

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

Form #7

Do Not Mark In this Box

FILED  
1990 MAR 15 PM 4:26  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AN EMERGENCY RULE**

AGENCY: West Virginia Department of Education TITLE NUMBER: 126

CITE AUTHORITY: West Virginia Code 18-5-18a

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES; SERIES NUMBER OF RULE BEING AMENDED: Series 29

TITLE OF RULE BEING AMENDED: Exceptions to Maximum Teacher-Pupil  
Ratio, Grades K-6 (Policy 2442.3)

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: \_\_\_\_\_

TITLE OF RULE BEING FILED AS AN EMERGENCY: \_\_\_\_\_

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE UPON FILING.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

This emergency rule is needed to permit a coordinated and comprehensive response by the State Board of Education and the State Superintendent of Schools to the current teacher work stoppage. It is further designed to permit the State Board of Education and the State Superintendent of Schools to deal with future emergency situations as they may arise.

This proposed amendment to Policy 2442.3 and accompanying regulations allow counties to exceed the Maximum Teacher-Pupil Ratio outlined in WV Code 18-5-18a in cases where the State Board of Education upon recommendation of the State Superintendent of Schools has declared an emergency.

This policy has no known fiscal impact.

Use Additional Sheets If Necessary.

Barbara Estep / Jc

TITLE 126  
PROCEDURAL RULE  
WEST VIRGINIA BOARD OF EDUCATION  
CHAPTER 18-5  
Series 29

(Policy 2442.3)

TITLE: Exceptions to Maximum Teacher-Pupil Ratio, Grades K-6

---

Section 1. General

- 1.1 Scope - This legislative rule establishes maximum teacher-pupil ratios for grades K-6 and outlines provisions under which exceptions to the teacher-pupil ratio may be granted by the state superintendent of schools.
- 1.2 Authority - W.Va. Code 18-5-18a
- 1.3 Filing Date -
- 1.4 Effective Date - June 1, 1989
- 1.5 Repeal of Former Rule - None. This is a revision of the rule adopted in 1983 and amended in 1986.
- 1.6 Related Policy - 18-2E-4 Better School Accountability

Section 2. Applicability

West Virginia Code 18-5-18a establishes maximum teacher-pupil ratios for grades K-6 and grants authority to the State Superintendent of Schools "... to permit more than twenty pupils per teacher in a specific kindergarten classroom and twenty-five pupils per teacher in a specific classroom in grades one through six during a school year in the event of extraordinary circumstances as determined by the state superintendent after application by a county board of education." The State Board of Education is required to establish guidelines for the exceptions authorized in the statute. The statute also declares that "... in no event shall the superintendent except classrooms having more than three pupils above the teacher-pupil ratio ..." in grades K-6. No provision of this section, however, is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral and band or orchestral music.

---

W.VA. Board of Education  
Procedure Rule, 18-5  
Series 29, Policy 2442.3

Pursuant to West Virginia Code 18-5-18a, a state-wide exemption is granted for physical education classes in grades 4-6 for up to 28 students.

Additionally amendments to West Virginia Code §18-5-18a grant a state-wide exception for classrooms in schools with a schoolwide teacher-pupil ratio of 25 to 1 or less in grades 1-6, provided that a teacher shall not have more than three pupils above the teacher-pupil ratio established in West Virginia Code §18-5-18a. Exception to the above ratios can only be made in cases where a state of emergency has been declared by the State Board of Education. In these cases, the state superintendent of schools may grant exemptions to the maximum teacher-pupil ratio requirements in excess of those outlined previously in this policy.

### Section 3. Procedures

The following procedures are established for county boards of education to apply for exceptions from the State Superintendent of Schools: --

- 3.1 Each school shall calculate its schoolwide teacher pupil ratio so that a determination can be made as to whether or not the county must apply for an exception to the teacher-pupil ratio policy for that school. Schools shall calculate their school wide teacher-pupil ratio for grades 1-6 as follows:
  - 1) Calculate the total net enrollment for grades 1-6.
  - 2) Calculate the full time teacher equivalents (FTE) for grades 1-6.
  - 3) Dividing the total net enrollment by the total full time teacher equivalents.
- 3.2 If the schoolwide teacher-pupil ratio at any school exceeds 25 to 1 and that school has classrooms which exceed the maximum ratios outlined in WV Code 18-5-18a, request for exceptions shall be made to the State Superintendent of Schools. Provided, that a teacher shall not have more than three pupils above the teacher-pupil ratio established in West Virginia Code §18-5-18a.
- 3.3 Counties may only apply for exceptions to the teacher-pupil ratio requirements under certain extraordinary circumstances. Extraordinary circumstances are hereby defined as situations which place unreasonable burdens or hardships on a county board of education. Extraordinary circumstances include, but are not limited to, situations where:
  - A. The number of available classrooms is inadequate and a realignment of school attendance zones will not solve the problem.
  - B. Placing children in existing but less crowded classrooms will result in split grades in excess of the allowable number for the county.

W.VA. Board of Education  
Procedure Rule, 18-5  
Series 29, Policy 2442.3

- C. Students have been assigned to classrooms and there is an unexpected increase in student population which causes class enrollment to exceed the statutory ratio.
- D. Other catastrophic events occur which are beyond the power of the local board to control such as fire, flood or other damage to existing classroom space or facilities.
- E. School employees are engaging in a concerted work stoppage.

3.4 Requests for exceptions will be reviewed by the West Virginia Department of Education. Additional information may be solicited and, if necessary, an on-site study may be conducted. The decision to approve or reject exception requests will be made by the state superintendent of schools within a reasonable period of time and will be communicated in writing to the County Board of Education.

Section 4. Compensation

4.1 No teacher shall be assigned more than three pupils above the teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than twenty pupils per session and any classroom teacher of grades one through six who has more than twenty-five pupils shall be paid additional compensation based on the affected classroom teacher's average daily salary divided by twenty for kindergarten teachers or twenty-five for teachers of grades one through six for every day times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher's classroom. All such additional compensation shall be paid from county funds exclusively.

In cases of a declared state of emergency, the above stipulated compensation requirements do not apply. Additional compensation may be provided by the County Board of Education.

Adopted Jan. 11, 1983  
Revised July 12, 1985  
Revised March 14, 1986  
Revised April 1, 1987  
Revised June, 1989

DRP:cm 2080t/ --  
TJC:cm:3/2/89 ..  
TJC:cm:4/25/89 --  
TJC:cm:5/23/89 --  
DRP:jh/3/13/90 --

TITLE 126  
PROCEDURAL RULE  
WEST VIRGINIA BOARD OF EDUCATION  
CHAPTER 18-5  
Series 29

(Policy 2442.3)

TITLE: Exceptions to Maximum Teacher-Pupil Ratio, Grades K-6

---

Section 1. General

- 1.1 Scope - This legislative rule establishes maximum teacher-pupil ratios for grades K-6 and outlines provisions under which exceptions to the teacher-pupil ratio may be granted by the state superintendent of schools.
- 1.2 Authority - W.Va. Code 18-5-18a
- 1.3 Filing Date -
- 1.4 Effective Date - June 1, 1989
- 1.5 Repeal of Former Rule - None. This is a revision of the rule adopted in 1983 and amended in 1986.
- 1.6 Related Policy - 18-2E-4 Better School Accountability

Section 2. Applicability

West Virginia Code 18-5-18a establishes maximum teacher-pupil ratios for grades K-6 and grants authority to the State Superintendent of Schools "... to permit more than twenty pupils per teacher in a specific kindergarten classroom and twenty-five pupils per teacher in a specific classroom in grades one through six during a school year in the event of extraordinary circumstances as determined by the state superintendent after application by a county board of education." The State Board of Education is required to establish guidelines for the exceptions authorized in the statute. The statute also declares that "... in no event shall the superintendent except classrooms having more than three pupils above the teacher-pupil ratio ..." in grades K-6. No provision of this section, however, is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral and band or orchestral music.

W.VA. Board of Education  
 Procedure Rule, 18-5  
 Series 29, Policy 2442.3

Pursuant to West Virginia Code 18-5-18a, a state-wide exemption is granted for physical education classes in grades 4-6 for up to 28 students.

Additionally amendments to West Virginia Code §18-5-18a grant a state-wide exception for classrooms in schools with a schoolwide teacher-pupil ratio of 25 to 1 or less in grades 1-6, provided that a teacher shall not have more than three pupils above the teacher-pupil ratio established in West Virginia Code §18-5-18a. Exception to the above ratios can only be made in cases where a state of emergency has been declared by the State Board of Education. In these cases, the state superintendent of schools may grant exemptions to the maximum teacher-pupil ratio requirements in excess of those outlined previously in this policy.

### Section 3. Procedures

The following procedures are established for county boards of education to apply for exceptions from the State Superintendent of Schools: -

- 3.1 Each school shall calculate its schoolwide teacher pupil ratio so that a determination can be made as to whether or not the county must apply for an exception to the teacher-pupil ratio policy for that school. Schools shall calculate their school wide teacher-pupil ratio for grades 1-6 as follows:
  - 1) Calculate the total net enrollment for grades 1-6.
  - 2) Calculate the full time teacher equivalents (FTE) for grades 1-6.
  - 3) Dividing the total net enrollment by the total full time teacher equivalents.
- 3.2 If the schoolwide teacher-pupil ratio at any school exceeds 25 to 1 and that school has classrooms which exceed the maximum ratios outlined in WV Code 18-5-18a, request for exceptions shall be made to the State Superintendent of Schools. Provided, that a teacher shall not have more than three pupils above the teacher-pupil ratio established in West Virginia Code §18-5-18a.
- 3.3 Counties may only apply for exceptions to the teacher-pupil ratio requirements under certain extraordinary circumstances. Extraordinary circumstances are hereby defined as situations which place unreasonable burdens or hardships on a county board of education. Extraordinary circumstances include, but are not limited to, situations where:
  - A. The number of available classrooms is inadequate and a realignment of school attendance zones will not solve the problem.
  - B. Placing children in existing but less crowded classrooms will result in split grades in excess of the allowable number for the county.

W.VA. Board of Education  
Procedure Rule, 18-5  
Series 29, Policy 2442.3

- C. Students have been assigned to classrooms and there is an unexpected increase in student population which causes class enrollment to exceed the statutory ratio.
- D. Other catastrophic events occur which are beyond the power of the local board to control such as fire, flood or other damage to existing classroom space or facilities.
- E. School employees are engaging in a concerted work stoppage.

3.4 Requests for exceptions will be reviewed by the West Virginia Department of Education. Additional information may be solicited and, if necessary, an on-site study may be conducted. The decision to approve or reject exception requests will be made by the state superintendent of schools within a reasonable period of time and will be communicated in writing to the County Board of Education.

Section 4. Compensation

4.1 No teacher shall be assigned more than three pupils above the teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than twenty pupils per session and any classroom teacher of grades one through six who has more than twenty-five pupils shall be paid additional compensation based on the affected classroom teacher's average daily salary divided by twenty for kindergarten teachers or twenty-five for teachers of grades one through six for every day times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher's classroom. All such additional compensation shall be paid from county funds exclusively.

In cases of a declared state of emergency, the above stipulated compensation requirements do not apply. Additional compensation may be provided by the County Board of Education.

Adopted Jan. 11, 1983  
Revised July 12, 1985  
Revised March 14, 1986  
Revised April 1, 1987  
Revised June, 1989

DRP:cm 2080t/  
TJC:cm;3/2/89     —  
TJC:cm:4/25/89   —  
TJC:cm:5/23/89   —  
DRP:jh/3/13/90   —