

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED

1991 JUN -5 PM 12: 11

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**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: WV Code 18-20-5

RULE TYPE: PROCEDURAL INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES , NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 17 (Policy 2419.11)

TITLE OF RULE BEING AMENDED: RULES FOR REQUESTING AN EXCEPTION TO THE
REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: _____

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS July 15, 1991

Barbara L. Estep
June 3, 1991

2.50

TITLE 126
WEST VIRGINIA BOARD OF EDUCATION
PROCEDURAL RULE
CHAPTER 18-20
SERIES 17
POLICY 2419.11

TITLE: RULES FOR REQUESTING AN EXCEPTION TO THE REGULATIONS FOR THE
EDUCATION OF EXCEPTIONAL STUDENTS

Section 1 General

1.1 Scope - The accepted principle for appropriate educational opportunity in West Virginia public schools is that special education and related services shall be made available to all exceptional students between five and 23 years of age and three and four year old preschool severely handicapped children. The provision of these educational services are implemented through the West Virginia Regulations for the Education of Exceptional Students (Policy 2419). The West Virginia Board of Education provides that a local school district superintendent may apply to the Board for exceptions to the Regulations for extenuating circumstances.

1.2 Authority - West Virginia Code 18-20-5

1.3 Filing Date - June 3, 1991

1.4 Effective Date - July 15, 1991

1.5 Repeal of Former Rule - None - This is a revision.

Section 2. Incorporation by Reference

2.1 Copy of the rules attached. Copies may be obtained in the Office of the Secretary of State and in the West Virginia Department of Education, Bureau of General, Special and Professional Education.

2.2 Summary of rules and regulations below.

SUMMARY OF RULES AND REGULATIONS

Rules for requesting an exception to Policy 2419: Regulations for the Education of Exceptional Students contain the procedures to be followed when an exception is requested for extenuating circumstances.

RULES FOR REQUESTING AN EXCEPTION
TO
THE REGULATIONS FOR THE EDUCATION OF
EXCEPTIONAL STUDENTS

Policy 2419.11

REVISED

PASSED: April 18, 1986
EFFECTIVE: April 18, 1986

RULES FOR REQUESTING AN EXCEPTION TO THE
REGULATIONS FOR THE EDUCATION OF EXCEPTIONAL STUDENTS

Preface

The accepted principle for appropriate educational opportunity in West Virginia public schools is that special education and related services shall be made available to all exceptional students between five and 23 years of age. The provisions of these educational services are implemented through the West Virginia Regulations for the Education of Exceptional Students (Policy 2419). The West Virginia Board of Education provides that a local school district superintendent may apply to the Board for exceptions to the Regulations for extenuating circumstances.

Rules

1. Exceptions to the Regulations for the Education of Exceptional Students will be granted based on extenuating circumstances per specific classroom units, not for system-wide factors.
2. Under no circumstances will special education regulatory exceptions be granted for requests that conflict with federal statutes, federal regulations, state statutes, or court orders/decisions.
3. A request for an exception must be submitted by May 1st prior to the school year for which the exception is requested.
4. If unforeseen extenuating circumstances occur during a school year, an exception may then be requested in accordance with these rules for that school year.
5. Documentation must substantiate that granting the specific exception will not preclude the provision of a free appropriate public education for students subject to this action.
6. Documentation must be submitted to the Department of Education by the local school district superintendent.
7. A request for an exception can be submitted by the local superintendent only after approval of the request by the local board of education.

8. A plan of action to correct the need for an exception must be submitted to the Department of Education as part of the request. The plan must stipulate specific corrective actions and timelines. This plan of action will be a part of the county school district's Annual County Plan for Educational Excellence.
9. Upon approval by the State Superintendent, the exception will become official record for purposes of the county accreditation process.

Implementation

1. The department will develop procedures to implement these rules.
2. A summary data analysis relative to the regulatory exceptions requested will be reviewed annually by the State Board to determine if the need exists for revisions and/or modifications within the Regulations for the Education of Exceptional Students or these rules.

KEN HECHLER
Secretary of State

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Special Assistant

(Plus all the volunteer
help we can get)

TO: Barbara Estep

AGENCY: Dept. of Education

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: May 1, 1992

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 THE 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: 17 TITLE: 126 Dept. of Education 2419.11

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

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

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

SIGNED: Betty Belcher
TITLE OF PERSON SIGNING: Secretary IV
DATE: May 14, 1992