

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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SEP 17 2 31 PM '93

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WEST VIRGINIA BOARD OF EDUCATION TITLE NUMBER: 126

RULE TYPE: Legislative; CITE AUTHORITY WV Const. XII, §2 WV Code 49-5A-6a

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 PROPOSED: 69 (Policy 2800)

TITLE OF RULE BEING PROPOSED: Regulations for the Education of Juveniles Placed in Secure Predispositional Detention Centers

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON October 20, 1993 AT 5:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Frank D. Andrews, Director
Office of Institutional Education Programs
WV Dept. of Educ.
1900 Kan. Blvd. E.
Bldg. #6, Room B-016
Chas., WV 25305-330

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Barbara L. Fox
September 17, 1993

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

4.40

FISCAL NOTE WORKSHEET

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

SUBJECT Regs. for Educ. of Juveniles in Secure Predispositional Detention Cntrs. FUND _____

SOURCE OF REVENUE: GENERAL SPECIAL OTHER (SPECIFY) _____

COST 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 AND ITEM 3 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	\$180,646.16	\$	\$180,646.16	\$187,872.01	\$195,386.89
PERSONAL SERVICES	\$130,646.16	\$	\$130,646.16	\$135,872.01	\$141,306.89
CURRENT EXPENSES	50,000.00		50,000.00	52,000.00	54,080.00
REPAIRS AND ALTERATIONS					
EQUIPMENT					
OTHER					
2. ESTIMATED TOTAL REVENUES	\$180,646.16	\$	\$180,646.16	\$187,872.01	\$195,386.89

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

The following represents additional staff required under the proposed regulations over the 1992-93 staffing provided by county boards of education serving juvenile detention centers.

Kanawha Home for Children No additional staff required
 West Central Juvenile Detention Cntr. No additional staff required
 Northern Regional Juvenile Det. Cntr. 0.5 Teacher and 1.0 Aide
 Eastern Regional Juvenile Det. Cntr. 1.0 Aide
 Southern Regional Juvenile Det. Cntr. 1.0 Aide

Estimated cost of additional personnel = $(\$30,327 \text{ prof. educ.} \times 0.5) + (\$14,836 \text{ aide} \times 3)$
 = $\$59,671.50 \times 1.25 \text{ salary and fringe benefits}$
 = $\$74,589.38$

Estimated cost of extended school year = 6 teachers and 4 aides (full staffing under Regs.) for 40 days
 = $(\$30,327/200 \times 40 \times 6 \text{ teachers}) +$
 = $(\$48,262.40/200 \times 40 \times 4 \text{ aides})$
 = $\$48,262.40 \times 1.1615 \text{ salary and fringe benefits}$
 = $\$56,056.78$

Estimated total personnel costs of 240 day program - $\$74,589.38 + \$56,056.78 = \$130,646.16$

Upgrading of equipment, supplies,
 materials @ \$10,000/center = $\$50,000$

Total cost of 240 day program = $\$130,646.16 + \$50,000.00 = \$180,646.16$

Cost for next fiscal year = $\$180,646.16 \times 1.04 = \$187,872.01$

Cost thereafter = $\$187,872.01 \times 1.04 = \$195,386.89$

DATE 8/30/93 AGENCY Education AUTHORIZED REPRESENTATIVE CA

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WEST VIRGINIA BOARD OF EDUCATION
EXECUTIVE SUMMARY

SEP 17 2 31 PM '93

Policy 2800 - Regulations for the Education of Juveniles in Secure Predispositional
Detention Centers
SECRETARY OF STATE

PUBLIC COMMENT PERIOD ENDS: October 15, 1993 Adopted: _____

BACKGROUND

W. Va. Code 49-5A-6a, amended by the legislature in 1993, requires the Secretary of the Department of Health and Human Resources and the Legislative Commission on Juvenile Law to consider recommendations from the State Board of Education in the development of a state plan for the predispositional detention of juveniles. The amendment also calls for the state plan to include regulations developed by the State Board of Education for education programs in secure predispositional detention centers. The proposed regulations were developed to fulfill this requirement.

Juvenile detention is the temporary placement of an accused delinquent by the court somewhere other than with parents or relatives. While in detention, juveniles attend court hearings. Out-of-home placement of a juvenile before court proceedings are completed is called predispositional detention. When the juvenile is a danger to the community or unlikely to appear for court proceedings, he or she may be placed in a secure predispositional detention center. The state has five (5) secure predispositional juvenile detention centers. The listing of these facilities and their bed capacity is as follows:

Eastern Regional Juvenile Detention Center (Martinsburg, WV)	10 beds
Kanawha Home for Children (Dunbar, WV)	19 beds
Northern Regional Juvenile Detention Center (Wheeling, WV)	14 beds
Southern Regional Juvenile Detention Center (Princeton, WV)	15 beds
West Central Regional Juvenile Detention Center (Parkersburg, WV)	10 beds

A juvenile may not remain in detention for more than 30 days awaiting a dispositional hearing (Facilities Review Panel v. Coe).

The West Virginia Supreme Court of Appeals has issued several rulings which are pertinent to these regulations. In Grand Lodge, v. Board of Education, 90 W. Va. 8, 110 S.E. 440 (1922), the court ruled that a student's residence in the jurisdiction of a county school district, even for a temporary purpose, is sufficient to entitle the student to a right to education from that county school district. The court, in a more recent

opinion, ruled that a child's fundamental constitutional right to education cannot be denied due to a sudden change of circumstance that causes his or her custodial situation to be in a state of confusion or flux (White v. Linkinogger, 344 S.E.2d 633 W. Va. 1986). Recently, as a result of inequities in the use of detention, the court issued standards for placing juveniles in detention (Facilities Review Panel v. Coe, 420 S.E.2d 532 W. Va. 1992). These standards require that secure detention be utilized only for juveniles who are found to be a danger to the community or unlikely to appear for court proceedings.

PURPOSE

The purpose of these regulations is to insure that juveniles placed in secure predispositional detention centers receive appropriate educational opportunities during their period of detention and thereafter and to provide a short-term, high-impact, intervention program for these at-risk youth.

CONTENTS

These regulations assign the responsibility for education in secure predispositional juvenile detention centers to the county boards of education with a center in its jurisdictional boundary. These regulations also include: (1) program elements; (2) standards for curriculum and instruction; (3) provisions for a comprehensive educational evaluation of juveniles; (4) the transfer of student records; (5) the development of a school calendar including an extended school term to the extent funds are provided to county boards of education; (6) provision for a full instructional day; (7) the responsibility for adequate facilities by the Department of Health and Human Resources; (8) the assignment of a behavior disorders teacher(s) to provide instruction; (9) the protection of the confidentiality of educational records; (10) assurance of a free appropriate public education for exceptional students in the facility; (11) staff-student ratio requirements; and, (12) the monitoring of the program by the Department.

IMPACT

These regulations will improve educational services for the juveniles in secure predispositional detention centers. They will protect the students' fundamental constitutional right to an education during detention and provide the students with an intervention program to divert them from a life of crime, dependency and alienation. The effective date for these regulations will be July 1, 1994.

WEST VIRGINIA BOARD OF EDUCATION POLICY

POLICY 2800

Title: Education of Juveniles in Secure Predispositional Detention Centers

Proposed Policy

The State Board of Education believes that students in secure predispositional juvenile detention centers have a fundamental constitutional right to an education during their period of detention. The board also believes that juveniles in these facilities are highly at-risk and need a specialized program to divert them from a future of dependency and alienation. A county board of education with a secure predispositional detention center in its jurisdictional boundaries, in cooperation with other county boards of education, must provide an aggressive program to assist these youth.

The board believes that there are no "throw away" youth in our society and that education is central in breaking the cycle of disadvantage, school failure, alienation, delinquency, and dependency. This policy is aimed at providing a first step in breaking that cycle via a short-term, high-impact, intervention program and the provision of educational opportunities during the period of detention and thereafter.

18691/30-10

TITLE 126
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EDUCATION
POLICY 2800
SERIES 69

TITLE: Regulations for the Education of Juveniles Placed in Secure Predispositional Detention Centers

Section 1.0 General

- 1.1 Scope - This policy establishes regulations for education programs in the state's secure predispositional juvenile detention centers.
- 1.2 Authority - WV Constitution, Article XII, §2; §18-2-5; §49-5A-6a
- 1.3 Filing Date -
- 1.4 Effective Date -
- 1.5 Repeal of Former Rule -

Section 2.0 Purpose

Juveniles placed in secure predispositional detention centers represent a population at-risk for school failure, dropping out of school, delinquency, incarceration, chemical addiction, and a future of alienation and dependency. Consequently, a specialized education program is required to assist these court-involved youth in making appropriate decisions concerning their future in school, home, and community life. In addition, juveniles placed in detention centers also have a fundamental constitutional right to an education regardless of their custodial circumstance.

The purpose of these regulations is to provide an intervention program for at-risk youth in secure predispositional detention centers and to ensure they receive appropriate educational opportunities during their period of detention and thereafter.

Section 3.0 Responsibility for Education

A county board of education with a secure predispositional juvenile detention center in its jurisdictional boundary shall establish and maintain education programs and services for youth placed in the facility in accordance with these regulations.

Section 4.0 Program

A county board of education responsible for providing detention education services shall design and deliver a short-term, high-impact intervention program to achieve the following:

- a. provide students with the opportunity to examine attitudes and behaviors for the purpose of promoting positive change;
- b. assist students in building positive beliefs in themselves and recognizing how preconceived ideas and low self-esteem can limit their personal growth;
- c. provide information concerning prosocial life skills (e.g., social problem solving; anger control; coping and refusal skills; and sound habits of personal health)
- d. provide students with the opportunity to continue basic instructional programming including remedial, special and GED educational services;
- e. complete a comprehensive educational assessment on each student and prepare a report of findings and recommendations;
- f. provide transitional planning and linkages to service providers and other resources; and
- g. work in cooperation with detention center staff to achieve the mission of the institution and the juvenile justice system (viz., prevention of delinquency; habilitation of youth; and protection of the juvenile and the public).

Section 5.0 Curriculum and Instruction

The detention center education program shall implement curriculum and instruction in accordance with the following standards:

- a. the detention education program shall have a written curriculum for implementing the program;
- b. the curriculum shall be organized and sequenced in a series of short-term, high-impact, modular units which address specified instructional goals and objectives;
- c. instructional activities shall be consistent with the written curriculum and appropriate for the student's developmental level;
- d. instructional materials shall be age-appropriate, functionally-appropriate, and of high interest level for students;
- e. the program shall include a library area which houses a variety of age-appropriate books and materials;

- f. each student shall have a written set of individualized educational goals which culminate in a transitional plan;
- g. the instructional program shall accommodate the frequent entry and exit of students;
- h. curricular and instructional practices shall reflect high expectations for students;
- i. the instructional program shall be delivered in a climate conducive to learning; and,
- j. sufficient instructional materials, supplies and equipment shall be available to deliver the curricular content.

Section 6.0 Comprehensive Educational Evaluation

The detention center education program shall include a comprehensive assessment of each student's educational status including: academic and vocational history; academic standing; school related problems (e.g., behavior, attendance); special needs; strengths and weaknesses; family, peer and community problems affecting school performance; career interests; and other areas pertinent to school performance and post-detention planning. A report of findings and recommendations shall be prepared for each student and made available to the court for purposes of disposition.

Section 7.0 Transfer of Student Records

The detention center education program shall establish and implement written procedures for the immediate transfer of student records from the public schools to the institution, from the institution to the public schools, and from institution to institution. Procedures shall include a protocol for insuring the confidentiality of school records when sent or received via FAX. County school districts throughout the state shall provide school records to detention education programs in a forthwith manner.

Section 8.0 School Calendar

The county board of education shall establish a calendar for the detention center education program in consultation with the director of the juvenile detention center. The calendar for the detention education program shall include a regular school term in compliance with state law concerning the required number of instructional and non-instructional days. The county board of education shall also provide, and the calendar include, an extended school term of up to 40 days (viz., a 12-month education program) to the extent funds are provided for such programs. Nothing shall prohibit the county board of education from providing an extended year program from other sources of funds.

Section 9.0 Length of Instructional Day

Students in the detention education program shall receive a full instructional day in accordance with State Board of Education Policy 2510.

Section 10.0 Educational Facilities

The Department of Health and Human Resources or its public or private service provider has the responsibility to provide the county school district with an area of adequate size to implement the program. The area shall be safe, meet the needs of students, and provide for an environment conducive to learning.

Section 11.0 Professional Staff

The professional educator(s) assigned to provide instructional services in the detention center shall hold West Virginia licensure endorsed to provide special education to behavior disordered students.

Section 12.0 Maintenance of Educational Records

Educational records shall be kept separate from the resident filing system within the detention facility and maintained in accordance with state and federal laws and regulations and State Board of Education Policy 4350.

Section 13.0 Special Education

Exceptional students placed in a secure predispositional juvenile detention center shall receive a free appropriate public education in accordance with applicable regulations under State Board of Education Policy 2419.

Section 14.0 Staff-Student Ratio

The staff-student ratios for the detention education program shall be maintained as follows:

Staff	Students
1 F.T.E. teacher	less than eight (8) students
1 F.T.E. teacher + aide	eight (8) to 15 students
2 F.T.E. teachers	16 to 20 students

Section 15.0 Monitoring

The West Virginia Department of Education shall monitor compliance with these regulations.

**RESPONSE FORM
POLICY 2800 - REGULATIONS FOR THE EDUCATION OF JUVENILES
IN SECURE PREDISPOSITIONAL DETENTION CENTERS**

Directions: Please use this form to comment on proposed Policy 2800

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Individual/Organization: _____

Address: _____

General Comments

Comments for Section 1.0 - General

Comments for Section 2.0 - Purpose

Comments for Section 3.0 - Responsibility for Education

Comments for Section 4.0 - Program

Comments for Section 5.0 - Curriculum and Instruction

Response Form
Policy 2800

Comments for Section 6.0 – Comprehensive Educational Evaluation

Comments for Section 7.0 – Transfer of Student Records

Comments for Section 8.0 – School Calendar

Comments for Section 9.0 – Length of Instructional Day

Comments for Section 10.0 – Educational Facilities

Comments for Section 11.0 – Professional Staff

Comments for Section 12.0 – Maintenance of Educational Records

Response Form
Policy 2800

Comments for Section 13.0 - Special Education

Comments for Section 14.0 - Staff-Student Ratio

Comments for Section 15.0 - Monitoring

Return by **October 15, 1993** to:
Frank D. Andrews, Director
Office of Institutional Education Programs
West Virginia Department of Education
1900 Kanawha Boulevard, East, B-016
Charleston, West Virginia 25305-0330

45081

WEST VIRGINIA DEPARTMENT OF EDUCATION

Dr. Henry R. Marockie, State Superintendent of Schools
Building 6/1900 Kanawha Blvd. E./Charleston, West Virginia 25305-0330

Phone: 304-558-2681
Fax: 304-558-0048



West Virginia Board of Education

- James J. MacCallum, President
- Paul J. Morris, Vice President
- N. Blaine Groves, Secretary
- Virgil C. Cook
- Michael D. Greer
- Patricia Full Hamner
- Audrey S. Horne
- Cleo P. Mathews
- Charles H. Wagoner

October 12, 1993

The Honorable Ken Hechler
Secretary of State
State of West Virginia
Capitol Building 1, Suite 157K
Charleston, West Virginia 25305

Attention: Administrative Law Division

Dear Mr. Hechler:

Enclosed herewith for filing in the State Register is a notice of an extension of time for public comment as to State Board of Education Policy 2800.

Thank you for your assistance.

Sincerely,

Henry Marockie
State Superintendent of Schools

HM/vh
09e/5904e
Enclosure

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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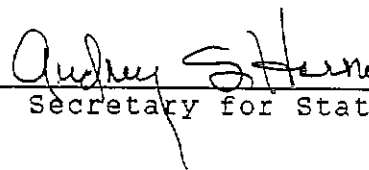
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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF EXTENSION OF PERIOD FOR
PUBLIC COMMENT ON POLICY 2800

Please take notice that at its meeting on October 8, 1993, the West Virginia Board of Education adopted a motion extending the time period for public comment on Policy 2800 to October 20, 1993.



Secretary for State Board