

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

Form #5

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JAN 14 4 15 PM '97

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

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE XX

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 \_\_\_\_\_

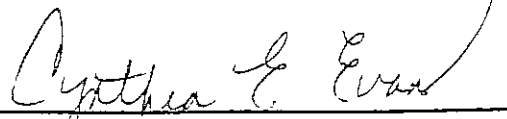
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 86

TITLE OF RULE BEING AMENDED: Standards for School Nutrition (4321.1)

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 February 13, 1997.

  
Cynthia E. Evans  
Director, Legal Services

5.40

EXECUTIVE SUMMARY  
WEST VIRGINIA BOARD OF EDUCATION

PROPOSED REVISION TO STANDARDS FOR SCHOOL NUTRITION  
POLICY 4321.1

PUBLIC COMMENT PERIOD ENDS: November 15, 1996 Adopted \_\_\_\_\_

**BACKGROUND:**

Revisions of the Standards for School Nutrition are attached. Revisions reflect changes recommended by the Nutrition Advisory Council established by Policy 4321.1, Section 11.

**PURPOSE:**

The Nutrition Advisory Council is charged with the responsibility of keeping the West Virginia Board of Education apprised of current research findings in nutrition and assessing potential implications of findings for program development and implementation.

The recommended policy revisions reflect technical and editorial changes suggested by the Council. The recommended technical revisions result from changes in state code and in federal regulations.

**CONTENTS:**

Recommended policy revisions reflect technical changes as follows:

1. Deletes references to 1993, 1994 and 1995 tiers;
2. Defines "soft drinks" consistent with West Virginia Code language;
3. Revises rule regarding sale of soft drinks in high schools;
4. Defines "high school" consistent with the Policies of Operation Manual;
5. Updates provisions to reflect federal School Meal Initiatives for Healthy Children;
6. Limits saturated fat to less than 10% of total calories in meals; and
7. Provides an option for whole grain to be expressed as a quantitative standard.

Charts from the original document involved major editing. To facilitate a clear understanding, the former charts have been struck through and the new charts underlined. (Please note that in some cases language from the previously adopted charts was not altered in the proposed charts.)

Approval of the recommended revisions will require no financial outlay. Establishing a standard for saturated fat provides improved assurances that meals will meet Dietary Guidelines. Forty-three comments were received, resulting in three accepted changes. All revisions will facilitate policy implementation without compromise to nutrition standards.

TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION

FILED

JAN 14 4 15 PM '97

SERIES 86  
STANDARDS FOR SCHOOL NUTRITION (4321.1)

OFFICE OF THE CLERK OF THE HOUSE OF DELEGATES  
SECRETARY OF STATE

**§126-86-1. General.**

1.1. Scope - This legislative rule establishes nutrition standards for foods served and/or sold to students in schools during the school day. The procedures relate both to nutritional standards of school meals and additional snacks, including foods and beverages sold or served to students.

1.2. Authority - W. Va. Constitution, Article XII, §2 and W. Va. Code §18-2-5.

1.3. Filing Date - January 14, 1997.

1.4. Effective Date - February 13, 1997.

1.5. Repeal of Former Rules - None - This is a revision of former rules filed in 1982 and revised in 1992 and 1994.

**§126-86-2. Purpose.**

2.1. Good nutrition enhances learning and the quality of life. This plan reflects an integrated approach to ensuring a school environment that promotes optimal nutrition for students. Successful dietary changes must occur gradually. The intent of the policy is to enable schools to continue to provide students with choices while implementing changes progressively. For this reason, the policy implementation follows a tiered approach with target dates specified for each tier.

**§126-86-3. Operational Definitions, Food Sales And Service.**

3.1. School day is defined as the time between the arrival of the first child at school and the end of the last scheduled instructional period.

3.2. Candy is defined as any food that, as served in its finished form, contains, by weight, 40 percent or more sugar (in crystalline form or in solution as syrup, both monosaccharides and disaccharides) and/or other sweetening agents, or any food product commonly referred to as "candy".

3.3. For the purposes of this policy "soft drinks" shall mean the same as "bottled soft drinks" as defined in Section 1, Article 19, Chapter 11 of the Code of West Virginia.

3.4. Chewing gum is defined as a preparation of chicle or other plastic substance sweetened and/or flavored for chewing.

3.5. Flavored ice bar is defined as a frozen confection consisting of water mixed with flavored syrups and/or powders, sugars and/or other sweetening agents, binders, stabilizers and/or emulsifiers.

3.6. Other foods are defined as any food or beverage, other than those served as part of the school meal, including snacks from vending machines, and foods sold during school hours for fund-raising purposes and foods for parties. Other foods do not include those brought to school by individual students for their own consumption.

3.7. Enrollment is defined as "head count".

3.8. Bottled water is defined as "water, bottled drinking water 100% pure natural spring water containing no additives."

3.9. High School - for the purposes of this rule, "high school" shall be defined as a school with a grade configuration of 9-12, 10-12 or 11-12.

#### **§126-86-4. Nutrition Standards For School Nutrition Programs.**

4.1. All foods or beverages made available on school premises during the school day must meet the requirements of this policy.

4.2. County Boards of Education shall select for each school a USDA approved meal option that meets the Dietary Guidelines or one of two implementation options for lunch: Option A (4.1), based on 1994-95 meal patterns plus nutrient analysis standards; or Option B (4.2), on a WVDE Lunch Meal Pattern standard. The Breakfast Meal Pattern proposes a single implementation option (4.3). After-school programs which provide supplemental meals to children shall comply with standards of the policy. The sale or service of foods containing 40% or more added sugar by weight is prohibited (3.2).

4.3. No candy, soft drinks, chewing gum or flavored ice bars will be sold or served during the school day, except that, county boards may permit the sale of soft drinks in county high schools except during breakfast and lunch periods. The sale of such soft drinks shall be in compliance with the rules of the National School Lunch Program and the School Breakfast Program of the State Board and the nutrition service of the United States Department of Agriculture. Seventy-five percent of the profits from the sale of soft drinks shall be allocated by a majority vote of the faculty senate of each school and twenty-five percent of the profits from the sale of soft drinks shall be allocated to the purchases of necessary supplies by the principal of the school. No foods containing 40% or more sugar by weight will be sold or served. Any juice or juice product sold or served must contain a minimum of 20% real juice.

4.4. All "other foods" available during the instructional day shall reflect the Dietary Guidelines for fat by limiting the number of fat grams to not more than 8 per one ounce serving, or

meet the USDA standard for a lunch component.

4.5. Lunch Implementation Option A\*.

4.5.1. School lunches shall meet 1994-95 USDA meal pattern requirements and averaged over a period of one week or one month, provide:

- a. at least one-third of students' RDAs for calories, protein, calcium, iron, vitamins A and C;
- b. limit calories from fat to no more than 30% and saturated fat to less than 10%;
- c. limit sodium to no more than 1100 mgs;
- d. at least 6g of naturally occurring dietary fiber; and
- e. offer water.

4.5.2. Require additional foods be provided to pregnant or lactating students so that breakfast and lunch together, or in combination with a snack, provide:

- a. a total of 5 oz. of protein foods, 1 oz. of which shall be 1 oz. cheese, 1 cup yogurt or 8 oz. fluid milk;
- b. 3 servings from the grain group, preferably from whole grains;
- c. 1 1/4 cups from the fruit and vegetable group, and
- d. 16 oz. from milk group.

4.5.3. In these additional foods, the following option shall be allowed:

- a. 1 cup of fruit in place of one serving of the grain group once a week.

4.5.4. \*The option to combine nutrient analysis of breakfast and lunch programs is allowable provided that such analysis is proportionate to the levels of participation in the two programs and in accordance with USDA guidance.

## 4.6. Lunch Implementation Option B \*\*\*.

COMPONENT	Grades K-3	Grades 4-12
FRUIT OR VEGETABLE** <ul style="list-style-type: none"> <li>offer fresh produce whenever possible</li> </ul>	1 cup (At least 1/4 cup fresh 5 times/week)	1 1/4 cup (at least 1/4 cup fresh 5 times/week)
MEAT/MEAT - ALTERNATE - <ul style="list-style-type: none"> <li>emphasize lean and lower sodium choices</li> <li>serve dried beans, dried peas or lentils at least once/week</li> </ul>	1 1/2 oz. (at least 1/2 cup dried beans, dried peas or lentils/week)	2 oz. (at least 1/2 cup dried beans, dried peas or lentils/week)
BREAD/BREAD - ALTERNATE** - <ul style="list-style-type: none"> <li>emphasize whole grain products</li> </ul>	1.5 day and 10/week (at least 5 servings/week contain at least 33% whole grain or 5g whole grain per 1 oz.)	1.5 day and 12/week**** (at least 5 servings/week contain at least 33% whole grain or 5g whole grain per 1 oz.)
MILK - <ul style="list-style-type: none"> <li>offer lower fat choices</li> </ul>	8 fl. oz. offer only milk with 2% or less butterfat*	8 fl. oz. offer only milk with 2% or less butterfat*
WATER = <ul style="list-style-type: none"> <li>encourage adequate water consumption</li> </ul>	offer water	offer water

\* Requires prior approval from USDA

\*\* Snack Option may be chosen (see 7.1)

\*\*\* Require additional foods for pregnant and lactating students as specified in "Lunch Implementation Option A"

\*\*\*\*When 12 servings of bread are served per week, a total of two of the bread servings, but not more than one per day, may be grain-based desserts.

## 4.7. Breakfast Implementation Option \*\*.

COMPONENT	Grades K-12
<b>MILK</b> <ul style="list-style-type: none"> <li>• Offer lower fat choices</li> </ul>	8 fl. oz. <ul style="list-style-type: none"> <li>• offer only milk with 2% or less butterfat*</li> </ul>
<b>FRUIT/VEGETABLE</b> <ul style="list-style-type: none"> <li>• offer daily a fruit, juice or vegetable that is a good source of vitamin C</li> </ul>	1/2 cup
<b>MAY CHOOSE ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS OR TWO SERVINGS FROM ONE</b>	
<b>BREAD/BREAD ALTERNATE</b> <ul style="list-style-type: none"> <li>• offer whole grain varieties often</li> </ul>	1 or 2 servings
<b>MEAT/MEAT ALTERNATE</b> <ul style="list-style-type: none"> <li>• encourage low-fat and low-salt choices</li> </ul>	1 serving recommended

\* Requires prior approval from USDA

\*\* Require additional foods for pregnant and lactating students as specified in "Lunch Implementation Option A".

4.8. Nutrition Standards For Other Foods Consumed At School (K-12)

4.8.1. Develop or expand meal service options to improve accessibility of school meals and acceptability of school meals for all students.

4.8.2. Require that all "other foods" available during the school day reflect the Dietary Guidelines for fat by limiting the number of fat grams to not more than 8 per ounce serving, or meet the 1994-95 USDA standard for a lunch component.

4.8.3. No candy, soft drinks, chewing gum or flavored ice bars will be sold or served during the school day, except that, county boards may permit the sale of soft drinks in county high schools except during breakfast and lunch periods. The sale of such soft drinks shall be in compliance with the rules of the National School Lunch Program and the School Breakfast Program of the State Board and the nutrition service of the United States Department of Agriculture. Seventy-five percent of the profits from the sale of soft drinks shall be allocated by majority vote of the faculty senate of each school and twenty-five percent of the profits from the sale of soft drinks shall be allocated to the purchases of necessary supplies by the principal of the school. No foods containing 40% or more sugar by weight will be sold or served. Any juice or juice product sold or served must contain a minimum of 20% real juice.

**§126-86-5. A La Carte Sales.**

5.1. Only meal components may be sold as a la carte items for breakfast, and only fluid milk, milkshakes and bottled water may be sold as a la carte items for lunch.

**§126-86-6. Availability Of Drinking Water.**

6.1. All student dining facilities shall contain a drinking water dispenser, or water shall be offered with meals for student consumption.

**§126-86-7. Adequate Time For Meal Consumption.**

7.1. Adequate time shall be allowed for student meal consumption. Minimum time allowance (eating time for each student after being served the meal) for student consumption of meals shall be ten minutes for breakfast and twenty minutes for lunch.

7.1.1. Snack Options For Meals

Schools may choose to allow adequate time for consumption of increased volume of food by extending the meal period or by providing a snack under the following stipulations:\* (Note: Prior USDA approval is required to provide the fruit/vegetable snack option for lunch.)

a. The snack is offered as a separate item at breakfast or lunch for consumption later.

b. The snack item may be a single serving of bread/bread alternate, fruit or vegetable.

c. If the snack option is chosen, school administrators and teachers should support this effort by providing students with the time and opportunity to eat these snacks during the day.

d. Timing of the snack should be determined by individual school choosing this option.

e. The price of the meals may not be increased solely as a result of choosing this option. (Note: No federal reimbursements exist for snacks outside the lunch or breakfast meals).

f. Schools choosing this snack option may elect to sell the same snack foods to students who do not purchase a school meal.

**§126-86-8. Compliance/Accountability.**

8.1. County boards of education and local school administrators shall provide a nutritionally healthful school environment for students and accountability for all funds from food and beverage sales. Compliance evaluation shall include, but is not limited to:

8.1.1. The Performance Based Accreditation System that includes specified compliance standard(s) and verification procedures.

8.1.2. Monitoring sales and service of "other foods". Sanctions for non-compliance shall include transfer of purchasing authority for food and beverage items from the school to the county level.

**§126-86-9. Staffing.**

9.1. Since the availability of a full-time nutrition director at the county level is desirable for centralizing operations, developing and monitoring compliance with specification for foods, especially entrees, implementing the Dietary Guidelines, local district accountability, and for nutrition education and training, it is recommended that each county assign a qualified full-time nutrition director.

9.1.1. Suggested staffing:

a. One full-time qualified county director of nutrition;

b. One assistant nutrition services director for each county where enrollment

exceeds 10,000 students; and

c. Two secretaries or one secretary and one clerk for food service operations at the county level where enrollment exceeds 10,000 students.

9.1.2. Operational Definitions Relative To Staffing

a. full-time is defined to mean a minimum of 220 days employment with exclusive nutrition program responsibilities.

b. A qualified county director of nutrition shall have a minimum of a baccalaureate degree in professional education or in home economics, nutrition, dietetics, or equivalent experience, and shall have experience in food service management, business management, classroom teaching in nutrition, or experience as a member of the NET cadre. In counties where a full-time food service supervisor, coordinator or director has been employed before July, 1992, and whose job responsibilities have been as listed above, that person remains in the present position.

**§126-86-10. Comprehensive County Plan To Address Health And Nutrition Re-Education.**

10.1. A comprehensive county plan shall be developed with the purpose of linking nutrition service and curriculum by establishing a wellness environment in schools, providing professional development and establishing an on-going evaluation process.

10.2. Development of the plan shall involve a broad spectrum of the school and community including health care providers, food service personnel, teachers, students and educational administrators.

**§126-86-11. Nutrition Advisory Council.**

11.1. A broad-based Nutrition Advisory Council shall be established by the West Virginia Department of Education for the purposes of keeping the West Virginia Board of Education apprised of current research findings in nutrition and assessing potential implications of findings for program development and implementation.

**§126-86-12. Evaluation Component.**

12.1. An evaluation/assessment component shall be established by the West Virginia Department of Education for the purpose of determining the effectiveness of this policy.

## FISCAL NOTE WORKSHEET

(Submit 4 Copies)

HD NO \_\_\_\_\_ DRAFT NO \_\_\_\_\_ BILL NO \_\_\_\_\_ RESOLUTION NO \_\_\_\_\_

SUBJECT Standards for School Nutrition, Policy 4321.1 FUND General

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) \_\_\_\_\_

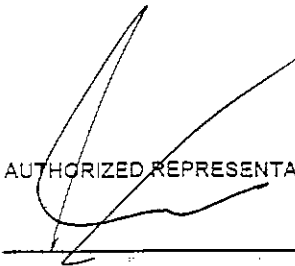
**SHOW OVER-ALL EFFECT IN ITEMS 1 AND 2 & GIVE EXPLANATION OF BREAKDOWN BY FISCAL YEAR INCLUDING LONG-RANGE EFFECT**

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	\$0	\$0	\$0	\$0	\$0
2. ESTIMATED TOTAL REVENUES	\$0	\$0	\$0	\$0	\$0

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

DATE 9/16/95

AGENCY  
West Virginia Department of Education

AUTHORIZED REPRESENTATIVE  


**COMMENTS AND SUGGESTIONS LOG**  
**POLICY 4321.1: STANDARDS FOR SCHOOL NUTRITION**  
**October, 1996**

ACTION TYPE  
 N: No Response -Negative  
 NA: Not Accepted +Positive  
 A: Accepted oNeutral

DATE	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION/TYPE	RATIONALE
<b>SECTION 1 - General</b>				
10/29/96	Baxter Mallory, Chairperson Central Elementary Rt. 2, Box 37 St. Albans, WV 25177	Overall good direction, more emphasis on controlled fat and cholesterol levels. Be sure not to label menu items. Try: Lasagna.	+/n	Adding a standard for saturated fat addressed dietary cholesterol.
11/4/96	Barbara Noll Musselman Middle School Rt. 2, Box 119 Bunker Hill, WV 25413	The middle schools do need well balanced meals, but they also need meals will eat. Sometimes this age group does not like trying new things.	o/n	The comment reflects perception or opinion.
11/4/96	Williamson Middle School Alderson Street Williamson, WV 25661	Teachers were divided on this one. Our school is located next to the high school, and the students feel they should also be permitted to purchase soft drinks.	o/n	This concern is related to the Safe Schools bill and is beyond the scope of the policy.
11/7/96	Mary Alice Klein 105 Chestnut Street Parsons, WV 26287	I applaud the direction.	+/n	The comment reflects perception or opinion.
11/8/96	Cross Lanes Elementary 5525 Big Tyler Road Charleston, WV	We looked this over and we are in agreement with the contents.	+/n	Do.
11/13/96	Edison Elementary Faculty Senate 122 3rd Avenue So. Charleston, WV 25309	Children's lunch program that consists of lower fat will only mean what's offered if not appealing will be left on the trays and the children would be hungry because "low fat" choice such as dried beans, lentils, etc., and other items will not be eaten. Waste of food, time preparing a lot of hungry students because they won't eat it.	-/n	Nutrition education needs can be addressed through the Comprehensive County Plan, §126-86-10.

DATE	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION/TYPE	RATIONALE
11/8/96	Denise Ferris, R.D. Dr. PH Dept. of Health and Human Resources 1411 Virginia Street, E. Charleston, WV 25311	The proposed revisions to the Standards for School Nutrition Policy 4321.1 have been found to be acceptable after review by the staff of the Office of Nutrition Services. These revisions would appear to limit the potential for adverse nutritional outcomes among the population affected by these standards.	+/n	The comment reflects perception or opinion.
11/14/96	Janet Yost 101 Parkway Drive Huntington, WV 25705	Standards for School Nutrition support the well-being of our states children and future adults. Good nutrition practices in our schools promotes progressive changes toward good health.	+/n	Do.
11/15/96	Laura Savio Food Service Director Monongalia County Schools	Appropriate as indicated.	+/n	Do.
11/18/96	Bernice Hall Branwell School P.O. Box 358 Bramwell, WV 24712	O.K.	+/n	Do.

### SECTION 3 - Definitions

10/28/96	Mary Kay Harrison Office of Child Nutrition	3.9 The grade designations proposed in this section are appropriate. and reflect the intent of offering this option to <u>high school students</u> .	+/n	Do.
10/28/96	Baxter Mallory	Good redefinition to include all forms of soft drinks.	+/n	Do.
11/4/96	Barbara Noll	Our school does not have vending machines outside of juices.	+/n	Do.
11/4/96	Williamson Middle	We are in agreement.	+/n	Do.
11/13/96	Kathy Talley WVDE Office of Child Nutrition	The sales of soft drinks does compromise the nutritional integrity of the school environment. Thankfully, this has been limited to high schools. Grade configuration for high school have been appropriately defined.	+/n	Do.
11/13/96	Jefferson Elementary Center 1103 Plum Street Parkersburg, WV 26101	<u>End of school day</u> should be extended until last student leaves including bus students and walking students. Activities including students would be considered after school.	-/n	Administrative feasibility precludes this at the state level.

DATE	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION/TYPE	RATIONALE
11/8/96	Denise Ferris	The definitions proposed are acceptable, including the revised definition for High School. The proposed change in when soft drinks may be sold will hopefully minimize any possible adverse effect on the nutritional status of high school students.	+/n	The comment reflects perception or opinion.
11/14/96	Janet Yost	Thankful "other foods" are being regulated. In my opinion, soft drinks are not appropriate; however, am grateful they are not allowed at meal time and only allowed in high schools. Suggest all schools selling soft drinks divide the funds between faculty, senate and necessary supplies.	+/n o/n #	Do. This concern relates to the Safe Schools bill and is beyond the scope of the policy.
11/15/96	Laura Savio	Appropriate as indicated.	+/n	The comment reflects perception or opinion.
11/18/96	Bernice Hall	O.K.	+/n	Do.

**SECTION 4 - Nutrition Standards**

10/28/96	Mary Kay Harrison Office of Child Nutrition	4.5.1. Allow analysis to be averaged on either a weekly or monthly basis. A weekly analysis is consistent with USDA nutrient standard menu planning options and commonly used in menu analysis software Programs. The weekly time frame is also consistent with required analysis procedures used by state staff to monitor other menu planning options.	+/a	Aligning state policy with federal policy is desirable.
10/28/96	Baxter Mallory	Could include school associated functions/groups; i.e., PTO, LSIC, PEG, Homeroom parents, Third Base, etc.	+/n	The Policy currently accomodates this concern in §126-86-4,4.2.
11/4/96	Barbara Noll	I think Berkeley county schools do a good job with a balanced meal as far as nutrition is concerned.	+/n	The comment reflects perception or opinion.
11/4/96	Williamson Middle	We are in agreement.	+/n	Do.
11/7/96	Mary Alice Klein	There is a need to more forcibly address the prohibition of processed foods. They appear to be heavily used for convenience and popularity. A combination of processed foods such as certain cheeses used in combination with processed meats must surely exceed the low salt requirement.	-/na	Accountability measures reasonably ensure nutritional quality of meals.

DATE	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION/TYPE	RATIONALE
11/13/96	Edison Elementary	The increased marketing of prepared breakfast and lunch foods is a cause to examine hidden negatives in food served in schools.		
11/13/96	Judy Black 302 Sunshiner Circle Beckley, WV 25801	Standards are OK if items ordered for menus come in. If substitutions are made it is a hassle to call to get a nutrient analysis done. Very time consuming and a big headache.	+/n	The comment reflects perception or opinion.
11/13/96	Kathy Talley	It is difficult to meet the 33% whole grain requirement as written due to the complexity of bakers' formulas. An alternative to achieving this goal that would allow bakers to produce products that meet this requirement is to say, "a minimum of 5 grams of whole grain flour per one ounce serving "or" contain at least 33% whole grain".	+/a	Results are the same and a standard is more easily obtained from the manufacturer.
11/13/96	Jefferson Elementary	Analysis of menus should be consistent with USDA time lines of weekly monitoring Under Option B, define a whole grain product as one containing a minimum of 33% whole grain or 5 grams of whole grain per one ounce serving.	+/a	Aligning state policy with federal policy is desirable. Results are the same and a quantitative standard is more easily obtained from the manufacturer.
11/8/96	Denise Ferris	Faculty senates of all schools will receive funds from soft drink and machines. Elementary centers are used for a wide variety of after school and non-school events. Soft drink machines and snack machines are used at these events after school hours, Saturday and Sunday. Finally, allowing School Lunch Programs a choice between Option A (monthly averages of meal pattern requirements) and Option B (weekly averages of meal pattern requirements) is commendable. This choice should allow schools a greater degree of freedom in assuring that meals served are both acceptable to the students and meet current nutrition standards.	o/n	This concern relates to the Safe Schools bill and is beyond the scope of the policy.
11/14/96	Janet Yost	Under Option B: Bread contains a minimum of 33% whole grain or 5 gm. of whole grain per one ounce serving. Under Option A: To be consistent with USDA, allow analysis to be completed weekly or monthly.	+/a	Aligning state policy with federal policy is desirable. Results are the same and quantitative standard is more easily obtained from the manufacturer. Aligning state policy with federal policy is desirable.

DATE	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION/TYPE	RATIONALE
11/15/96	Lawrence Hitt 410 S. Church Street Shepherdstown, WV 25443	Foods made available - by whom? I have a problem with parents not being able to supply food for a party in elementary school. It is very hard to monitor this. I think that students could have soft drinks for a pizza party, etc. on an occasional basis. We are getting too regulatory! What about elementary schools? We have soda machines, etc. that are off-limits to students and are not accessible to students during the day. Is it o.k.?	o/n	Nutrition education needs can be addressed through the Comprehensive County Plan, §126-86-10.
11/15/96	Berkeley Heights Elementary Rt. 5, Box 490 Martinsburg, WV 25401	4.3 Unenforceable! The county boards will allow the schools to do whatever they want on this. 4.6 Some studies show that children require whole milk instead of 2%--the choice needs to still be there. 6.1 Why not tell the children to use the water fountain?	+/na	Nutrition education needs can be addressed through the Comprehensive County Plan, §126-86-10. Accessibility of drinking water with meals contributes to good health.
11/15/96	Laura Savio	4.6 - Lunch - at least 5 servings/week which contain at least 5 gm. of whole grain per 1 oz. portion. When 12 servings of bread are served per week, 2 of the bread servings can be desserts. 4.5 Nutrient analysis of menus should be permitted on a weekly or monthly basis as desired. The results are essentially the same and the flexibility is important for variability in computer analysis programs and pricing capabilities. A minimum of twenty minutes seating time shall be required from the time the last student exits the point-of-service.	+/a	Aligning state policy with federal policy is desirable.
11/18/96	Bernice Hall	Good - Age appropriate standards are necessary	+/n	The concern is adequately addressed in Policy, §126-86-7.  The comment reflects perception or opinion.

**SECTION 9 - Staffing**

10/28/96	Baxter Mallory	To increase efficiency suggest assistant to come in at 8,000 students not 10,000/county.	+/na	There is no funding provision in this policy for additional staffing.
11/4/96	Barbara Noll	Our nutrition director for Berkeley county schools does a good job and keeps up with things.	+/n	The comment reflects perception or opinion.

DATE	INDIVIDUAL/ORGANIZATION	COMMENTS/SUGGESTIONS	ACTION/TYPE	RATIONALE
11/4/96	Williamson Middle	We are in agreement.	+/n	Do.
11/7/96	Mary Alice Klein	The requirement for a full-time food service director is cause for concern in a small county which already exceeds the number of service and professional personnel funded by state and which operates under legislated restrictions on administrators and Grade "H" service personnel..Unfunded mandate!!	-/na	Current policy <u>recommends</u> : does not <u>require</u> staffing patterns.
11/13/96	Edison Elementary	Cook ratio per students needs to be changed.	o/n	Cook-meal ratios are beyond the scope of this policy.
11/13/96	Kathy Talley	Change recommendation to requirement of a full-time qualified nutrition director to recognize the importance of nutrition integrity in the education setting and the link to learning. If should by no means be viewed as an unfunded mandate. Responsible fiscal management of the child nutrition program can help support this requirement.	+/na	There is no funding provision in this policy for staffing needs.
11/14/96	Janet Yost	Require adequate staffing instead of suggesting.	+/na	Do.
11/15/96	Laura Savio	126-86-9 It is <u>critical</u> that a full-time qualified nutrition director be employed by each county. This portion <u>must</u> be <u>required</u> in order to provide direction for all nutrition standards as set forth in this policy. The person in this position is responsible for all foods served to children in the school setting. This responsibility is more important to the health and well being of the students than any other position within the school system. Without proper nutrition guidance and health and sanitation guidance to food service staff in the schools we are putting the health and safety of our students at risk. The child nutrition budget is one of the largest of any program in the school system. Accountability for the financial aspects of the program regarding federal funding and contact purchasing is an important responsibility which must be managed by a qualified nutrition director. It is imperative that the position of a full-time nutrition director be required by each county. Additional staff should be based on county size as indicated.	+/na	Do.
11/18/96	Bernice Hall	Absolutely essential! Should be mandatory in each county	+/n	Do.

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

(Plus all the volunteer  
help we can get)

TO: Harriet Deel  
VIRGINIA HARRIS

AGENCY: EDUCATION

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: February 13, 1997

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 86 TITLE: 126 EDUCATION

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_  
TITLE OF PERSON SIGNING: \_\_\_\_\_  
DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Harriet Deel  
TITLE OF PERSON SIGNING: Director, office of Child Protection  
DATE: 2/24/97

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.