

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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FEB 22 2 01 PM '93

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: WV Code 18-2-5 & WV Const. Art. XII, §2

RULE TYPE: PROCEDURAL INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES , NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 86 (Policy 4321.1)

TITLE OF RULE BEING AMENDED: Standards for School Nutrition

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, 1993

Barbara L. Fox
February 19, 1993

SUBJECT School Nutrition Policy

FUND _____

General

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	\$	\$	\$		1,566,151.00
PERSONAL SERVICES	\$	\$			1,566,951.00
CURRENT EXPENSES					+ 62,500
REPAIRS AND ALTERATIONS					
EQUIPMENT					
OTHER (Food & Training)					\$1,729,451.00
2. ESTIMATED TOTAL REVENUES	\$	\$	\$	\$	\$

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

See attached work sheet for assumptions and estimate detail.

Additional costs needed to implement Dietary Guidelines for Americans in public schools, based on:

- a. lowering fat. (low fat specifications of meat, etc.)
- b. increasing complex carbohydrates and dietary fiber (additional fresh fruits and vegetables).
- c. decreasing sodium

Additional costs needed to provide supplements to pregnant and lactating students - \$100,800.

IMPACTS FISCAL:

Fiscal impact would range from \$1,566,151 to \$1,666,951 by 1994, depending upon student meal participation and school implementation date for Tier II. Training costs are estimated at 62,500. Total estimated costs for food and training are \$1,729,451.

STATE

STAFF: None.

COUNTY: See attached "Cost Estimate for Suggested Staffing, County Level".

STAFF:

DATE

12-18-92

107401

AGENCY

Education

AUTHORIZED REPRESENTATIVE

[Signature]

EXECUTIVE SUMMARY
WEST VIRGINIA BOARD OF EDUCATION

POLICY NUMBER AND TITLE: Policy 4321.1 - Standards for School Nutrition

PUBLIC COMMENT PERIOD ENDS: January 20, 1993 ADOPTED February 12, 1993

BACKGROUND:

Policy 4321.1 relates to foods served and sold in schools. In 1975 a state board policy passed to prohibit sales to children of candy, chewing gum, soft drinks and flavored ice bars during the school day. This policy, that became effective with the 1976-77 school year, was reaffirmed by the State Board in 1980 and 1989.

Because of concerns raised in 1991 by the State Board of Education regarding dietary fat in meals, policy enforcement, and current scientific findings related to dietary practices, a broad-based School Nutrition Policy Committee was formed to review present policy, consider new scientific information and recommend nutrition policy to the West Virginia Board of Education.

PURPOSE:

The proposed policy recommendations are designed to ensure a healthy school environment that provides for nutritional well-being for students. The policy ensures nutrient adequacy in all meals served in schools and provides guidelines that target nutrients identified as critical to health promotion and disease prevention. The policy reflects standards as defined in the 1990 Dietary Guidelines for Americans that limit average fat, sodium and added sugar levels and increase dietary fiber and complex carbohydrates. Nutrition guidelines for all foods and beverages sold or served to students reflect the same nutrition standards as those recommended for school meals.

The policy, through eight recommendations, provides dimensions for ensuring a "wellness" school environment. It sets forth responsibilities at state, district and school levels of operation.

SUMMARY OF POLICY CONTENT:

- All foods available to students during the instructional day shall provide for students' nutritional well-being. Current policy prohibiting sales of soft drinks, chewing gum, candy and flavored ice bars remains in effect. Additionally, some high-fat snack foods currently sold would be gradually eliminated (with implementation of Tier II).
- Meals served provide for promotion of healthy lifestyle and disease prevention reflecting the 1990 Dietary Guidelines for Americans that limits fat, sodium and sugar and increase dietary fiber and complex carbohydrates.
- Current a la carte policies are unchanged. Breakfast components may be sold as a la carte items for breakfast, and only milk or milkshakes may be sold as a la carte items for lunch.
- Drinking water shall be available with all student meals.

- County boards of education shall be held accountable for providing a healthy school environment and for accountability for all funds from food and beverage sales.
- Assignment of a qualified full-time nutrition director is suggested for each county by 1993-94.
- A local school comprehensive plan that links nutrition services and curriculum shall be developed.
- A nutrition advisory council shall be established at the state level.

NUTRITIONAL IMPACT:

Implementation of the Standards for School Nutrition will contribute significantly toward ensuring a healthy school environment, thus, enhancing learning and quality of life for all students. All meals served will provide for nutrient adequacy and will target nutrients identified as critical to health promotion and disease prevention consistent with the 1990 Dietary Guidelines for Americans. Additionally, all snacks sold or served to students during the instructional day will reflect the same standards of nutritional integrity as those recommended for school meals. Particular attention will be paid to nutritional needs of pregnant students and those with special dietary needs.

Prevention of health problems has enormous potential for averting economic and social costs associated with health care and lost productivity.

Implementation of this positive nutrition policy is expected to result in enhanced learning opportunities, improved health status, and improved performance and outcomes for students in schools.

FINANCIAL IMPACT:

Implementation of the policy will require no initial financial outlay. Full phase-in will require additional financial resources in three areas:

1. Training to effect changes in meal production and eating habits; Estimate \$62,500.
2. Full-time county nutrition director and other staffing to implement policy, particularly at Tier II and Tier III levels.
3. Additional food costs associated with lower fat specifications for meats; additional fresh fruits, vegetables, whole grain products; and additional protein and calcium for pregnant and lactating students, beginning at Tier II level. Estimated cost: a minimum of 5¢ per meal.

Full implementation of the "no snack sales during meals" provision of Tier II (by 1994) would generate an estimated additional \$13.9 million in federal revenues. However, general revenues from additional snack sales during meals in schools would be lost.

TITLE 126
PROCEDURAL LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EDUCATION
CHAPTER 18-2
SERIES 86
POLICY 4321.1

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**Title: Prohibition of Sale of Non-Nutritious Foods
Standards for School Nutrition**

SECTION 1. GENERAL

- 1.1 Scope - This procedural 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 and Related Code Citation(s) - WV Code 18-2-5 Constitution Article XII, §2.**
- 1.3 Filing Date - February 22, 1993**
- 1.4 Effective Date - March 22, 1993**
- 1.5 Repeal of Former Rules - None - This is a revision of former rules filed in 1982.**

SECTION 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.**

SECTION 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".**

West Virginia Department of Education
Nutrition Standards for School Nutrition

- 3.3 Soft drinks as defined in Section 1, Article 19, Chapter 11 of the Code of West Virginia: (a) "Bottled Soft Drinks" that are all beverages, whether carbonated or not, or any preparations commonly referred to as "soft drinks" of whatever kind, that are closed and sealed in glass, paper or any other type of container, envelope, package or bottle, whether manufactured with or without the use of any syrup, and (b) any beverages, whether bottled or not, that are prepared from soft drink syrups and powders by the mixing thereof with carbonated or plain water, ice, fruit, milk or any other product suitable to make a soft drink. Except that flavored, fluid milk, as defined in regulations promulgated by USDA governing Child Nutrition Programs, and beverage mixtures that, in the finished product, contain at least 20 percent natural fruit or vegetable juices are not considered soft drinks.
- 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".

SECTION 4. NUTRITION STANDARDS FOR SCHOOL NUTRITION PROGRAMS

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

County Boards of Education shall select for each school one of two implementation options for lunch: Option A (4.1), based on existing USDA meal patterns plus nutrient analysis standards; or Option B (4.2), on a WVDE Lunch Meal Pattern standard, following a phase-in approach identified as Tier I, Tier II and Tier III. 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).

No candy, soft drinks, chewing gum or flavored ice bars will be sold or served. No foods or beverages 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.

By 1994, all "other foods" available during the instructional day shall reflect the Dietary Guidelines for fat by limiting the number of fat grams per serving to not more than 5, or meet the USDA standard for a meal component.

TIER I by 1993
Grades K-12

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

Recommend that all "other foods" available during the school day reflect the Dietary Guidelines for fat by limiting the number of fat grams per serving to not more than 5, or meet the USDA standard for a meal component.

No candy, soft drinks, chewing gum or flavored ice bars will be sold or served. No foods or beverages 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.

TIER II by 1994
Grades K-12

Tier I Standards

Continue meal service options to ensure accessibility of school meals and acceptability of school meals for all students.

Require that all "other foods" available during the instructional day reflect the Dietary Guidelines for fat by limiting the number of fat grams per serving to not more than 5, or meet the USDA standard for a meal component.

TIER III by 1995
Grades K-12

Tier II Standards
Continued

West Virginia Department of Education
Nutrition Standards for School Nutrition

SECTION 4.1 LUNCH IMPLEMENTATION OPTION A

<u>TIER I by 1993</u>	<u>TIER II by 1994</u>	<u>TIER III by 1995</u>
<p><u>Recommend that school lunches meet existing USDA meal pattern requirements and averaged over a period of one week, provide:</u></p> <ul style="list-style-type: none"> ● <u>at least one-third of students' RDAs for calories, protein, calcium, iron, thiamine, vitamins A and C</u> <p style="text-align: center;"><u>and</u></p> <ul style="list-style-type: none"> ● <u>limited calories from fat (range of 30 to 35 percent)</u> <p style="text-align: center;"><u>and</u></p> <ul style="list-style-type: none"> ● <u>limited sodium (1100 mgs maximum)</u> <p style="text-align: center;"><u>and</u></p> <ul style="list-style-type: none"> ● <u>increased naturally occurring dietary fiber (7-10 gms for older children)</u> <p style="text-align: center;"><u>and</u></p> <ul style="list-style-type: none"> ● <u>offer water</u> 	<p><u>Require that school lunches meet Tier I recommendations</u></p> <p><u>Require additional foods be provided to pregnant or lactating students so that breakfast and lunch together, or in combination with a snack, provide:</u></p> <ul style="list-style-type: none"> ● <u>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;</u> ● <u>3 servings from the grain group, preferably from whole grains;</u> ● <u>1 - 1/4 cups from the fruit and vegetable group; and</u> ● <u>16 oz. from milk group.</u> <p><u>In these additional foods, the following option shall be allowed:</u></p> <p><u>1) 1 cup of fruit in place of one serving of the grain group once a week.</u></p>	<p><u>Same as Tier II, except limit calories from fat to no more than 30%.</u></p>

West Virginia Department of Education
Nutrition Standards for School Nutrition Programs

SECTION 4.2 LUNCH IMPLEMENTATION OPTION B

COMPONENT	TIER I by 1993		TIER II by 1994***		TIER III by 1995	
	Grades K-3	Grades 4-12	Grades K-3	Grades 4-12	Grades K-3	Grades 4-12
FRUIT OR VEGETABLE** • offer fresh produce whenever possible	1/2 cup (at least 1/4 cup fresh 3 times/week)	3/4 cup (at least 1/4 cup fresh 3 times/week)	3/4 cup (at least 1/4 cup fresh 3 times/week)	3/4 cup (at least 1/4 cup fresh 5 times/week)	1 cup (at least 1/4 cup fresh daily)	1 1/4 cup (at least 1/4 cup fresh daily)
MEAT/MEAT ALTERNATE • emphasize lean and lower sodium choices • serve dried beans, dried peas or lentils as meat/meat alternate choice at least once/week	1 1/2 oz. (at least 1/4 cup dried beans, dried peas or lentils/week = 1/2 oz. (M/MA))	2 oz. (at least 1/4 cup dried beans, dried peas or lentils/week = 1/2 oz. (M/MA))	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)	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** • emphasize whole grain products	2/day or 10/week (at least 3 servings/week are whole grain or all B/BAS contain at least 25% whole grain)	2/day or 10/week (at least 3 servings/week are whole grain or all B/BAS contain at least 25% whole grain)	2/day or 12/week (at least 5 servings/week are whole grain or all B/BAS contain at least 53% whole grain)	2/day or 12/week (at least 5 servings/week are whole grain or all B/BAS contain at least 53% whole grain)	2/day or 12/week (at least 1 serving/day is whole grain or all B/BAS contain at least 53% whole grain)	3/day or 12/week (at least 1 serving/day is whole grain or all B/BAS contain at least 53% whole grain)
MILK • offer lower fat choices	8 fl. oz.	8 fl. oz. *offer only milk with 2% or less butterfat	8 fl. oz. *offer only milk with 2% or less butterfat	8 fl. oz. *offer only milk with 2% or less butterfat	8 fl. oz. *offer only milk with 2% or less butterfat	8 fl. oz. *offer only milk with 2% or less butterfat
WATER • Encourage adequate water consumption	offer water	offer water	offer water	offer water	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"

West Virginia Department of Education
Nutrition Standards for School Nutrition Programs

SECTION 4.3 BREAKFAST IMPLEMENTATION OPTION

COMPONENT	TIER I by 1993 Grades K-12	TIER II by 1994*** Grades K-12	TIER III by 1995 Grades K-12
MILK • offer lower fat choices	8 fl. oz.	8 fl. oz. *offer only milk with 2% or less butterfat	8 fl. oz. *offer only milk with 2% or less butterfat
FRUIT/VEGETABLE** • offer daily a fruit, juice or vegetable that is a good source of vitamin C	1/2 cup	1/2 cup	1/2 cup
MAY CHOOSE ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS OR TWO SERVINGS FROM ONE			
BREAD/BREAD ALTERNATE** • offer whole grain varieties often	1 or 2 servings	1 or 2 servings	1 or 2 servings
MEAT/MEAT ALTERNATE • encourage low-fat and low-salt choices	1 serving recommended	1 serving recommended	1 serving recommended

* 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"

West Virginia Department of Education
Nutrition Standards for School Nutrition Programs

SECTION 4.4 NUTRITION STANDARDS FOR OTHER FOODS CONSUMED AT SCHOOL

<u>TIER I by 1993</u> <u>Grades K - 12</u>	<u>TIER II by 1994</u> <u>Grades K-12</u>	<u>TIER III by 1995</u> <u>Grades K-12</u>
<p><u>Develop or expand meal service options to improve accessibility of school meals and acceptability of school meals for all students.</u></p> <p><u>Recommend that all "other foods" available during the school day reflect the Dietary Guide—lines for fat by limiting the number of fat grams per serving to not more than 5, or meet the USDA standard for a meal component.</u></p> <p><u>No candy, soft drinks, chewing gum or flavored ice bars will be sold or served. No foods or beverages 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.</u></p>	<p style="text-align: center;"><u>Tier I Standards</u></p> <p><u>Continue meal service options to ensure accessibility of school meals and acceptability of school meals for all students.</u></p> <p><u>Require that all "other foods" available during the instructional day reflect the Dietary Guide—lines for fat by limiting the number of fat grams per serving to not more than 5, or meet the USDA standard for a meal component.</u></p>	<p style="text-align: center;"><u>Tier II Standards Continued</u></p>

West Virginia Department of Education
Nutrition Standards for School Nutrition

SECTION 5. A LA CARTE SALES

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

SECTION 6. AVAILABILITY OF DRINKING WATER

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

SECTION 7. ADEQUATE TIME FOR MEAL CONSUMPTION

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 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:*

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

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

7.1.3 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.

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

7.1.5 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.)

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

* Prior USDA approval is required to provide the fruit/vegetable snack option for lunch in Tiers II and III.

SECTION 8. COMPLIANCE/ACCOUNTABILITY

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. Enforcement systems shall include, but are not limited to:

West Virginia Department of Education
Nutrition Standards for School Nutrition

- 8.1 The Performance Based Accreditation System that includes (a) specified compliance standard(s) and verification procedures.
- 8.2 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.

SECTION 9. STAFFING

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 by 1993-94.

Suggested staffing shall be determined by tier level in implementation of Dietary Guidelines, i.e., Tier I, Tier II, or Tier III.

9.1 Tier I suggested staffing:

- 9.1.1 One full-time qualified county director of nutrition services, and
- 9.1.2 one secretary for food services at county level with a minimum of 220 days employment.

9.2 Tiers II and III suggested staffing:

- 9.2.1 one full-time qualified county director of nutrition;
- 9.2.2 one assistant nutrition services director for each county where enrollment exceeds 10,000 students; and
- 9.2.3 two secretaries or one secretary and one clerk for food service operations at the county level where enrollment exceeds 10,000 students.

9.3 Operational Definitions Relative To Staffing

- 9.3.1 Full-time is defined to mean a minimum of 220 days employment with exclusive nutrition program responsibilities.
- 9.3.2 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 shall be considered qualified as long as the person remains in the present position.

West Virginia Department of Education
Nutrition Standards for School Nutrition

SECTION 10. COMPREHENSIVE COUNTY PLAN TO ADDRESS HEALTH AND NUTRITION RE-EDUCATION

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.

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.

SECTION 11. NUTRITION ADVISORY COUNCIL

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.

SECTION 12. EVALUATION COMPONENT

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

Cost Estimates for Suggested Staffing, County Level

Tier I:

<u>Personnel</u>	<u>Annual Salary</u>	<u>Expenditure Level</u>
28 Professionals	\$20,118.	\$563,304.

Estimates are based upon the "1992-93 state minimum salary schedule" for teachers at the A.B. degree qualifications level with three years experience. In computing the estimated gross total expenditures a 5% adjustment is added for salary increases that might occur by 1993-94 and 24% is added to fund employee benefits.

Tier II and Tier III, additional costs:

<u>Personnel</u>	<u>Annual Salary</u>	<u>Expenditure Level</u>
*8 Professionals	\$20,118.	\$160,944.
5 secretaries/clerical	\$12,507.	\$ 62,535.
	Sub Total	<u>\$786,783.</u>

Estimates are based upon the "1992-93 state minimum salary schedule" for teachers at the A.B. degree qualifications level with three years experience and the "state minimum pay scale pay grade" for service personnel at the pay grade E level (Secretary II) and three years experience. In computing the estimated gross total, a 5% adjustment is added for salary increases that might occur by 1993-94 and 24% is added to fund employee benefits.

*Eight counties have an enrollment exceeding 10,000 students.

5% adjustment	<u>\$39,339.</u>	<u>\$826,122.</u>
24% Employee benefits	<u>\$198,269</u>	

Estimated gross total \$1,024,391.

The net fiscal impact would vary depending upon amount now paid for part-time supervision in 28 counties and upon the capability of personnel to generate cost saving measures through quantity food purchasing practices and effective monitoring of meal production. Additionally, the net fiscal impact would depend upon capacity to generate additional federal revenues through increased meal participation. All of the above expenditures may be paid from federal Child Nutrition funds.

PROHIBITION OF SALES OF NON-NUTRITIOUS FOODS
(STANDARDS FOR SCHOOL NUTRITION)

POLICY 4321.1

SUMMARY OF COMMENTS

Policy 4321.1 was placed on public comment at the October 1992 meeting of the West Virginia Board of Education. In December 1992, the comment period was extended until January 20, 1993. During the comment period, two thousand and twenty-five (2025) written comments were received. One thousand seven hundred and seventy-six (1776) were positive in nature, supporting the policy or requesting more stringent provisions. One hundred and five (105) comments were neutral and one hundred forty two (142) comments expressed opposition to policy provisions.

A summary of the comment log is attached that indicates policy section, number of comments by type and resulting revisions to the proposed policy.

COMMENT LOG SUMMARY
Prohibition of Sales of Non-Nutritious Foods
(Standards for School Nutrition)
Policy 4321.1

Policy Section	Number of Comments (by type)*				Resulting Revisions
	-	+	•	Total	
Section 1. General	12	74	6	92	Section 4.4 permits sales of nutritious "other foods" in all tiers.
Section 2. Purpose	3	80	7	90	Section 4.4 permits sales of nutritious "other foods" in all tiers.
Section 3. Operational Definitions, Food Sales and Service	4	110	10	124	"Enrollment" is defined. Section 4.4 permits sales of nutritious "other foods" in all tiers.
Section 3.6. Other foods, defined	10	45	7	62	Section 4.4 permits sales of nutritious "other foods" in all tiers.
Section 4. Nutrition Standards for School Nutrition Programs	11	76	4	90	After-school programs that provide supplemental meals to children are included. Section 4.4 permits sales of nutritious "other foods" in all tiers.
Section 4.1. Lunch Implementation Option A	9	123	13	145	The language, "40% or more sugar", is consistently used. Language regarding additional foods for pregnant students is clarified. Amount of dietary fiber is corrected. "Offer water" is added.

COMMENT LOG SUMMARY
Prohibition of Sales of Non-Nutritious Foods
(Standards for School Nutrition)
Policy 4321.1

Policy Section	Number of Comments (by type)*				Resulting Revisions
	-	+	●	Total	
Section 4.2. Lunch Implementation Option B	10	130	6	146	Language regarding additional foods for pregnant students is clarified. The term "beans" is clarified to read "dried beans, dried peas or lentils." The quantity for one serving of meat/meat alternate for grades 4-12 is specified as 2 oz.
Section 4.3. Breakfast Implementation	0	130	4	134	Language regarding additional foods for pregnant students is clarified. Section 4.1, Tier II, is clarified to include the snack option.
Section 4.4. Nutrition Standards for Other Foods Consumed at School	46	99	14	159	The Tier II limitation that no foods other than the school meal be sold during meal periods is deleted. Clarification is provided to allow the sale of foods that meet the standard for a meal component. The concepts of accessibility and acceptability of meal services are continued in Tier II.
Section 6. Availability of Drinking Water	2	109	12	123	The omission in Tier I, Option A, regarding availability of drinking water is corrected.

COMMENT LOG SUMMARY
Prohibition of Sales of Non-Nutritious Foods
(Standards for School Nutrition)
Policy 4321.1

Policy Section	Number of Comments (by type)*				Resulting Revisions
	-	+	•	Total	
Section 7. Adequate Time for Meal Consumption	2	94	5	101	The presumed to be understood "for each student" is expressly stated.
Section 7.1. Snack Options for Meals	13	55	3	69	Section 4.4 permits sales of nutritious "other foods" in all tiers.
Section 8. Policies Compliance Accountability	2	76	1	79	Section 4.4 permits sales of nutritious "other foods" in all tiers. Language regarding monitoring of "other foods" is revised for consistency and clarification.
Section 9. (9.9.1-9.3) Staffing	10	388	0	398	None.
Section 10. Comprehensive School Plan Health and Nutrition Re-education	0	67	4	71	None.
Section 11. Nutrition Advisory Council	0	60	2	62	None

In addition to revisions indicated, minor editing changes improve grammatical structure and readability. A major component, Section 12, is added to address policy evaluation.

***Note.**

- Identifies negative response
- + Identifies positive response (agrees with policy as written or calls for a more stringent policy provision)
- Identifies neutral response

~~4321.1-PROHIBITION-OF-SALE-OF-NON-NUTRITIOUS-FOODS~~
STANDARDS FOR SCHOOL NUTRITION

The West Virginia Board of Education believes that a healthy school environment enhances learning and quality of life for students. An important dimension of ensuring a healthy school environment is ensuring that all foods and beverages available on school premises during the school day provide for students' nutritional well-being.

Therefore, the State Board establishes nutrition standards for all food and beverages served or sold to students during the instructional day. Further, the Board charges local education agencies with the responsibility for ensuring a healthy school environment for students in accordance with established nutrition standards and for accountability for all funds from food and beverage sales in schools.

Proposed Policy



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SECRETARY OF STATE

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
 JUL 16 9 11 AM '93
 FILED

TO: Barbara Fox

AGENCY: Board of Education

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: July 12, 1993

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 Board of 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: Betty Belcher

TITLE OF PERSON SIGNING: Secretary

DATE: July 14, 1993

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