



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

AGENCY: Education TITLE-SERIES: 126-207

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Increased Enrollment (8224)

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)

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

August 7, 2024

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.

126CSR207

**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

**SERIES 207
INCREASED ENROLLMENT (8224)**

§126-207-1. General.

1.1. Purpose. -- The purpose of this legislative rule is to establish an objective method for projecting an increase in net enrollment for each public school district to determine the amount of funding required to fully fund the provisions of W. Va. Code §18-9A-15.

1.2. Authority. -- W. Va. Constitution, Article XII, §2; and W. Va. Code §§11B-2-3, 18-2-5, 18-5G et seq., 18-9A-2, and 18-9A-15.

1.3. Filing Date. -- July 8, 2024.

1.4. Effective Date. -- August 7, 2024.

1.5. Repeal of former rule. -- This legislative rule amends W. Va. 126CSR207, Policy 8224, Projection of Net Enrollment Increases, filed August 12, 2005, and effective September 11, 2005.

§126-207-2. Applicability.

2.1. This policy applies to the West Virginia Department of Education (WVDE), Office of School Finance, charter public schools, and all county boards of education.

126-207-3. Definitions.

3.1. Birth data. Annual birth information for each county in the state.

3.2. Cohort survival. Student advancement to the next grade level.

3.3. Enrollment history. Five-year history of student (headcount) enrollment for each public school district, based upon second month enrollment.

3.4. Net enrollment. Number of pupils enrolled in early childhood education programs (ages 3-5), kindergarten programs, grades one through 12, and special education programs in the public schools of the school district. Net enrollment shall include adults enrolled in career technical education programs and shall include no more than 2,500 such adults counted on the basis of full-time equivalency and apportioned annually to each county in proportion to the adults participating in career technical education programs in the prior year counted on the basis of full-time equivalency.

3.5. Public school district. For the purpose of this policy, public school district means county board of education or charter public school.

3.6. Survival ratio. Percentage of students that advance from one grade level to the next.

3.7. Economic adjustment factor. Estimated factor based on economic development projects announced by state and local government officials. An adjustment percentage is formulated based on available data points such as the number of jobs created due to economic development such as the start-up or shutdown of a major employer, causing a material improvement or deterioration of the job market.

3.8. Grade adjustment factor. Estimated factor used when a public school district is adding or removing grade levels from the previous year.

§126-207-4. Administration.

4.1. The WVDE Office of School Finance, on behalf of the State Superintendent of Schools (State Superintendent), shall be responsible for administering and complying with the requirements of this policy.

§126-207-5. Projections of Net Enrollment - County Boards of Education.

5.1. There are a variety of methods available to forecast student enrollment. A method that has proven reliable over a number of years of use is the cohort survival method. This method fares well even when compared with more sophisticated methods that employ multiple regression analysis. It is this reliability and relative simplicity that has led to its historical use by the National Center for Education Statistics for similar enrollment-type projections and is the reason for adoption as the objective method employed by the WVDE for projecting net enrollment increases.

5.2. The basic concept behind cohort survival is that it is known, from historical records, what percentage of students in a cohort, or grade level, are promoted to the next grade level. This information can be used to objectively project future enrollments.

5.3. For the purpose of this policy, five years of net enrollment historical data of all students enrolled in the public schools of this state in pre-kindergarten through grade 12 will be aggregated for each county board of education and an average survival rate determined for each grade level to project the total net enrollment of each county board for the upcoming school year.

5.4. To project pre-kindergarten enrollment, birth data from four years earlier will be used.

5.5. An adjustment will be made to each county board of education's enrollment projection due to economic factors impacting the county.

5.6. A final adjustment will be made to each county board of education's enrollment projection due to charter public school enrollment projections as detailed in section 6.

§126-207-6. Projections of Net Enrollment - Charter Public Schools.

6.1. Charter public schools can enroll students from multiple counties, therefore, the cohort survival methodology would not provide a reasonable means for forecasting student enrollment. To ensure both new and existing charter public schools receive appropriate funding based on increased net enrollment, the WVDE will employ the following method for projecting net enrollment increases.

126CSR207

6.1.a. In the initial year of operations for a charter public school, projected net enrollment will be based on projected enrollment data required to be certified to the WVDE by April 15 of the preceding year in accordance with 126CSR79, Policy 3300, Charter Public Schools.

6.1.b. In the second through fifth year of operations of a charter public school, it is necessary for a charter public school to report a preliminary projected enrollment count to WVDE to be used in the computation of a partial increased enrollment distribution as permitted by section 8.1 of this policy. The projected count must be provided to WVDE by December 1.

6.1.c. In all subsequent years of operations for a charter public school, projected net enrollment will be based on full-time equivalency (FTE) enrollment trend data over a five-year period. Until a full five-year trend is available, FTE enrollment data from inception-to-date will be utilized in the trend calculation.

6.2. An adjustment will be made to each charter public school's enrollment projection due to economic factors impacting the proportional county of residence for the student base of the public school district.

6.3. A grade adjustment factor will be utilized if the public school district is adding or removing grades levels in the succeeding year.

§126-207-7. Computations of Required Funding.

7.1. To determine the amount of funding to request for increased enrollment, the projected net enrollment for each public school district for which an increase in net enrollment is projected for the upcoming school year will be multiplied by the average state aid per pupil for that public school district for the latest year for which the data is available. In the case of charter public school districts, the average state aid per pupil will be calculated using a weighted average based on the school district in which each student physically resides. Average state aid per pupil for county boards of education is net of local share wherein average state aid per pupil for charter public schools does not include a local share adjustment.

7.1.a. In the initial year of operations, only those students not included in the October 1 certified enrollment count of a West Virginia public school district in the preceding year are to be included in the charter public school's increase in net enrollment computation for the school year.

7.2. To ensure that adequate funding is requested for increased enrollment, a modification factor will be determined using historical data to adjust the aggregate amount determined in the preceding steps.

7.3. The total amount determined from the computation outlined above will be the basis for the appropriation request for increased enrollment submitted by the State Superintendent to the West Virginia Legislature and the Governor, pursuant to the provisions of W. Va. Code §11B-2-3.

§126-207-8. Distribution of Funds Appropriated.

8.1. At the request of a public school district, the State Superintendent may advance a partial distribution to the public school district of up to 60 percent of its estimated share based on its projected increased enrollment before the actual increase in net enrollment is available.

8.2. If the amount distributed to a public school district is greater than the total amount to which a

126CSR207

district is entitled to receive for the year, the district shall refund the difference to the WVDE on or before June 30 of the fiscal year in which the excess distribution is made.

8.3. The WVDE shall notify the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability whenever an advanced partial distribution is made.

8.4. In the event that a partial distribution of increased enrollment funding is not requested, the State Superintendent shall distribute each public school district's share of the appropriation on or before December 31 of each year.

8.5. If the amount of the appropriation for increased enrollment is not sufficient to provide payment in full for the total of these allocations, each public school district allocation shall be reduced to an amount which is proportionate to the appropriation compared to the total of the allocations and the allocations as thus adjusted shall be distributed to the public school district.

8.5.a. In this case, the Governor shall request a supplemental appropriation at the next legislative session for the reduced amount.

§126-207-9. Severability.

9.1. 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.