

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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AUG 23 11 36 AM '96

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: W.Va. Const., Article XII, §2; W.Va. Code §18-2-6 and §18-5-19

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 _____, NO X

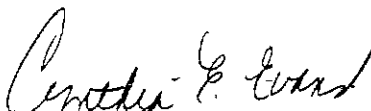
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 20

TITLE OF RULE BEING ADOPTED: Regulations for Alternative Education
Programs for Disruptive Students (2418)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS September 23, 1996



Cynthia E. Evans
Director, Legal Services

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 20

Regulations for Alternative Education Programs for Disruptive Students (2418)

FILED
Aug 23 11 36 AM '96
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§126-20-1. General.

1.1. Scope - This policy establishes regulations for alternative education programs for disruptive students.

1.2. Authority - W.Va. Constitution, Article XII, §2; W.Va. Code §18-2-6 and §18-5-19

1.3. Filing Date - August 23, 1996

1.4. Effective Date - September 23, 1996

1.5. Repeal of Former Rule - None. This is a new rule.

§126-20-2. Definition.

2.1. Alternative Education Program - An alternative education program is an authorized departure from the regular school program designed to provide educational and social development for students whose disruptive behavior places them at risk of not succeeding in the traditional school structures and in adult life without positive interventions.

§126-20-3. Purpose.

3.1. The purpose of these regulations is to: (1) provide a safe and orderly learning environment for the education of all students in the public schools of West Virginia and (2) meet the educational needs of disruptive students through the development of alternative education programs.

§126-20-4. Flexibility in Program Development.

4.1. Alternative education programs for disruptive students encompass a range of program options such as: in-school suspension; a separate part-time or full-time alternative education classroom; a school-within a school; a school on an alternative site; an after school class/night school program; or a combination academic/work-based program. County boards of education shall have broad flexibility in developing the type or types of alternative education program options needed to meet the needs of disruptive students in the county. County boards of education may request a waiver of State Board of Education policies and regulations in the development and

operation of alternative education programs. Such a waiver request does not have to be submitted in accordance with the procedures for requesting waivers stipulated under §18-5A-3, but may be submitted directly to the State Superintendent of Schools.

§126-20-5. Program Requirements.

5.1. County boards of education establishing alternative education programs shall meet the following requirements:

5.1.1. Policies and Procedures - County boards of education shall adopt policies and procedures for the operation of alternative education programs. Policies and procedures shall include, but are not limited to: the goals of the program; the eligibility criteria and process for placement of students in the program; the involvement of parents and community agencies; length and time of day the program operates; plan for awarding of credits; the staffing plan, personnel qualifications and class size limits; the criteria for completion of the alternative education program or reentry into regular education; and the performance measures and process for program evaluation. The State Superintendent's approval of the county board's policies and procedures is required for authorization to operate an alternative education program under these regulations.

5.1.2. Curriculum - County boards of education shall have an identified written curriculum for alternative education programs based upon State Board of Education approved instructional goals and objectives. The curriculum shall also include a component for teaching and learning responsible behavior. In addition, the county shall provide for the participation of staff certified in the core subject areas in the development of the academic curriculum and the assessment measures to determine mastery of instructional goals and objectives.

5.1.3. Instruction - County school districts shall deliver instruction in accordance with the following standards:

a. instructional activities shall be consistent with the written curriculum and appropriate for the students' developmental levels;

b. instructional materials shall be age appropriate, functionally appropriate, and of high interest level for students;

c. the program shall provide for individualized instruction and accommodate the entry and exit of students;

d. curricular and instructional practices shall reflect high expectations for students;

e. the instructional program shall be delivered in a climate conducive to learning;
and

f. sufficient instructional materials, supplies, and equipment shall be available to deliver the instructional program.

5.1.4. Support Services - Students in alternative education programs shall have access, as needed, to support services such as school counseling services and school psychological services.

5.1.5. Special Education - County boards of education shall comply with applicable state and federal laws and regulations in the education of exceptional students placed in alternative education programs.

5.1.6. Personnel

a. Selection Criteria - It is the responsibility of the county board of education to select the most qualified applicant(s) to implement the alternative education program. Classroom teachers shall be selected on the basis of the teachers' demonstration of competence in meeting the following standards:

- A. any West Virginia professional teaching certificate
- B. ability to effect positive behavior in disruptive students
- C. effective leadership and/or mentoring skills in working with youth
- D. successful experience in providing education to troubled or disruptive youth
- E. specialized training or experience in non-traditional programs
- F. specialized training in behavior management skills

5.1.7. Licensure

a. West Virginia Professional Teaching Certificate - A teacher assigned to deliver the academic subjects within an alternative education program must possess a West Virginia professional teaching certificate in any area.

b. Temporary Authorization - A Temporary Authorization valid for one year shall be granted to the successful candidate(s) for the alternative education program position(s). The employing county superintendent must verify that the applicant possesses the competencies identified in Section 5.1.6.a. The Temporary Authorization may be renewed each year based on the

applicant's continued employment in an alternative education program.

5.1.8. After-Hours/Night School Classes - County boards of education are authorized to provide alternative education programs after regular school hours for suspended or expelled students or as an alternative to suspension or expulsion. (Note that although county boards may provide alternative education to expelled students, counties may not offer alternative education as an alternative to expulsion for students whose misconduct requires mandatory expulsion under the law. Under these circumstances, county boards must first expel the student then provide alternative education.) Unless otherwise required by law, regulation, or court order, transportation services for such programs are at the discretion of the county board of education. This section shall not be construed to require county boards of education to provide educational services to suspended or expelled students where such legal obligation is absent.

5.1.9. Units of Credit - County boards of education shall grant units of credit for work satisfactorily completed in an alternative education program. Units of credit based upon mastery of performance criteria may be granted as an alternative to the standard units of credit.

5.1.10. Program Completion - Students may complete an alternative education program in one of the following manners: (a) fulfillment of the criteria for re-entry into the regular school program; (b) completion of regular high school graduation requirements; (c) completion of identified performance criteria leading to a high school diploma; or (d) completion of a GED in accordance with State Board of Education Policy 2444.4: Issuance of High School Equivalent Diplomas, State of West Virginia.

§126-20-6. Accountability for Results.

6.1. Annual Program Evaluation - County boards of education establishing alternative education programs under this policy shall conduct an annual evaluation of the effectiveness of the program (s).

6.2. Accreditation -The State Department of Education shall review the effectiveness of alternative education programs through the Performance Based Accreditation System. The alternative education program shall be evaluated on the basis of its stated goals and the provisions of this policy.

6.3. Considerations for Program Evaluation and Accreditation Reviews - The evaluation of the effectiveness of alternative education programs shall focus upon the impact of the program on student performance and results using indicators such as: academic gains; reduction in dropout rates; reduction in incidences requiring disciplinary action; improvement in attendance rates; rates of successful program completion and return to the regular school program; rates of successful completion of vocational training programs; rates of successful completion of high school graduation or attainment of a GED; and rates of successful job placement and job retention.

EXECUTIVE SUMMARY
WEST VIRGINIA BOARD OF EDUCATION
Policy Number and Title: Policy 2418: Regulations for
Alternative Education Programs for Disruptive Students

PUBLIC COMMENT PERIOD ENDS: JULY 17, 1996

BACKGROUND:

Policy 2418 is a new policy to establish regulations for alternative education programs for disruptive students. This policy will implement the requirements of state legislation, specifically §18-2-6 and §18-5-19, enacted by the 1996 West Virginia Legislature as part of the Safe Schools bill (H. B. 4065).

PURPOSE:

The purpose of the proposed regulations is to: (1) provide a safe and orderly learning environment for the education of all students in the public schools of West Virginia and (2) meet the educational needs of disruptive students through the development of alternative education programs.

PROPOSED REGULATIONS:

The proposed regulations define an alternative education program as an authorized departure from the regular school program designed to provide educational and social development for students whose disruptive behavior places them at risk of not succeeding in the traditional school structures and in adult life without positive interventions. County boards of education will have broad flexibility in developing the type or types of alternative education program options needed to meet the needs of disruptive students. This flexibility includes the authority to request a waiver of State Board of Education policies and regulations in the development and operation of alternative education programs. The proposed regulations also include the following program requirements: (1) development of policies and procedures which must be approved by the State Superintendent of Schools for authorization to provide alternative education programs; (2) establishment of a written curriculum; (3) delivery of instruction in accordance with specified standards; (4) access to support services for students in alternative education programs; (5) compliance with applicable state and federal laws and regulations for exceptional students; (6) selection and licensure of personnel based upon demonstrated competence in meeting standards specifically established for identifying teachers capable of providing effective programs for disruptive students ; (7) provisions for after-hours/night school classes for suspended and expelled students or as an alternative to suspension or expulsion; (8) granting of units of credit for work in alternative education programs; and (9) establishment of criteria for program completion. County boards of education establishing alternative education programs under this proposed policy will be held accountable for program results and will conduct an annual evaluation of the effectiveness of the program. Alternative education programs will also be evaluated by the WVDE Performance Based Accreditation System.

IMPACT:

The proposed policy to implement §18-2-6 and §18-5-19 provides for safer schools by permitting county boards of education flexibility in establishing appropriate alternative education programs for disruptive students. The proposed policy will also provide programs designed to meet the needs of disruptive youth. The policy establishes flexible parameters for the development and operation of programs and requires, in turn, accountability for results.

COMMENTS:

This policy has been revised based upon comments submitted through the public review process. Revisions include: (1) adding to county board of education policies and procedures criteria for reentry into regular education; (2) requiring that the curriculum for alternative education programs be based upon State Board of Education approved instructional goals and objectives; (3) providing for participation by staff certified in core subject areas in the development of the academic curriculum and assessment measures to determine mastery of instructional goals and objectives; and (4) clarifying that unless otherwise required by law, regulation, or court order, transportation services for after-hours/night school classes are at the discretion of the county board of education.

Summary of Comment Log

Policy 2418 was on a comment period from June 14 - July 17, 1996. There were sixty (60) comments received from sixteen (16) people. Of the comments, twenty-two (22) were positive, sixteen (16) were negative and twenty-two (22) were considered neutral.

This policy has been amended based upon comments submitted through the public review process. Revisions include: (1) adding to county boards of education policies and procedures criteria for reentry into regular education, (2) requiring that the curriculum for alternative education programs be based upon State Board of Education approved instructional goals and objectives; (3) providing for participation by staff certified in core subject areas in the development of the academic curriculum and assessment measures to determine mastery of instructional goals and objectives; and (4) clarifying that unless otherwise required by law, regulation, or court order, transportation services for after-hours/night school classes are at the discretion of the county board of education.

One organization and two individuals expressed that Section 5.1.6.a., Personnel Selection Criteria is in conflict with §18A-4-7a, the law specifying employment criteria and procedures for classroom teachers. —

COMMENTS AND SUGGESTIONS LOG
PROPOSED POLICY 2418
REGULATIONS FOR ALTERNATIVE EDUCATION PROGRAMS FOR DISRUPTIVE STUDENTS
JULY 17, 1996

ACTION TYPE
 N: No Response -Negative
 NA: Not Accepted + Positive
 A: Accepted •Neutral

DATE RECEIVED	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION	TYPE	RATIONALE
July 5, 1996	Bonnie Ritz, Ohio County Schools 2203 National Road Wheeling, WV 26003	Flexibility in Program Development: This flexibility in program development provides multiple options that will enable county school systems to meet the unique needs of students in alternative programs. Program Requirement: 5.1.1.Policies & Procedures: It is not necessary to include staffing plan & class size limits. Any policy developed must have flexibility to promote the success of individual students. Caution must be taken not to have unnecessary prescriptive policies & procedures.	N	+	Staffing plans size and class limit are necessary information for the review of county policies & procedures.
		5.1.6 Personnel: The emphasis on selection criteria rather than specific content area certification promotes the hiring of the best qualified for the program. It also gives LEAs the opportunity to provide the best instructional services.	N	+	
		Accountability for Results: 5.1.9.Units of Credit: Wonderful Alternative school students need options based upon performance criteria. 5.1.10.Program Completion: This section also encourages the intent of alternative schools. The flexibility enhances the likelihood of student success.	N	+	
		Proposed Policy 2418 provides flexibility in the development of alternative schools. It is a reasonable document that promotes student success and quality educational services.	N	+	
July 5, 1996	Martha Dean Wezel County Board of Education 333 Foundry Street New Martinsville, WV 26155	Purpose: This section of the policy is well-written to permit counties to select alternative strategies that are appropriate for local requirements. Program Requirement: The guidelines are complete but also include sufficient flexibility for counties to individualize their approach to alternative programs and program delivery. I particularly commend the policy developers for the personnel selection section. It is critical to be able to select those with qualities necessary for successful job performance in a decidedly different teaching assignment. Accountability for Results: This section is reasonable in terms of evaluative criteria.	N	+	
July 8, 1996	James A. Williams Faculty Senate President Eastern Greenbrier J.H.S. RL1 Box 150 (w)or Rt. 1 Box 178 (N) Ronceverte, WV 24970	Program Requirement: 5.1.3. "...of high interest level for students." Different individuals find different things as having high interest and therefore this instructional requirement is unrealistic. 5.1.3.F. Many schools in many counties do not have "sufficient instructional materials, supplies, and equipment" currently. Is the state going to provide extra funding beyond the \$2,000.00 - \$2060.00-\$2121.00 formula to assist fulfillment of this item in those counties?	NA	-	This is a critical requirement for the instruction of unmotivated learners/troubled youth.

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TYPE
 - Negative
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 • Neutral

ACTION TYPE RATIONALE

COMMENTS/SUGGESTIONS

DATE RECEIVED INDIVIDUAL/ORGANIZATION

July 9, 1996	Robert L. Bland Middle School 358 Court Avenue Weston, WV 26452	Definition: OK Purpose: OK Flexibility in Program Development: OK Program Requirement: Since this will be a new position in the county extra funding will be necessary. I feel the state should help with this extra funding as most counties are already in the red or close to being there 5.1.3.(f) 5.1.4. Accountability for Results: One thing not mentioned is that academic performance (whole school) should increase with appropriate placement or removal from the main school atmosphere.	N + N + N + N • N +	
July 10, 1996	Lenore Zedosky WV Department of Education	NOTE: As an administrator I see the huge difference in the academic training of BD vs regular education. The special educator has to put their energy into correcting behaviors which leaves little time for actual academics. I feel that granting high school credits is too liberal when done in an alternative program. Portfolios of students need to be maintained as part of the process of granting credits for graduation or for that matter, to move students on to a higher grade level. Please consider the following as it will be included on the revised Policy 2510: "Certified teachers should act as consultants to teachers delivering the course of study and should be involved in determining the performance criteria that will be used to assure mastering of instructional of goals and objectives.	A •	The policy has been revised in section 5.1.2, Curriculum, to reflect this request.
July 10, 1996	Kathi Polls WV Department of Education Building 6, Room B-230 Charleston, WV 25305	Definition: Nationally, alternative education also includes specialized programs for academically at-risk students, not just disruptive youth. Using a definition for West Virginia that equates alternative education with disruptive behavior only sets a negative precedent. Program Requirement: State Board Policy 2444.4 does not permit GED testing of in-house youth. If GED completion is to be regarded as a program outcome, it is important to note that students will have to drop out of school first before they will be admitted to testing, in addition to meeting other criteria stated in the policy. Policy 2444.4 will need to be revised to deal effectively with alternative education programs.	NA - N •	§18-2-6 limits the State Board of Education to development of policies and procedures for disruptive students.
July 11, 1996	Ed Alfred Jefferson Center 1103 Plum Street Parkersburg, WV 26101	5.1.6 Personnel - State law on the selection of personnel is in conflict with this section. I support this section, as written. However, this may require a legislative change to eliminate a grievable situation. 5.1.7b: It may be difficult to find someone with all these competencies. It would be difficult for a superintendent to verify all these areas. What would be acceptable documentation for B.C.D?	N + N •	The statute authorizes the State Board to develop policies for alternative education.

COMMENTS AND SUGGESTIONS LOG
PROPOSED POLICY 2418
REGULATIONS FOR ALTERNATIVE EDUCATION PROGRAMS FOR DISRUPTIVE STUDENTS
JULY 17, 1996

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DATE RECEIVED	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION	TYPE	RATIONALE
July 11, 1996	Gary L. Adkins, Ass't Superintendent Wayne County Schools 212 North Court Street P.O. Box 70 Wayne, WV 25570	5.1.8 Transportation services can be very costly (buses, drivers, aides) please consider funding this area. 5.1.10 Program completion: If we are going to serve weapons violators, then completion of the term of expulsion should be considered as completion of the program for the purpose of re-entry into the regular school. Other: Consider some formula for the continuation of an alternative school. If these programs are to be successful they must be adequately funded. Definition: The overall policy sounds very good! Program Requirement: Alternative education project cannot become a dumping ground. 5.1.5. Excellent entry. 5.1.7 Item b needs to be explained in more detail.	N	•	Completion of an alternative education program is not synonymous with completion of a term of expulsion.
July 12, 1996	Judy Roberfson Special Education Director Tucker County 501 Chestnut Street Patons, WV	Program Requirement: In considering personnel to implement alternative education for students with special education IEP's would the teacher need to have certification in special education or could the regulations governing special education be met on a consultative basis with county special education teachers? Accountability for Results: A concern for Tucker County is funding. With the funding proposed we are limited to offering alternative education on a homebound basis. We have explored the possibility of an alternative setting in a location such as Camp Horseshoe but this would involve more funds than we have been allotted. One possibility is for several counties to merge funding and create such a situation.	N	•	The Department will provide technical assistance and answer specific questions upon request.
July 15, 1996	Lester H. Vaught, Ass't Supt Raleigh County Schools 105 Adair Street Beckley, WV 25801	Program Requirement: 126-20-5 Program Requirements, "The State Superintendent's approval of the county board's policies and procedures is required for authorization to operate an alternative education program." Does this mean that a pre-approved plan must be submitted to the State Superintendent? Will there be a standardized format to be followed? 5.1.7 Licensure, This section is silent toward content specific certification...this will help move the alternative programs forward and will insure flexibility in the use of personnel. Accountability for Results: Reading Accountability for Results leaves me with a question concerning section 6.3. Are there benchmarks or standard expectations that will be identified that will serve as the measuring instrument for success in the areas listed?	N	•	The Department will provide technical assistance and answer specific questions upon request.

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REGULATIONS FOR ALTERNATIVE EDUCATION PROGRAMS FOR DISRUPTIVE STUDENTS
JULY 17, 1996

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DATE RECEIVED	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION	TYPE	RATIONALE
July 16, 1996	Yvonne Santlin Jofferson Elementary Center 1103 Plum Street Parkersburg, WV 26101	Definition: Definition may need to include "students whose disruptive and at-risk behavior places them in jeopardy of not succeeding in the traditional school structures..." Limiting alternative education programs for only disruptive students does not give school systems the flexibility to provide programs for a wider population of students who may not "fit" the traditional school structure. Purpose: This statement should include in (2): meet the educational needs of "disruptive and at-risk students..."	N	-	§18-2-6 limits the State Board of Education to the development of policies and procedures for disruptive students. §18-2-6 limits the State Board of Education to the development of policies and procedures for disruptive students.
		Flexibility in Program Development: Good.	N	+	
		Program Requirement: 5.1.6. Personnel. Selection criteria based upon the standards listed are in conflict with existing procedures for hiring teachers in the W.Va. Code. These criteria could possibly be re-written to be used as "other measures or indicators upon which the relative qualifications of the applicant may be fairly judged" if there were no permanently employed teachers applying for the job(s). This needs to be resolved so that there is no violation with the law. Also, the administrative component needs to be addressed regarding personnel. If administrators are utilized, should this criteria be applied to them also?	NA	-	The statute authorizes the State Board to develop policies for alternative education.
		5.1.7. Licensure...b. Temporary Authorization: This needs clarification.	NA	•	The Department will provide technical assistance and answer specific questions upon request.
		5.1.9. Units of Credit : Does administrator other than home principal have the authority to award credits?	NA	-	The Department will provide technical assistance and answer specific questions upon request.
		Accountability for Results: 6.3 Consideration for Program Evaluation and Accreditation Reviews: Evaluations should also include rates of parental involvement as well as the involvement of community agencies. Also, will it be possible to alternative education programs to ask for a waiver for the G.E.D. component? Can this policy be modified?	N	•	This will be addressed in county policies and procedures. Section 6.3 states that results as a criteria for evaluation. Section 5.1.1 requires parental and community agency involvement.

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DATE RECEIVED	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION	TYPE	RATIONALE
July 16, 1996	Bob Wilson, DAYMARK New Connections Youth Services 1598 C Washington Street East Charleston, WV 25311 Telephone: 340-3690	NOTE: It will be vital for alternative education programs for components of these move from policy to law. Also, the legislature should support a funding formula component similar to special education where students in alternative education programs would be funded at a higher ratio and this money would be earmarked for these programs. 5.1.10 Program Completion: This leads one to believe that alternative education programs can allow students to obtain a G.E.D. This is in conflict with State Board Policy 2444.4 which allows students to take the G.E.D. only if they have dropped out of school first. This policy (2444.4) will need to be revised if alternative education programs can be effective.	N	-	Proposed policy cites GED attainment must be in accordance with State Policy 2444.4
July 16, 1996	Christeen T. Courtney Certification Analyst Kanawha County Schools 200 Elizabeth Street Charleston, WV 25311	In responso to the June 14, 1996 asking for comments, I have taught in the public schools and for the last five years I have worked with students who have dropped out of school. As a result of this experience I would recommend a needs based approach in alternative education programs for disruptive students. Hopefully, alternative schools will avoid the temptation to take on a punitive, authoritarian approach. I say temptation because I have taught with highly disruptive students in public schools and I know the frustration of seeing disruptive students command way more than their share of attention. However in working with these same students, in a more needs based environment, after they have dropped out of school leads me to believe the disruptive behavior problems in school are largely due to a lack of student success. If the learning environment can be changed so that the students feel themselves making progress then their disruptive behavior is minimized. Often schools assume the student is the one who has to do the changing but it seems to me both sides of the student <-> school equation need to make changes in order to find the correct balance. In order that the local implementation of alternative schools is as success/needs based as possible I would recommend that a summary of the various programs in the state be available to local people implementing the specifics of alternative schools. Although I know the law does not provide for it I think the high level of student disruption is a symptom of issues that can only be addressed by changing the cultural emphasis on materialism, violence, and individualist competition. Building healthy support systems within families, neighborhoods and communities; creating meaningful work for every adult; and promoting the concept that the schools are the hub of the community problem solving will attack the root problems. If there is any further way I can help you in looking for alternatives for disruptive students please contact me.	N	-	All teachers delivering academic instruction in an alternative education program are required to obtain temporary authorization pursuant to this policy.
July 16, 1996	Christeen T. Courtney Certification Analyst Kanawha County Schools 200 Elizabeth Street Charleston, WV 25311	Program Requirement: 5.1.7. Licensure, "b. Temporary Authorization - A Temporary Authorization valid for one year shall be granted to the successful candidate(s) for the alternative education program position(s). The employing county superintendent must verify that the applicant possesses the competencies identified in Section 5.1.6.a. The Temporary Authorization may be renewed each year based on the applicant's continued employment	NA	-	

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July 17, 1996	Christeen T. Courtney, cont. Kevin Boggs, President West Virginia Education Association 1558 Quarrier Street Charleston, WV 25311-2497 Telephone: 346-5315	<p><i>in an alternative education program.</i> If a county is able to use content area certified teachers for this alternative education program would it be necessary to also apply for a Temporary Authorization? Perhaps the policy could be re-written so that if content area certified professionals were not available then a professional with any West Virginia professional teaching certificate may be issued a Temporary Authorization yearly upon continued employment in an alternative education program.</p> <p>The following are the comments of the West Virginia Education Association regarding proposed Policy 2418: Regulations for the Alternative Education Programs for Disruptive Students</p> <p>§126-20-5 Program Requirements: Subsection 5.1.6, Personnel. The selection criteria set out in this section hiring of professional personnel set forth in <i>West Virginia Code §18A-4-7a</i>. That statute requires that all professional positions be filled specifically upon a comparison of all candidates based upon specific criteria set forth therein.</p> <p>Where there are not internal applicants, classroom teaching positions must be filled based upon the following criteria:</p> <ol style="list-style-type: none"> appropriate certification or licensure amount of teaching experience in the subject area amount of course work and/or degree level in the relevant field academic achievement relevant specialized training past performance evaluations other measures or indicators upon which the relative qualifications of the applicant may be fairly judged. <p>There are criteria in this set under which the standards set out in §5.1.6. may be taken into consideration. Specifically, the criterion of specialized training could accommodate training on items E and F and most likely items B, C and D as well. In order to be considered under the specialized training criterion any special training or skills would have to be "specifically stated in the job description and directly related to the performance of the job" as required by <i>West Virginia Code §18A-4-7a</i> (unnumbered paragraph ten). However, having a detailed job description would have several advantages. It will help the county school system focus on specific goals for the program and the program and the kind of training and experience a staff member would need to meet those goals. It would help employees fully understand the expectations and challenges of the position prior to applying for it. Finally, it would aid in accountability for the program by providing a detailed description of the expectations for professional personnel implementing it.</p> <p>When there are no internal applicants for the position, it also appears that the standards set forth in section 5.1.6. could be considered under the criterion of "other measures or indicators..." Ultimately the standards set forth in the policy would have a very significant effect on the filing of alternative setting positions without failing to take into consideration the additional important criteria established by the West Virginia Legislature for selecting professional personnel.</p>	NA	-	The Legislature under § 18-2-6 has given the State Board of Education the authority to develop policies and procedures for alternative education programs. There is broad consensus among members of the educational community that special personnel are required for the effective delivery of alternative education programs. Present methods of personnel selection and licensure do not afford the flexibility needed to ensure this provision.

COMMENTS AND SUGGESTIONS LOG
PROPOSED POLICY 2418
REGULATIONS FOR ALTERNATIVE EDUCATION PROGRAMS FOR DISRUPTIVE STUDENTS
JULY 17, 1996

ACTION TYPE
 N: No Response -Negative
 NA: Not Accepted + Positive
 A: Accepted •Neutral

DATE RECEIVED	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION	TYPE	RATIONALE
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Where there is an internal applicant for a classroom teaching position the position must be filled based upon the following seven criteria:

- a) applicant's certification
- b) total teaching experience
- c) existence of teaching experience in the required certification area
- d) degree level in the required certification area
- e) specialized training stated in the job description
- f) satisfactory evaluations for the previous two years
- g) seniority

West Virginia Code §18-A-4-7a, requires that each of those criteria be considered and that each one be given equal weight. This statute was not amended by the passage of H.B. 4065. Therefore, subsection 5.1.6 of proposed Policy 2418 violates this statute by mandating that professional personnel assigned to teach in alternative settings be selected upon a completely separate set of criteria without any consideration to these seven.

We want to be perfectly clear that we are not opposed to ensuring persons holding these positions hold the special qualifications that are necessary to succeed in these often difficult settings. However, we strongly believe that this interest can be served within the framework of 18A-4-7a without abandoning consideration of the seven criteria mandated by that statute. As mentioned herein, if the selection criteria set out in Policy 5.1.6, are placed in the job description under the heading of specialized training, they will be considered under the statutory criteria of specialized training related to the performance of the job. Also as discussed above there are a number of other advantages to be gained by requiring specific job descriptions for any professional positions which are created to provide alternative settings for disruptive students.

A second criterion which could more profoundly affect the filling of these professional positions is "appropriate certification or licensure." When H.B. 4065 was moving through the legislature, we had discussions related to a separate certification that professionals could obtain through authorized training and/or accepted experience. It is generally accepted that the certification criterion in *West Virginia Code 18A-4-7a* serves as a break point. Thus, candidates who are not properly certified are in most instances not considered for the position. Therefore, obtaining this certification for alternative settings would significantly enhance an applicant's ability to get the position and would serve the purpose of ensuring that the successful applicant had skills that would benefit the unique population of students in that classroom.

Unfortunately the only certification required by proposed Policy 2418 is a West Virginia Professional Teaching Certificate. A temporary authorization is granted once the successful applicant is chosen. This authorization is intended to serve as a protection against reduction in force but has no impact on the selection of applicants initially. Thus it falls short of the goals that could be achieved by a certification which could be attained through training and experience prior to application for the position.

COMMENTS AND SUGGESTIONS LOG
PROPOSED POLICY 2418
REGULATIONS FOR ALTERNATIVE EDUCATION PROGRAMS FOR DISRUPTIVE STUDENTS
JULY 17, 1996

ACTION
N: No Response
NA: Not Accepted
A: Accepted

TYPE
-Negative
+ Positive
-Neutral

DATE RECEIVED	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION	TYPE	RATIONALE
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In summary, Policy 2418 accomplishes the goals of H.B. 4065 well in many respects. However, §5.1.6. as it is presently written violates West Virginia Code 18A-4-7a. As set out herein, a rewrite of that section could bring the policy in line with the statute and provide additional benefits of clarity and accountability without ignoring the legally mandated criteria for selection of classroom teachers.

Additionally, the expansion of §5.1.7. to include the creation of a separate certification for alternative settings for disruptive students would significantly enhance the chances of obtaining highly trained and experienced personnel to fill these challenging positions within the mandates of West Virginia Code §18A-4-7a.

The West Virginia Education Association is committed to the success of alternative settings as a way of ensuring organized and safe classrooms for West Virginia students. We stand ready to offer our resources to work with the state department on adjusting the sections of Policy 2418 discussed herein to ensure their compliance with state statutes and enhance their abilities to accomplish the overall goals stated in the policy.

Thank you for your attention to our comments. If you have any questions or need further information, please do not hesitate to contact me.

July 18, 1996
Honorable Jon Amorces
Member, House of Delegates
901 Quarrier Street, Suite. 206
Charleston, WV 25301

Definition:
1) There must be a definition of what is a "disruptive" student, if it is not in any other rule or statute.

2) There should be a due process component (investigation, hearing, etc.) in making a determination that a child is "disruptive." This is too critical a decision for it to be made unilaterally or capriciously, if such a possibility exists.

Purpose:
3) NOTE: Flexibility in developing AEPs is fine and should be encouraged, but failing to have a consistent standard and process to determine who is a disruptive student and attends the AEP creates potentially serious problems - possibly even legal problems.

The Department has established standards of conduct outlined in State Board Policy 4373. Counties have latitude to further define disruptive behavior.

The requirement for due process procedure has been added to Section 5.11

Counties will have to have prescriptive policies and procedures which allow flexibility to meet individual district's unique needs. These policies and procedures will require the State Superintendent's approval.

COMMENTS AND SUGGESTIONS LOG
PROPOSED POLICY 2418
REGULATIONS FOR ALTERNATIVE EDUCATION PROGRAMS FOR DISRUPTIVE STUDENTS
JULY 17, 1996

DATE RECEIVED	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION	TYPE	RATIONALE
		<p>Program Requirement: There must be a stated goal of returning a student to the regular school program, when possible. This encourages the student, and reduces the likelihood that the student (and the community) will view AEPs as mere "dumping grounds" for unwanted troublemakers.</p> <p>Accountability for Results: There must be a reporting requirement to the State Dept. of Education. Each AEP should so that the various AEPs can put together a clearinghouse of information from which to share ideas and approaches. Each AEP should provide an outline of its program to the Dept. of Ed so this clearinghouse can be maintained.</p>	NA	-	The suggested goal is implied and the policy has been amended to add re-entry into regular education.
July 19, 1996	Dr. Richard Hoover, Superintendent Upshur County Schools, requesting letter from Steven Paine be considered for comment.		N	+	
	Steven Paine, Curriculum Director 102 Smithfield Street Buckhannon, WV 26201	<p>We have structured a comprehensive alternative education program which includes a strong basic skills acquisition component as well as individual, group and family counseling, and liaison/advocacy with external youth agencies including the juvenile probation office and the Department of Health and Human Services. The basic skills acquisition component shall be delivered by a team of two professionals who shall facilitate instruction within a computer lab setting with appropriate skills remediation software. Our alternative education teacher/counselor/facilitator team consists of two professionals, both of whom possess Masters degrees plus at least thirty additional graduate hours, and are certified in School Counseling. One of these persons has an undergraduate degree in Psychology and Social Work with considerable work experience as an At-Risk Student Coordinator and as a licensed social worker with the Department of Health and Human Resources. The other person has an undergraduate degree in Criminal Justice with considerable experience as a Drug-Free Schools Coordinator. Both have instructed Upshur County Schools students within formal classroom settings for the past four (4) years.</p> <p>Accordingly, we should like to request that the alternative education certification requirements be modified so to include persons who possess a Masters Degree in School Counseling. Assurance of high quality instruction would be guaranteed by student performance on the Stanford Achievement Test at or above the 50th percentile in the skill areas of reading and mathematics.</p>	NA	•	Persons delivering academic instruction must be certified teachers in West Virginia. Backgrounds of school course work in academic subject areas.

COMMENTS AND SUGGESTIONS LOG
PROPOSED POLICY 2418
REGULATIONS FOR ALTERNATIVE EDUCATION PROGRAMS FOR DISRUPTIVE STUDENTS
JULY 17, 1996

ACTION TYPE
 N: No Response
 NA: Not Accepted
 A: Accepted

TYPE
 -Negative
 + Positive
 •Neutral

DATE RECEIVED	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION	TYPE	RATIONALE
July 19, 1996	Gia Deasy Dept of Sp. Ed - 508 Allen Hall Human Resources & Education WV University PO Box 6122 Morgantown, WV 26505-6122	This request exceeds the current minimum requirements for certification of persons providing for the home instruction of students as listed in WV Code 18-8-1 which states, "the person or persons providing home instruction submit satisfactory evidence of: (i) A high school diploma or equivalent; and (ii) formal education at least four years higher than the most academically advanced child for whom the instruction will be provided..." Thank you for your consideration of our request. Should you have questions or concerns, please contact me at your convenience. We shall look forward to your response.	N	-	
		Definition: The intent to provide educational and social development is an essential combination. I would hope that both issues are maintained in the final policy.	N	+	
		Purpose: I agree with the two cited purposes but I suggest a third (3) purpose (3) <i>provide disruptive students an opportunity to learn prosocial skills and alternative strategies to better manage their emotions, impulses and behavioral responses.</i>	NA	+	This provision is included in Section 5.1.2.- Curriculum
		Flexibility in Program Development: The range of program options seems exhaustive and appropriate. QUESTION: Can school districts form cooperative agreements with neighboring/bordering school districts???	N	+	The Department will provide technical assistance and answer questions upon request.
		Program Requirement: Policies and procedures should include exit criteria that details criteria for completion of the alternative education program and/or reentry to the traditional education program and or graduation.	A	+	This has been included under Section 5.1.1.
		CURRICULUM: I feel it is essential that the curriculum include the component for teaching/learning appropriate behavior.	N	+	A stated goal of reintegration of a student to the regular school program when appropriate has been added to the policy.
		INSTRUCTION: QUESTION: Will students have an individualized education plan?? (Fashioned similar to Sp. Ed. IEP would be my suggestion)	N	•	
		PERSONNEL: Glad to see that professionals trained in EBD would make likely candidates for these positions.	N	+	
		Accountability for Results: I realize it may be asking a great deal but perhaps surveying students who have attend ALC settings to gain some insight regarding their views of what made this alternative placement--a viable alternative for education for them. (Consumer satisfaction!)	N	•	

FISCAL NOTE WORKSHEET

(Submit 4 Copies)

HD NO _____ DRAFT NO _____ BILL NO 4065 RESOLUTION NO _____

SUBJECT Policy 2418: Regulations for Alternative Education Programs for Disruptive Students 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	THEREAFTER
1. ESTIMATED TOTAL COST	\$ 2,000,000	\$	\$ 2,000,000	\$ 2,060,000	\$ 2,121,000
PERSONAL SERVICES	\$	\$	\$	\$	\$
CURRENT EXPENSES					
REPAIRS/ALTERATIONS					
EQUIPMENT					
OTHER	\$ 2,000,000		\$ 2,000,000	\$ 2,060,000	\$ 2,121,000
2. ESTIMATED TOTAL REVENUES	\$ 2,000,000	\$	\$ 2,000,000	\$ 2,060,000	\$ 2,121,000

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

1. §18-9A-21 of the proposed bill requires the Department of Education to distribute \$2,000,000 to county boards of education for the operation of alternative education programs.
2. Costs for NEXT and THEREAFTER represent a three (3) percent increase.

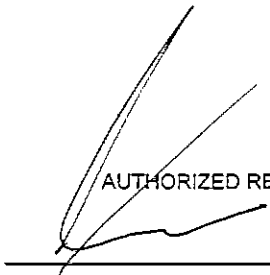
DATE

AGENCY

AUTHORIZED REPRESENTATIVE

Education

6/14/96



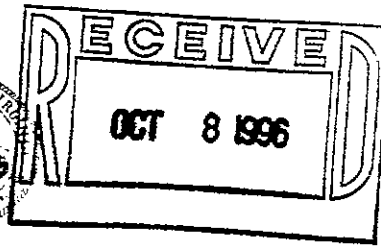
KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

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STATE OF WEST VIRGINIA
SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer help we can get)

TO: ~~VIC BARONE~~ *Shabak Andrews*

AGENCY: EDUCATION

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 3, 1996

FILED
OCT 15 11 22 AM 1996
OFFICE OF THE SECRETARY OF STATE

THE ATTACHED RULE 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: 120 TITLE: 126 EDUCATION

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____
TITLE OF PERSON SIGNING: *Judy Cooper*
DATE: 10-10-96

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

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

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

