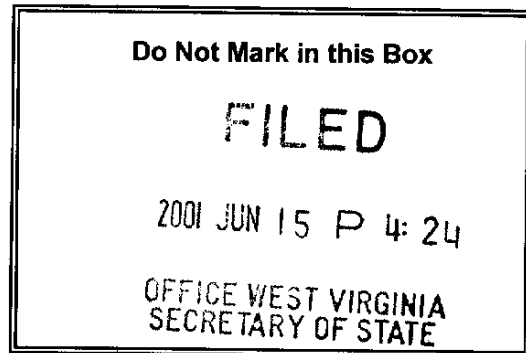


WEST VIRGINIA
SECRETARY OF STATE

JOE MANCHIN, III

ADMINISTRATIVE LAW DIVISION

Form #2



NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

RULE TYPE: Procedural; CITE AUTHORITY: W.Va. Constitution, Article XII, §2, W.Va. Code §18-2-5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 86

TITLE OF RULE BEING AMENDED: Standards for School Nutrition Policy
Polices of Operation Manual Child Nutrition Programs
(4321.1)

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

TITLE OF RULE BEING PROPOSED: _____

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, 2001 AT 4:45 p.m.. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Mary Kay Harrison, Executive Director

Office of Child Nutrition

West Virginia Department of Education

Building 6, Room 248

1900 Kanawha Boulevard East

Charleston, West Virginia 25305-0330

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

David Stewart
David Stewart
State Superintendent of Schools

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

84.60

EXECUTIVE SUMMARY
STANDARDS FOR SCHOOL NUTRITION POLICY

Series 86, Policy 4321.1

BACKGROUND:

Standards for School Nutrition establishes standards for foods served and/or sold to students in schools during the school day. The policy sets forth management and meal service practices based upon an integrated approach to school-wide nutrition integrity. Staffing recommendations include minimum qualifications for county nutrition program directors.

PURPOSE:

A qualified county nutrition program director is essential in planning and managing school nutrition programs, including centralizing operations, developing and monitoring compliance with Standards for School Nutrition, implementing the Dietary Guidelines for Americans, ensuring district accountability and implementing nutrition education and training programs. The proposed policy revision establishes requirements for the position of school nutrition director.

CONTENTS:

Proposed revisions reflect the following changes:

1. Requires each county superintendent to designate a school nutrition director beginning 2002-2003 school year;
2. Requires authorization for school nutrition directors;
3. Establishes requirements for initial school nutrition director authorization;
4. Establishes requirements for renewal of the authorization; and
5. Changes references to "qualified county director of nutrition" to "authorized school nutrition director."

IMPACT:

Proposed revisions will help to ensure that school nutrition program directors possess the knowledge and skills required for effective management and attainment of high nutrition standards set forth in this policy. No additional financial outlay is required.

**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

**SERIES 86
STANDARDS FOR SCHOOL NUTRITION (4321.1)**

§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 and 1997.

§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.

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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"> offer fresh produce whenever possible 	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"> emphasize lean and lower sodium choices serve dried beans, dried peas or lentils at least once/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** <ul style="list-style-type: none"> emphasize whole grain products 	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"> offer lower fat choices 	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"> encourage adequate water consumption 	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
<p>MILK</p> <ul style="list-style-type: none"> Offer lower fat choices 	<p>8 fl. oz.</p> <ul style="list-style-type: none"> offer only milk with 2% or less butterfat*
<p>FRUIT/VEGETABLE</p> <ul style="list-style-type: none"> offer daily a fruit, juice or vegetable that is a good source of vitamin C 	<p>1/2 cup</p>
<p>MAY CHOOSE ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS OR TWO SERVINGS FROM ONE</p>	
<p>BREAD/BREAD ALTERNATE</p> <ul style="list-style-type: none"> offer whole grain varieties often 	<p>1 or 2 servings</p>
<p>MEAT/MEAT ALTERNATE</p> <ul style="list-style-type: none"> encourage low-fat and low-salt choices 	<p>1 serving recommended</p>

* Requires prior approval from USDA.

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

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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.)

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- 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. Each county superintendent shall designate a school nutrition director. Beginning with assignments made for the 2002-2003 school year, the school nutrition director must hold an Authorization endorsed for School Nutrition Director. An individual who is assigned as a school nutrition director for the 2002-2003 school year shall be issued, upon recommendation from the county superintendent, an Authorization to continue working in this capacity AND shall renew such Authorization annually.

9.1.1. The applicant for initial authorization must provide evidence of satisfying the following:

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a. A minimum of a bachelor's degree with a 2.5 overall GPA and at least six semester hours of course work in nutrition, foods, and/or food service management; AND

b. Receive the recommendation of the county superintendent verifying that the applicant is the most qualified candidate for the position.

9.1.2. The authorization shall be valid for one school year and shall expire on June 30.

9.1.3. The applicant for renewal of the Authorization for School Nutrition Director must provide evidence of satisfying the following:

a. Completion of 15 clock hours of in-service credit related to Child Nutrition Programs and offered by the West Virginia Department of Education; AND

b. Recommendation of the superintendent in the county in which the applicant is or was employed.

9.42. Since the availability of a full-time school 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 school nutrition director.

9.42.1. Suggested staffing:

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

b. One assistant school 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.

9.42.2. 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 INLUCING
LONG-RANGE EFFECTS

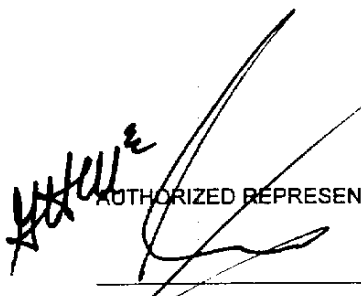
EFFECT OF PROPOSAL	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
1. ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERNATIONS EQUIPMENT OTHER	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
2. ESTIMATED TOTAL REVENUES	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0

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

DATE _____

AGENCY _____

West Virginia Department of Education


 AUTHORIZED REPRESENTATIVE

COMMENT LOG

STANDARDS FOR SCHOOL NUTRITION (POLICY 4321.1)

Directions: Please use this form in commenting by section on the proposed policy revisions of Standards for School Nutrition.

Name of Individual/Organization: _____

Address: _____

Section 9 Staffing	
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Please submit comments by July 16, 2001 to:

Mary Kay Harrison, Executive Director
Office of Child Nutrition
West Virginia Department of Education
Building 6, Room 248
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330