure this policy is not abused by a few bad-faith actors.

Nothing in the proposed rule prevents illegitimate complaints from being submitted and reported to the legislature. The proposed rules require yearly reports to the state legislature on the number of parent complaints filed—but not the nature or resolution of complaints. Reporting only the number of complaints filed would provide an inflated picture of the problem in local schools, considering that individuals could file illegitimate allegations both knowingly and unknowingly.

To alleviate this problem, the Department should propose language that requires county superintendents to report on the nature and resolution of complaints filed. We also recommend that the Department require county superintendents to distinguish in their reports between substantiated and unsubstantiated complaints, with the former characterizing instances where a teacher was found to have affirmatively and intentionally

Each county will only provide in its annual Submission form the number of requests made to review materials and the number of county-level complaints. It is not required for any school or teachers name to be reported in the annual submission form.

broached provisions of Policy 2445.40.

Additionally, we recommend the Department expressly clarify that legitimate complaints under Policy 2445.40 do not include general complaints about the age-appropriateness or content of materials, but rather a teacher failing to schedule an inspection appointment, failing to furnish a list of required books, or failing to explain how materials align with state standards. In Tennessee, where a similar complaint system was instituted in 2021, rules expressly clarify that general complaints about the subject matter or age-appropriateness of materials are to be filed with the local school pursuant to the school's locally adopted policy for addressing such complaints (4). We recommend that the Department heed this example.

Finally, educators deserve assurances that the legislature will not use the required yearly report to target particular schools or teachers for political reasons. To prevent the potential for personal or dangerous attacks on our schools or educators, the Department must add a provision to Policy 2445.40 that ensures all data reported by county superintendents are anonymized to protect students, teachers, and schools.

The proposed rules undermine fair investigations into complaints. Not only does the 7-day window for resolving complaints make fair investigations difficult, but it is also far from the norm. In Tennessee, superintendents are given sixty (60) calendar days after receiving a complaint to investigate and determine whether the allegation can be substantiated. At a minimum, the

Department should enshrine requirements for investigating complaints that call for documenting evidence and ensuring due process for teachers, including allowing teachers to appeal a resolution.

The lack of exceptions could result in teachers being reprimanded for exceptional circumstances. Currently, the proposed rules do not offer exceptions to the 10-day window for teachers who are sick, have a family emergency, or otherwise cannot schedule a common time to meet with families within the allotted period. The Department should allow the timeline to be extended upon approval from the school principal if exceptional circumstances can be appropriately documented.

The proposed rules do not prevent varying standards for teacher behavior county to county. The proposed rules do not articulate what constitutes an adequate resolution of a complaint, ensuring no uniformity in the implementation of remedial actions across the state. Without guardrails, teachers in neighboring counties could face distinct repercussions over similar allegations. To address this, we recommend that the Department codify appropriate resolutions for substantiated complaints.

COSF appreciates the opportunity to submit this comment. If you have any questions, please contact us at info@campaignsharedfuture.org.

References

(4) Tennessee, Rules of the Department of Education, Chapter 0520-12-04, Prohibited Concepts in Instruction,

	https://publications.tnsosfiles.com/rules/0520/0520-12/0520-12-04.20211108.pdf		
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