



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Education TITLE-SERIES: 126-204
RULE TYPE: Procedural Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: Safe Schools Funding Process (8300)
CITE STATUTORY AUTHORITY: 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); and, W. Va. Bd. of Educ. v. Bd. of
Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 05/13/2024 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Micah Whitlow, Director
ADDRESS: WVDE Office of School Facilities, Capitol Bldg. 6, Room 650
1900 Kanawha Blvd., E, Charleston, WV 25305
EMAIL: micah.whitlow@k12.wv.us

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:

Policy 8300 establishes the process by which county boards of education, charter public schools, and multicounty vocational centers may submit requests for needs-based funding from the Safe Schools Fund and the criteria by which those requests shall be evaluated.

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

Policy 8300 is required by W. Va. Code §18-5-48, Safety and security measures for school facilities; Safe Schools Fund created.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There will be no economic impact on revenues of state government as a result of proposed 126CSR204, Policy 8300.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

There will be no economic impact on special revenue accounts as a result of proposed 126CSR204, Policy 8300.

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

There will be no economic impact on the state or its residents as a result of proposed 126CSR204, Policy 8300.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

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

There will be no economic impact on revenues of state government, special revenue accounts, or the state or its residents as a result of proposed 126CSR204, Policy 8300.

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

Yes

Kelli D Talbott -- 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.

**Policy 8300, Safe Schools Funding Process
List of Stakeholders**

West Virginia Department of Education

External Stakeholders

- Dr. Joetta Basile, Superintendent, Monroe County
- Steven Bieniek, Treasurer, Ohio County
- Justin Boggs, Deputy Superintendent, Cabell County
- Chris Campbell, Treasurer, Putnam County
- David Crumm, Administrator of Operations, Ohio County
- Ben Cummings, Principal, Roane-Jackson Technical Center
- Robert Cunningham, Deputy Cabinet Secretary, WV Department of Homeland Security
- William Hosaflook, Superintendent, Jackson County
- David McClure, Treasurer, Greenbrier County
- Johnathan McPherson, Director Personnel/Transportation/Safety/Facilities, Monroe County
- Dr. Kimberly Miller, Superintendent, Ohio County
- Kari Rice, Director of Operations and Management, Ritchie County
- Brad Smith, Treasurer, Randolph County
- Keith Vititoe, Executive Director Safety and Security, Kanawha County
- Nancy White, Vice President, West Virginia Board of Education

Internal Stakeholders

- Jonah Adkins, Director School Safety, Offices of School Operations
- Uriah Cummings, Director, School Finance, Offices of School Operations
- Stacey Losh, Coordinator, Office of School Improvement
- Kelli Talbott, General Counsel, Legal Services
- Micah Whitlow, Director, School Facilities, Offices of School Operations

126CSR204

**TITLE 126
PROCEDURAL RULE
BOARD OF EDUCATION**

**SERIES 204
SAFE SCHOOLS FUNDING PROCESS (8300)**

§126-204-1. General.

1.1. Scope. -- This procedural rule establishes the process by which county boards of education, charter public schools, and multicounty vocational centers may submit requests for needs-based funding from the Safe Schools Fund and the criteria by which those requests shall be evaluated.

1.2. Authority. -- W. Va. Constitution, Article XII, §2; and W. Va. Code §18-2-5 and §18-5-48.

1.3. Filing Date. -- .

1.4. Effective Date. -- .

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

§126-204-2. Definitions.

2.1. Public school district. A collective reference to the county boards of education and charter public schools.

2.2. Safety and security measures. Actions taken by a public school district or multicounty vocational center (MCVC) that improve the security of a school facility and the safety of students within such facility, including, but not limited to, hiring a school resource officer, installing weapon detection systems, and upgrading facility doors or windows.

2.3. Selection committee. Group of members selected according to section 6.1 of this policy, who are responsible for managing the evaluation, selection, and awarding of all available Safe Schools Funds.

§126-204-3. Annual Safety and Security Assessments and Reports.

3.1. Each public school district and MCVC shall annually assess the safety and security of each school facility for which they are responsible. Safety and security measures of each facility shall be upgraded when necessary to ensure the safety of the students within each facility.

3.2. Each public school district and MCVC shall report annually to the West Virginia Department of Education (WVDE) the safety and security measures it has implemented.

3.3. Annually, the WVDE shall compile the information received and report it to the Legislative Oversight Commission on Education Accountability and request an appropriation based on the requests of the public school districts and MCVCs.

§126-204-4. Safe Schools Fund General Requirements.

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4.1. When made available, Safe Schools Funds shall be distributed on the basis of need.

4.2. Money distributed from this fund shall not be used to make permanently affixed improvements, alterations, or additions to a physical facility that a public school district or MCVC does not own. If the WVDE distributes any money from the Safe Schools Fund for the purpose of making safety improvements on or in a facility that is not owned, the improvements shall be accomplished in such a manner that they may be removed with minimal effort.

4.3. The WVDE shall allocate available Safe Schools Funds based on the following order of priority:

4.3.a. installing video and audio recording devices in certain special education classrooms, as defined by W. Va. Code §18-20-11;

4.3.b. constructing safe school entryways as defined by W. Va. Code §18-5-48;

4.3.c. on the determination of need, other safety and security needs of the public school districts and MCVCs.

4.4. Safe Schools Funds proposed to improve physical facilities shall only be used to upgrade the safety and security of an existing facility and not to supplement the funding for constructing a new facility.

§126-204-5. Submission and Evaluation Process for Safe Schools Fund Needs-based Funding.

5.1. Subject to the availability of Safe Schools Funds, the WVDE shall notify and provide the public school districts and MCVCs with an application to apply for funding. The completed applications shall be returned to the WVDE in the manner and timeframe prescribed by the WVDE.

5.2. The funding request application from the public school districts and MCVCs shall be submitted to the WVDE and include the following minimum content for consideration:

5.2.a. contain detailed plans illustrating or explaining how the project will improve the safety and security of students and staff;

5.2.b. be included in the submitting public school district or MCVC's most recent Safety and Security Survey response, as surveyed and collected by the WVDE and required by W. Va. Code §18-5-48. When a request is not identified in the required Safety and Security Survey, the selection committee may consider a written statement from the public school district or MCVC as a substitute for the survey requirement. The written statement shall describe why the proposed project was not included in the required survey and the time significance of including the proposed project;

5.2.c. contain a cost estimate that fully details the project's proposed costs, if it is a one-time or reoccurring cost, and the amount of funds, if any, the public school district or MCVC proposes to contribute to the project;

5.2.d. if related to physical facility upgrades, provide a copy or access to the approved Comprehensive Educational Facilities Plan (CEFP) of the county board of education or MCVC, as defined by W. Va. 126CSR172, Policy 6200, Handbook on Planning School Facilities (Policy 6200), or a charter public school's organizational application or similar planning documents;

5.2.e. contain a summary of the public school districts' and MCVCs' efforts to maintain and improve the safety and security of students and staff at the facilities under the applicant's control; and

5.2.f. other information the selection committee deems significantly relevant.

5.3. When a public school district or MCVC proposes a project involving physical facility improvements, separate applications shall be submitted and considered for each physical school location.

§126-204-6. Selection Process for Safe Schools Fund Needs-based Funding.

6.1. Public school districts and MCVCs whose requests meet the content requirements of section 5.2, shall be placed in a pool of eligible applications for further consideration by a selection committee. The State Superintendent of Schools shall determine the number of members on the selection committee and appoint members to the committee.

6.2. Subject to the availability of funds, the selection committee shall evaluate and rank the eligible applications for the awarding of Safe Schools Funds based on the following criteria in order of prioritization and value:

6.2.a. the ordered priorities defined in section 4.3;

6.2.b. the demonstrated ability of the public school districts or MCVCs to fund the project and complete it in a timeframe that meets the requirements of this policy;

6.2.c. the alignment of the project with the public school district and MCVCs' long-term facility, safety, and security plans;

6.2.d. demonstrated efforts by the public school districts and MCVCs to maintain facilities and improve the safety and security of students and staff at the proposed project facility and other facilities under the applicant's control; and

6.2.e. other criteria the selection committee deems significantly relevant.

§126-204-7. Award Process and Requirements for Selected Projects.

7.1. Subject to the availability of funds, the ranked submissions shall be funded, starting with the highest-ranking submission and proceeding to the lower-ranking submission until funds are extinguished for the respective fiscal year and no more submissions can be fully funded.

7.2. All submissions must be explicitly used for the stated purpose and procured according to W. Va. 126CSR202, Policy 8200, Purchasing Procedures for Local Educational Agencies, and all other requirements governing the expenditure of public funds.

7.3. When the WVDE identifies funding as being used for purposes outside the scope of an approved submission or not according to proper procurement methods, funding for that submission shall be unallocated, and all expended and unexpended funds shall be returned to the Safe Schools Fund and made available for future allocation and distribution according to the processes defined in this policy.

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7.4. Funds for approved submissions may be distributed either as a lump sum or on a reimbursement basis, as determined by the selection committee and in the best interest of ensuring the prudent and responsible use of resources.

7.5. The selection committee shall determine the distribution of unused, returned, or unallocated funds. It is within the selection committee's discretion to award returned or unallocated funds to currently eligible and prioritized submissions or to hold the funds for distribution in subsequent fiscal years.

7.6. To encourage planning and prompt action, public school districts and MCVCs forfeit any funds that fail to be expended within two fiscal years of disbursement, unless the committee provides an extension under the following guidelines for extensions and forfeitures:

7.6.a. upon formal request from the public school districts or MCVCs, the committee may authorize an extension beyond the provided two fiscal years for a period not to exceed an additional fiscal year; and

7.6.b. any forfeited funds shall be returned to Safe Schools Fund and made available for future allocation and distribution according to the processes defined in this policy.

7.7. When a submission's cost exceeds awarded funds, the public school district or MCVC is responsible for the required additional funding. No supplemental funding will be provided for submissions over budget.

7.8. If costs or other barriers make completion of an awarded submission impossible or delayed beyond the extension allowability defined in this policy, all expended and unexpended project funds shall be unallocated and returned to the Safe Schools Fund for use on other eligible submissions.

7.9. All physical facility modifications shall meet the requirements of Policy 6200, current state building codes, and the West Virginia State Fire Marshal's requirements.

7.10. If the proposed submission is a facility improvement, it shall be contained in the approved CEFP of the county board of education or MCVC, as defined by Policy 6200, or a charter public school's organizational application or similar planning documents. When a request is not identified in the applying entity's applicable facility plans, the selection committee may consider the applicant's written statement providing their intent to complete the necessary facility plan amendments if their project is selected.

§126-204-8. Severability.

8.1. If any provision of this policy or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this policy.

**W. Va. 126CSR204, Policy 8300, Safe Schools Funding Process
Comment Response Form**

Comment Period Ends: May 13, 2024

NOTICE: *Comments, as submitted, shall be filed with the West Virginia Secretary of State's Office and open for public inspection and copying for a period of not less than five years.*

The following form is provided to assist those who choose to comment on Policy 8300, Safe Schools Funding Process. Additional sheets may be attached, if necessary.

Name: _____ Organization: _____

Title: _____

City: _____ State: _____

Please check the box below that best describes your role.

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- | | | | |
|-----------------------------------------------|-----------------------------------------------------|--------------------------------------------|-------------------------------------------|
| <input type="checkbox"/> County Board Member | <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Higher Education |
| <input type="checkbox"/> Superintendent | <input type="checkbox"/> Principal | <input type="checkbox"/> Parent/Family | <input type="checkbox"/> Legislator |
| <input type="checkbox"/> Central Office Staff | <input type="checkbox"/> Teacher | <input type="checkbox"/> Community Member | <input type="checkbox"/> Other |

COMMENTS/SUGGESTIONS
§126-204-1. General.
§126-204-2. Definitions.
§126-204-3. Annual Safety and Security Assessments and Reports.
§126-204-4. Safe Schools Fund General Requirements.
§126-204-5. Submission and Evaluation Process for Safe Schools Fund Needs-based Funding.
§126-204-6. Selection Process for Safe Schools Fund Needs-based Funding.
§126-204-7. Award Process and Requirements for Selected Projects.

**W. Va. 126CSR204, Policy 8300, Safe Schools Funding Process
Comment Response Form**

§126-204-8. Severability.

Please direct all comments to:

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