

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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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., Art. XII, §2 and W.Va. Code §18-2-5.

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 X, NO _____

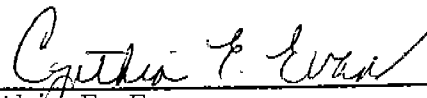
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 32

TITLE OF RULE BEING AMENDED: Issuance of High School Equivalent
Diplomas (2444.4)

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

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS March 22, 1998.


Cynthia E. Evans
Director, Legal Services

\$4.20

**EXECUTIVE SUMMARY
WEST VIRGINIA BOARD OF EDUCATION**

POLICY NUMBER AND TITLE: Policy 2444.4
Issuance of High School Equivalency Diploma

POLICY COMMENT PERIOD ENDS: January 16, 1998

BACKGROUND:

The General Educational Development (GED) test provides over 4,000 West Virginians per year a method to document that they have acquired the academic skills equivalent to a high school education.

Purpose:

These policies provide guidance, technical assistance and assurance of compliance with the American Council on Education's requirements for the administration of the GED Test. It includes clarification of minimum passing scores, provision to compliment alternative education programs, time lines for completing battery of tests, fee for duplicate certificates and testing fee limits.

Major revision highlights

- * Language changes (i.e. "Average of 45" to a total of 225 points," etc.)
- * Initial testing of the battery is to be completed within six weeks or no more than two consecutive testing sessions
- * Partial or incomplete scores are valid for three years only
- * Inclusion of language to address home-schooled, alternative education, Job Corps and Mountaineer Challenge
- * For individuals testing 18 years of age and younger, statements from employers, college officials and the military must state there will be, not may be, placement once a GED is earned
- * Students in Job Corps, Mountaineer Challenge, correctional facilities and adjudicated youth must pass the entire battery while in the program or re-qualify according to the state policy guidelines
- * All duplicate requests for the GED certificate will be five dollars

**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

OFFICE OF WEST VIRGINIA
SECRETARY OF EDUCATION

**SERIES 32
ISSUANCE OF HIGH SCHOOL EQUIVALENT DIPLOMAS
(2444.4)**

§126-32-1. General.

1.1. Scope. – The purpose of the West Virginia High School Equivalent Diploma Test is to provide those individuals who have not completed high school an opportunity to demonstrate that they have attained academic skills at a competent high school completion level by satisfactorily passing the General Educational Development (GED) Test.

1.2. Authority. – West Virginia Constitution, Article XII, Section 2; West Virginia Code §18-2-5.

1.3. Filing Date. – February 20, 1998.

1.4. Effective Date. – March 22, 1998.

§126-32-2. West Virginia High School Equivalent Diploma.

2.1. The State Department of Education issues a West Virginia High School Equivalent Diploma upon satisfactory scores earned on the General Educational Development Tests. These tests are prepared by the General Educational Testing Service and the American Council on Education. The West Virginia High School Equivalent Diploma is issued by the West Virginia Department of Education only.

§126-32-3. Basis for Granting West Virginia High School Equivalent Diploma.

3.1. The State Department of Education requires that applicants taking the General Educational Development Test achieve a score of 225 points or above on the battery of five sub-tests and a standard-score of not lower than 40 on any one of the five sub-tests.

3.2. Individuals successfully completing the General Educational Development Test will receive their West Virginia High School Equivalency Diploma.

3.3. The State Department of Education and GED Testing Service require that the initial testing of the battery be completed within six weeks or no more than two consecutive complete test sessions (whichever is longer in duration).

3.4. Individuals who need to retest must successfully complete all five sections of the GED within three years of initial testing in order to receive their West Virginia High School Equivalency Diploma.

3.5. The proposed GED Test 2000 will not permit transference of prior series' scores due to proposed changes in format; therefore, all testing on earlier series of tests must be completed prior to the initiation of the GED 2000 series (approximate date December 1, 2000).

§126-32-4. Testing of Individuals 18 Years and Younger.

4.1. Individuals who are 18 years of age and have been out of a traditional classroom situation (i.e. officially withdrawn, home-schooled and/or in an approved alternative education program [pursuant to West Virginia State Board Policy 2418]) for a period of three months before making application or whose original high school class has been graduated may be admitted to testing by providing written documentation from the last school/system attended stating that the student has been withdrawn and giving the withdrawal date from school and the original class graduation date.

4.2. Individuals who are 17 years of age must be officially withdrawn from the school system and may make application for GED testing if:

4.2.1. he or she has been out of a traditional classroom situation (i.e. officially withdrawn, home-schooled and/or in an approved alternative education program [pursuant to West Virginia State Board Policy 2418]) for a period of six months before making application or has been a member of a high school class that has been graduated, and

4.2.2. provided that written verification from the principal/school official of the last school/system attended stating the exact date of withdrawal from school has been sent directly to the testing site prior to any formal application for testing, and

4.2.3. an employer states in writing that there is pending /*continuing* employment for the applicant once a high school equivalency diploma is earned, or

4.2.4. an official of a college or university states in writing that the applicant will be accepted upon attainment of the equivalency diploma, or

4.2.5. seventeen (17) year old applicants for induction into the All-Volunteer Armed Forces of the United States may be admitted to take the GED tests provided:

a. the Chief Examiner of an official GED center receives an individual request from the recruiting officer for the applicant to take the GED test. This request should be in the form of a letter from the recruiting officer asking admission of the applicant and stating in his/her request that the applicant meets all of the military requirements for induction except for achieving the appropriate scores on the GED test, and

b. the recruiting officer submits to the Chief Examiner a copy of a letter from applicant's parent or guardian granting him/her permission to enter the Armed Forces.

4.3. Examinees sixteen (16), seventeen (17) or eighteen (18) years of age who are participating in residential federal programs, i.e. Job Corps, Mountaineer Challenge and/or other approved career-oriented federal residential programs, may be tested provided that they have been officially withdrawn from school with documentation at least 30 days prior to testing and have completed a vocational/prescribed training or have submitted a signed letter of intent to acquire further education and a letter of admission from an institution of higher learning. The individual must pass the test while in the program; otherwise, the examinee must meet the state policy guidelines.

4.4. Individuals who are 16, 17 or 18 years of age who are residents of West Virginia state operated correctional facilities may be admitted to testing if:

4.4.1. a letter from the facility's principal or lead teacher is sent directly to the local test center prior to any testing stating: 1) that the individual has received counseling regarding educational and career opportunities; 2) that the individual will receive ongoing counseling regarding educational and career opportunities; and 3) that the individual has declined to participate in a traditional education program *if released*. Note: These materials must be sent directly to the local test center prior to any testing.

4.4.2. The test must be passed while the examinee is under the control of the facility; otherwise, the individual must qualify under the state policy guidelines to complete testing or to re-test upon release unless:

a. court ordered or

b. as a court-approved part of an after-care plan.

4.5. Adjudicated youth 16,17 or 18 years of age who are under the control of a court, detention center, group care facility, probation or parole office may be admitted to GED

testing on the order of the court even if they are still enrolled in school. The education director (from state approved group care facilities) or parole officer must submit a written request to the local Chief Examiner with the following documentation:

4.5.1. an official court order or a letter from a judge, parole officer, or probation officer that states the individual shall be admitted for GED Testing,

4.5.2. a letter from the education director or an officer of the court stating that the individual has received counseling regarding educational and career opportunities and assurances that the individual will receive ongoing counseling regarding educational and career opportunities, and

4.5.3. if the youth is 16 years of age, the request shall be sent to:

Director of Linkage Services
Child Protective Services
Bureau of Social Services
WV Department of Health and Human Resources
Capitol Building 6, Room 850
Charleston, West Virginia 25305.

4.6. Denial/approval by the Director of Linkage will then be submitted to the State GED Administrator for final approval/denial; the State GED Administrator will sign off and send the information directly to the Chief Examiner.

4.7. All of these youth must pass the test while under the control of the group care facility; otherwise, the examinees must qualify under the State testing policy guidelines to complete testing or to re-test unless otherwise court ordered.

§126-32-5. Residence.

5.1. Persons physically residing within West Virginia for a period of 30 days with proof of a West Virginia mailing address are considered residents. Military personnel, employees of business or industry who have been moved physically into the State, persons confined in state and federal penitentiaries or hospitals, and persons taking part in educational or vocational programs and physically residing within the State have the privilege of being tested. If the applicant meets other State requirements, he/she is eligible for a West Virginia High School Equivalent Diploma. However, if the applicant wishes to have his/her test results sent to his/her home state for the purpose of securing High School Equivalent Diploma, rather than applying for a High School Equivalent Diploma from West Virginia, he/she may have that privilege.

5.2. Non-residents may be tested and the results will be sent to the individual's home state for issuance of a diploma. There may be additional fees required by the individual's home state for the issuance of an equivalent diploma; these are the examinee's responsibility. It is up to the individual's home state whether to accept or to reject the individual's test scores for the purpose of issuing an equivalent diploma.

5.3. Equivalent diplomas earned by military personnel are mailed to home addresses only.

§126-32-6. Transcripts of Scores.

6.1. The original copy of the transcript and diploma will be issued at no cost. Persons requesting a duplicate of their GED transcript and/or diploma must do so in writing to the State GED Office. The request must originate from the graduate and include the name under which testing occurred, Social Security number, date of birth, place and year of testing, daytime phone number, a copy of photo identification, an original signature and designation of to whom the transcript is to be sent. In addition, a check or money order of \$5.00 for each transcript should be submitted to the State Department of Education.

§126-32-7. Applying for Testing.

7.1. Until such time as the West Virginia General Educational Development Testing program registration is centralized, all applicants must pre-register for the GED Test in person at the local testing site. A valid photo identification with current name, birth date, proof of residency and preferably a Social Security number will be required prior to all testing sessions.

§126-32-8. Falsification of GED Test Information and/or Center Violations.

8.1. Falsification of Test Information or Personal Security Violations.

8.1.1. Any falsification or information and/or cheating on the GED test will result in penalties as outlined in the West Virginia GED Security and Administrative Procedures.

8.2. Security Compromises in Centers.

8.2.1. Testing center violations will be dealt with following the procedures outlined in the West Virginia GED Security and Administrative Procedures.

§126-32-9. Testing Fees.

9.1. Testing fee limits shall be established as outlined in the West Virginia GED Security and Administrative Procedures. Changes of GED test fees by local testing centers must be approved by the State GED Office.

§126-32-10. All correspondence regarding this policy should be directed to:

10.1. GED State Administrator
West Virginia Department of Education
Capitol Building 6, Room 230
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330
(304) 558-6315.

**Policy 2444.4
State GED Testing Policy
Comment Log
December 18, 1997 - January 16, 1998**

Date Received	Submitted by	Comment	Response
12/10/97	Ann Queen - ABE Teacher Pratt Elementary	126-32-4 ". . . If a teenager has been out of school for six months and has been in an ABE classroom and shown they are prepared to pass the GED, they should not have to have a job waiting or a college acceptance . . . I had sixteen and seventeen year olds attend class[,] study and are prepared for their GED. They cannot take the test due to age. If they have started having children, they may not have the opportunity again . . . We allow them in ABE class at . . . 16 but then penalize them . . . we lose many individuals this way . . . I am speaking of individuals who have spent time in an ABE classroom."	Guidelines are put in place to assure that <u>all</u> youngsters are encouraged to remain in the K-12 system whenever possible. For those who find it impossible, the guidelines are designed to assure that leaving the K-12 system is not rewarded <u>and</u> that youngsters who acquire their GED do so as a <u>step</u> in a life goal process.
12/10/97	Carol M. Hall - Editor <u>Mountain Messenger</u> responding as individual, not as Editor.	<p>126-32-2 Very clear</p> <p>126-32-3 This requires people to move onward and gives them incentive to move forward.</p> <p>126-32-4 "Glad to see the change from six months to 3 months - allows students to move ahead quicker while still in 'school mode.' Glad to see guidelines that give requirements/incentives to get a diploma and use time wisely."</p> <p>126-32-5 "Glad to see 'privilege'."</p> <p>126-32-7 "Glad to see this area 'lightened up' some."</p> <p>Questions regarding accommodations for deaf, blind, and elderly.</p>	<p>No comment</p> <p>126-32-3 Is in response to GED Testing Service recommendation @ 5.2 of the <u>GED Examiner's Manual</u> (1997).</p> <p>This change was in direct response to request from many county attendance directors who felt this would help retain students in traditional and alternative K-12 programs.</p> <p>No comment</p> <p>Language tone is virtually the same.</p> <p>Accommodations for the deaf are made through video-signed instructions only; blind candidates may use the Braille-Nemeth Code 3 version, a braille and a scribe to transfer the information or audio cassette and a scribe; and an elderly person may have pertinent accommodations if recommended by a physician on a physical disability accommodations form.</p>

12/12/97	Dr. Bonnie Ritz, Central Office Administration, Ohio County Schools	126-32-1 "The revisions to [this policy] provide clarification as well as needed opportunities to students in non-traditional settings. This policy appears to provide some needed flexibility."	As noted this policy was revised to reflect the needs of contemporary education including students in alternative education settings and home-school scenarios.
12/12/97	Karen Denbigh, Director, Adult Education of Roane County	126-32-7 "Pre-registration should not be required. That should be up to the counties and testing centers. Pre-registration is not useful or necessary in all counties."	<p>This provision was written to assure compliance with GED Testing Service guidelines @ 5.3 in the <u>GED Examiner's Manual</u> (1997). This provision requires that examinees not be re-tested on a previously used form and 5.3-1 requires that an individual not test more than 3 times per calendar year. Pre-registration affords the Chief Examiner the opportunity to secure previous testing records directly from another test center as required by security measures of GED Testing Service and determine which forms the individual may not use as well as past scores to "build" the current test script.</p> <p>Additionally, Examiners are advised to take only the number of batteries needed to the testing room, pre-registration affords an opportunity to comply with this guideline.</p>
12/16/97	Judith Seaman and John Hull, ABE Instructors at Randolph County ABE	<p>126-32-3 @ 3.4 "Unless there is a reason that doesn't meet the eye, this policy change does not materially improve the GED security or integrity and would present difficulties to the marginal student especially those in rural areas where transportation is difficult."</p> <p>126-32-3 @ 3.5 "This policy change will effectively close down GED preparation and testing in the time prior to the introduction of the new test. Plus it is unfair to the student who is not capable of passing all the tests at once. Their scores will be nullified and the customer will be forced to start all over again. We foresee the possibility of many drop-outs."</p>	<p>To better meet the needs of West Virginia's citizens the time limit was extended to three years.</p> <p>This proposal is one of the GED Testing Service and not of the West Virginia Board of Education - the proposed <u>GED 2000</u> series will be an integrated test without separate sections for basic skills thus evidencing the GEDTS philosophy that a GED graduate should have all of his/her skills at the high school graduate level at the time of certificate issuance.</p>

12/16/97	Cynthia Hensley, ABE Instructor, Monongalia County	<p>126-32-3 - "Will older test scores be 'grandfathered' in ? . . . It would be demoralizing to tell this hesitant, reluctant student that he/she must . . . begin all over"</p> <p>126-32-4 Much more readable and understandable</p>	<p>This proposal is one of the GED Testing Service and not of the West Virginia Board of Education - the proposed <u>GED 2000</u> series will be an integrated test without separate sections for basic skills thus evidencing the GEDTS philosophy that a GED graduate should have all of his/her skills at the high school graduate level at the time of certificate issuance.</p> <p>No comment</p>
12/16/98	William Sherwood, Director, Technical and Adult Education, Mercer County	<p>126-32-4 "I believe that changing from one year to six months will be detrimental to secondary education. It will tend to devalue a public education."</p> <p>126-32-6 "County attendance officers should receive lists of GED completers in order to accurately keep track of drop out rates."</p>	<p>This provision was put in place at the request of several county attendance directors, vocational principals, counselors, etc. The intent was to encourage youngsters to be able to "see the light at the end of the tunnel" and stay in the alternative education program while awaiting eligibility so that these students would not be totally without credentials and therefore without a basis to enhance earning skills.</p> <p>The WV GED registration form advises examinees under 21 that their testing information will be shared with any public education system in West Virginia which requests it. By their signature on the registration form, they agree to this provision. Attendance directors should submit names of drop-outs to the county GED Examiner periodically for reclamation of "program completers."</p>

12/16/98	Richard Lawrence, Title I Director, Summers County	<p>126-32-1 " I agree with the proposed changes in this policy. Please pass this proposal. It will help retain students who are now dropping out."</p> <p>126-32-3 This section is much clearer than before.</p> <p>126-32-4 "I like the new proposed, reduced time limits for testing of those students for GED who are out of a traditional classroom situation . . . This will help retain more students who are counted as drop-outs.</p> <p>126-32-6 Great</p> <p>126-32-9 Good</p>	<p>No comment</p> <p>No comment</p> <p>No comment</p> <p>No comment</p> <p>No comment</p>
12/18/97	Phyllis Law, 137 Loretta Avenue, Follansbee, WV 26037, Alternative Learning Center, Brooke County	<p>126-32-1 " In general I agree with all the proposed changes in issuance of High School Equivalent Diploma."</p> <p>126-32-4 "I am very glad to see the section concerning youths referred by probation officers added. Some kids need to take this test early and move on with their life/not just those in a locked-down juvenile facility."</p>	<p>No comment</p> <p>The intention of this proposal was to provide equal testing opportunities for all populations.</p>
12/18/97	Jeanette Donahew and staff at Northern Regional Jail and Corrections Facility at Moundsville	<p>126-32-4 @ 4.4 " Adult institutions (18+) already have rules in place as to who can take the GED test. As written this appears to be saying that an inmate can refuse school and still be allowed to take the test. In most institutions, testing is not an option if traditional education has been refused."</p> <p>126-32-6 "Department of Corrections <u>must</u> verify achievement of GED. Inmates must have [a] GED or high school diploma in order to hold an institutional job. They often are indigent. All we need are the scores. Could cost be waived for this, but charged if a duplicate diploma is requested, or a pocket card."</p>	<p>Throughout this policy "traditional education program" is implicative of a standard K-12 education setting for attainment of a high school diploma. Institutional education programs do not fit this definition. However, for clarity purposes the phrase "if released" will be added to 3) @4.4.1a.</p> <p>As in the past, records of scores will be shared with institutional education programs as an "in-house" request (at no-cost) once a release of information from the inmate is sent to the State GED office.</p>
12/22/97	Marcia Ware, ABE Instructor, Mercer County	126-32-4 "Many 17 year old students are already working part-time and [/or] attending class part-time. If they are already employed, what is used to apply for testing. As stated, the employer states there is pending employment."	Agreed - the statement @4.2.3 and 4.2.4 should be " . . . pending/ continuing "

12/22/97	Wanda Toothman, North Central WV OIC	<p>126-32-2 " Wording is clear, void of unnecessary language."</p> <p>126-32-3 "Why should student want to take test in latter part of 2000 if they couldn't carry over the grade to the next year when the format is changed."</p> <p>"Agree with all students talking all of the test with[in] two years."</p> <p>126-32-4 "Support the time limits of 3 months out of school for 18 years old and 6 months for 17 year olds."</p> <p>126-32-5 "Why make the student wait when the same test is taken nationally – many students move because of their parents making a job move. Let's get them into the workforce, the armed forces, etc. . . ."</p> <p>126-32-6 Approve of change</p> <p>126-32-7 Approve of change</p> <p>126-32-8 Clear and adequate</p> <p>126-32-9 "Fees have been accepted as fair and adequate"</p>	<p>No comment</p> <p>This proposal is one of the GED Testing Service and not of the West Virginia Board of Education - the proposed <u>GED 2000</u> series will be an integrated test without separate sections for basic skills thus evidencing the GEDTS philosophy that a GED graduate should have all of his/her skills at the high school graduate level at the time of certificate issuance.</p> <p>No comment</p> <p>No comment</p> <p>Students who meet their former states' age and eligibility criteria may test in West Virginia before 30 days of residence is established; however, to be issued a West Virginia High School Equivalency Diploma, the examinee must prove 30 day residency. This is also to prevent examinees from coming to West Virginia for a diploma if they do not qualify in their home states.</p> <p>No comment</p> <p>No comment</p> <p>No comment</p> <p>No comment</p>
12/22/97	Mary Beth Reeves, ABE Teacher, Jefferson County	<p>126-32-4 @4.1 "Approve of shortening of time . . . shorter would be better."</p> <p>@ 4.2.1 "SB 14 should cause shortening of time period to 3 months."</p> <p>@ 4.2.3 "Why is this a requirement [;] should be removed."</p>	<p>Timelines are established to encourage retention in the K-12 system.</p> <p>Timelines are established to encourage retention in the K-12 system.</p> <p>This is to assure that 17 year olds have focused, life goals before acquiring a credential rather than leaving the K-12 system for an "easy way out."</p>

1/15/98	Dr. Frances Warsing, Director, Mt. Olive Correctional Complex	126-32-6 Request waiver of \$5.00 fee for transcript	As in the past, records of scores will be shared with institutional education programs as an "in-house" request (at no-cost) once a release of information from the inmate is sent to the State GED office.
1/16/98	Leola Kay Hairston, GED Instructor, Daymark, New Connections	<p>126-32-3 "Five years for re-testing would be better. Two years may not be enough time to compensate for an extenuating circumstance"</p> <p>126-32-4 Sixteen year olds may have tried to stay out of trouble and cannot test, but court orders can make those with legal trouble able to test; many families need teenagers to work to help out families; some have children and the need to better provide for families. (Paraphrased)</p>	<p>To better meet the needs of West Virginia's citizens the time limit was extended to three years.</p> <p>It is true that some sixteen year olds have special cases -- these cases are usually handled on a case-by-case basis by counties. However, regulations must be established that encourage retention in the K-12 system and provide for the good of the greatest majority of citizens.</p>

FISCAL NOTE WORKSHEET
(Submit 4 Copies)

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

SUBJECT Policy 2444.4: Issuance of High School Equivalency Diploma 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	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER	\$	\$	\$	\$	\$
2. ESTIMATED TOTAL REVENUES	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-

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

DATE

AGENCY

AUTHORIZED REPRESENTATIVE

October 28, 1997

West Virginia Department of Education

