

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE OF THE SECRETARY OF STATE  
CHARLESTON, WV

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

RULE TYPE: Procedural; CITE AUTHORITY WV Code 18-20-5

AMENDMENT TO AN EXISTING RULE: YES  NO  Revision

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 Children

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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 July 16, 1990 AT 9:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Ms. Nancy Thabet, Director  
Office of Special Education  
Room B-304, Bldg. #6  
Capitol Complex  
Charleston, WV 25305

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

*Barbara L. Estep*  
June 1, 1990

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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 -

1.4 Effective Date -

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.