

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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STATE 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 Code 18-2-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 82 (Policy 4200)

TITLE OF RULE BEING PROPOSED: Provision of Equal Opportunity in
West Virginia Public Schools

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 July 16, 1990 AT 9:00 a.m.

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

Bureau of General, Special and Professional
Education
Room B-318, Bldg. #6
Capitol Complex
Charleston, WV 25305

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

Barbara L. Estep

June 1, 1990

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

HD NO _____ DRAFT NO _____ BILL NO Policy 4200 RESOLUTION NO _____

SUBJECT Provision of Equal Opportunity in West Virginia Public Schools

FUND _____

SOURCE OF REVENUE: GENERAL SPECIAL OTHER (SPECIFY) Federal

COST ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) \$-0-

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		\$	\$-0-	\$	\$
PERSONAL SERVICES	\$	\$	\$	\$	\$
CURRENT EXPENSES					
REPAIRS AND ALTERATIONS					
EQUIPMENT			\$	\$	\$
OTHER					
2. ESTIMATED TOTAL REVENUES	\$	\$	\$	\$	\$

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

There is no cost to the West Virginia Department of Education.

DATE
June 30, 1990

AGENCY
West Virginia Department of Education

AUTHORIZED REPRESENTATIVE
Dee Butler, Coordinator/Director

EXECUTIVE SUMMARY

PROVISION OF EQUAL OPPORTUNITY IN WEST VIRGINIA PUBLIC SCHOOLS

BACKGROUND

Congress, in enacting Public Law 92-318 of the Education Amendments of 1972 (from 34CFR, Chapter 1, Section 86 in 1972 and revised to Section 106 in 1985), provided that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance." This Federal civil rights law prohibits sex discrimination against both students and employees in West Virginia public schools. Even though this law governs equity on the basis of sex, the U.S. Department of Education has mandated that the areas of race, color, religion, handicapping condition, age and national origin be included as well to make it all encompassing. These areas are covered under other local, state and Federal rules and/or regulations.

PURPOSE

This Policy 4200 declares support by the State Board of Education for the concept of equal educational opportunity and its application by county school systems to all curricular areas; textbooks; guidance, counseling and testing; scholarship information; extra-curricular activities; facilities and employment.

IMPACT

Leadership/Administration

Consistent procedures will be used to provide equity awareness through training techniques that will assist school systems in monitoring for compliance of Title IX as it relates to fair and equitable treatment of their students in education programs and activities and of their employees or potential employees in the employment process; as it relates to collecting, analyzing and distributing data to affect equity; as it relates to guidance, counseling and testing and as it relates to other areas listed under "Purpose."

Financial

There would be no direct financial impact resulting from this Policy revision.

TITLE 126
WEST VIRGINIA BOARD OF EDUCATION
CHAPTER 18-2
SERIES 82
POLICY 4200

TITLE: PROVISION OF EQUAL OPPORTUNITY IN WEST VIRGINIA PUBLIC SCHOOLS

Section 1. General

- 1.1 Scope - The Policy 4200 declares the support of the State Board of Education for the concept of equal educational opportunity to all students and employees or potential employees regardless of their sex, race, color, religion, handicapping condition, age or national origin and its application by county school systems to all curricular areas; textbooks and instructional materials; guidance, counseling and testing; extra-curricular activities; facilities and employment.
- 1.2 Authority -- West Virginia Code 18-2-5
- 1.3 Filing Date --
- 1.4 Effective Date -
- 1.5 Repeal of Former Rule - None.

Section 2. Rationale

- 2.1 The West Virginia Board of Education supports the concept of Equal Educational Opportunity for all students as being essential to education in the public schools of our State.

Continued public attention has been focused on the concept of equal educational opportunity as it applies to female students. This attention has resulted in the passage of legislation by Congress and in dramatic changes in institutions and industries.

Thus, there is a continued need for schools to place a greater emphasis on an area long neglected--the provision of equal opportunities for females.

- 2.2 The Congress, in enacting Public Law 92-318, the Education Amendments of 1972, determined that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any educational program or activity receiving Federal financial assistance." Other local, state and federal laws provide that students and employees regardless of their race, color, religion, handicapping condition, age or national origin be afforded these same opportunities to make this Policy all encompassing.

Section 3. Procedures

The West Virginia Board of Education reviews and affirms its commitment to equal opportunity in education and adopts the following policy statements:

3.1 **All Curricular Areas** - No student is to be denied equal opportunity for participation in any program of the public schools on the basis of sex, race, color, religion, handicapping condition, age or national origin. County boards of education are to provide all students equal access to and equal opportunities for participating in any courses their schools offer. All course offerings must be conducted as being open to both female and male students. For example:

3.1.1 A county school system may not require males to take industrial arts and females to take home economics, or exclude females from industrial arts and males from home economics.

3.1.2 A vocational school may not state that a welding course is open only to males or a cosmetology class is open only to females. All students must have equal opportunity to select and participate in all such classes.

3.2 **Textbooks and Other Instructional Materials** - State and county textbook committees are to recommend and county boards of education are to select those textbooks and materials which accurately portray in concept, content and illustration the heritage, roles, contributions, experiences and achievements of both females and males in American and other cultures.

3.3 **Guidance, Counseling and Testing** - Persons responsible for the guidance, counseling and testing of students must insure that guidance, counseling and testing techniques do not discriminate on the basis of sex nor on the basis of race, color, religion, handicapping condition, age or national origin. For example:

3.3.1 Scholarship information must be made available to all students on a non-discriminatory basis.

3.3.2 No students may not be arbitrarily tracked into certain courses of study (e.g., males into college preparatory, females into secretarial science).

3.3.3 All students must be given equal access to career information.

3.3.4 Those persons responsible for testing must make efforts to select and use only those standardized tests which attempt to eliminate sex-biased questions and which promote equality in testing materials.

3.4 **Extra-curricular Activities** - Members of both sexes, regardless of their race, color, religion, handicapping condition, age or national origin, must be granted equal access to extra-curricular activities. In order to insure equal access for all students in extra-curricular activities, the following criteria are adopted:

- 3.4.1 In athletic programs where selection of participants is based on a competitive skill, except for interscholastic football and wrestling, which are considered contact sports in West Virginia, schools must provide separate noncontact sport teams for females and males or a single noncontact sport team open to both sexes.
 - 3.4.2 Schools should conduct annual surveys among students to determine those activities in which students desire to participate, for the purpose of insuring that all students are given equal access to extra-curricular activities.
 - 3.4.3 If separate teams are offered, a school may not discriminate on the basis of sex in providing equipment, supplies, transportation, etc. However, equal aggregate expenditures are not required.
 - 3.4.4 Where in the past athletic opportunities for female students have been limited, schools must take affirmative action to inform members of that sex of the availability of equal opportunities and provide support and training to enable them to participate.
- 3.5. **Facilities** - Generally, all school facilities must be available without discrimination on the basis of sex. However, facilities such as locker rooms, toilets and showers for females and males must be comparable. For example:
- 3.5.1 A school which has one gymnasium must provide for its use by members of both sexes on a non-discriminatory basis, including prime time.
 - 3.5.2 A school which has one track and field facility available for a limited number of hours must provide for its use by members of both sexes on a non-discriminatory basis.
- 3.6 **Employment** - Employment policies and practices--including salaries, hiring, promotion, transfer and fringe benefits of employment--must be provided without discrimination on the basis of sex as well as on the basis of race, color, religion, handicapping condition, age or national origin.

DISCRIMINATION PROHIBITED: The West Virginia Department of Education does not discriminate on the basis of sex, race, color, religion, handicapping condition, age and national origin in employment and in the administration of any of its education programs and activities. Inquiries may be directed to the Elimination of Sex Discrimination Program Coordinator, 348-7864; to the Section 504 Coordinator, 348-2696, WV Department of Education, Charleston, West Virginia, 25305; or to the U.S. Department of Education's Director of the Office for Civil Rights, 215-596-6795.

Revised June 30, 1990

2085p/77p

RESPONSE FORM
PROVISION OF EQUAL OPPORTUNITY
IN WEST VIRGINIA PUBLIC SCHOOLS
POLICY 4200

Directions: Please use this form to comment on the proposed Provision of Equal Opportunity.

Individual/Organization: _____

Address: _____

General Comments: _____

Comments For Sections: _____

Section 1: _____

Section 2: _____

Section 3: _____

Return by June 15, 1990 to:

Dee Butler, Coordinator/Director
Elimination of Sex Discrimination
WV Department of Education
Capitol Complex, B-252
1900 Kanawha Boulevard, East
Charleston, WV 25305-0001