

WEST VIRGINIA
SECRETARY OF STATE

JOE MANCHIN III

ADMINISTRATIVE LAW DIVISION

Form #2

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2003 SEP 19 A 11: 18

OFFICE 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: W. Va. Constitution, Article XII, §2, W.Va. Code §18-2-5 and §18-4-6

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: 143

TITLE OF RULE BEING PROPOSED: County Superintendent Performance Evaluations (5309)

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON October 24, 2003 AT 4:45 p.m.. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Tony Smedley, Executive Director

Office of Human Resources

West Virginia Department of Education

Capitol Building 6, Room 262

1900 Kanawha Boulevard, East

Charleston, West Virginia 25305-0330

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



Steven L. Paine

Deputy State Superintendent of Schools

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

EXECUTIVE SUMMARY

WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number and Title:

Policy 5309
County Superintendent Performance Evaluations

Background:

The Legislature enacted *West Virginia Code §18-4-6*, to require county boards to annually evaluate the performance of their county superintendent with a process "authorized by the state board." In response to this legislation, the West Virginia School Boards Association facilitated meetings involving all stakeholders which resulted in a draft of this proposed policy, which includes revisions with the consent of the Director of the West Virginia School Boards Association.

Proposals:

This new policy is proposed to outline both an initial process of approval of county plans for the evaluation of superintendents as well as the process in the future of plans for the evaluation of superintendents. It also includes language regarding the evaluation process for those superintendents of counties in which the State Board has intervened.

Impact:

The proposed policy outlines both the procedure and the criteria to be included in county's process for evaluating their superintendent. The required criteria in section 6 as well as the optional criteria found in section 7.1.1. are found in the code section previously noted. The additional optional criteria found in section 7.1.2. are found in *West Virginia Code §18-4-10(1) and (9)* and the optional criterion found in section 7.1.3. was the recommendation of the stakeholders involved. This policy permits the State Superintendent to act as the filter through which the proposals are eventually brought before the State board for approval.

Response to Comments: N/A

126CSR143

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2003 SEP 19 A 11: 18

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION
SERIES 143

OFFICE WEST VIRGINIA
SECRETARY OF STATE

County Superintendent Performance Evaluations (5309)

§126-143-1. General.

1.1. Scope. - This rule governs the approval of processes by which county boards of education annually evaluate the performance of their superintendents.

1.2. Authority. - W. Va. Constitution, Article XII, §2 and W.Va. Code §18-2-5 and §18-4-6.

1.3. Filing Date. -

1.4. Effective Date. -

1.5. Repeal of Form Rule. - None. This is a new rule.

§126-143-2. Purpose.

2.1. W.Va. Code §18-4-6 requires the State Board to authorize the processes by which county boards of education shall annually evaluate the performance of their superintendents.

2.2. The purpose of this policy is to prescribe how the State Board will exercise that authority.

§126-143-3. Authorization Required.

3.1. Each county board shall annually evaluate the performance of its superintendent in accordance with a process authorized under this policy.

3.2. A county board shall not evaluate its superintendent under a process that has not been so approved.

3.3. Nothing in this policy shall be interpreted to require a county board to evaluate an interim superintendent serving pursuant to W.Va. Code §18-4-1.

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3.4. During any period that the State Board intervenes in the operation of a school system pursuant to W.Va. Code §18-2E-5, the county board shall not evaluate the superintendent's performance unless directed by the State Superintendent to do so.

§126-143-4. Processes for School Year 2004-2005.

4.1. Before evaluating the performance of its superintendent for the 2003-2004 school year, the county board shall submit to the State Superintendent a written description of the evaluation process it proposes to follow, to include a copy of any evaluation forms to be used as part of the process.

4.2. The State Superintendent, on behalf of the State Board, is authorized to approve the proposed process for the 2003-2004 school year if, in the State Superintendent's reasonable opinion, the proposal satisfies the criteria of section 6 of this policy.

§126-143-5. Processes for Subsequent School Years.

5.1. Before evaluating the performance of its superintendent for the 2004-2005 school year and subsequent school years, the county board shall submit to the State Superintendent, for approval by the State Board, a written description of the evaluation process which the county board proposes to follow, to include a copy of any evaluation forms to be used as part of the process.

5.2. In order to receive State Board approval by July 1, the county board must initially submit its proposed evaluation process to the State Superintendent before the preceding December 31. Proposals submitted after that date will be considered, but may not be approved by July 1.

5.3. If it appears to the State Superintendent that an evaluation process proposed by the county board does not meet the requirements of section 6 of this policy, the State Superintendent shall return the proposal to the county board, identifying any area of noncompliance. After revising the proposed process to comply with the requirements of section 6, the county board shall submit to the State Superintendent, for approval by the State Board, a written description of the revised proposal.

5.4. If in the State Superintendent's opinion a proposed evaluation process submitted by the county board meets the mandatory requirements of section 6 of this policy, the State Superintendent shall promptly bring the proposal to the State Board for consideration, regardless of the State Superintendent's opinion about other aspects of the county board's proposal. If the State Superintendent is concerned about any aspect of the proposal, the State Superintendent shall so inform the State Board.

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5.5. If the State Board, having considered the county board's proposed evaluation process, fails to approve it, the county board shall revise the proposal to address the State Board's concerns and submit to the State Superintendent, for approval by the State Board, a written description of the revised proposal.

5.6. Once the State Board approves the county board's process for evaluating the county superintendent's performance, the county board shall thereafter utilize that process until the State Board authorizes or requires the county board to employ a different process.

§126-143-6. Required Process Criteria.

6.1. The process by which the county board of education shall annually evaluate the performance of its superintendent shall satisfy these criteria:

6.1.1. The process shall require the county board and the county superintendent to annually, before September 15, establish written goals or objectives for the county superintendent to accomplish within a given period of time. Each goal or objective shall include a specific time line for completion. The time line need not be the same for each goal or objective, and the time line for any goal or objective may extend beyond the end of the then-current school year.

6.1.2. The process shall specify how the mutually agreeable goals or objectives will be established when the board and the superintendent seem unable to agree. To that end, the process may provide that the parties will petition the State Board to designate an individual to facilitate agreement on goals or objectives, that the county board will engage the West Virginia School Boards Association and the West Virginia Association of School Administrators to facilitate agreement, or that some other specific procedure will be followed to break the impasse.

6.1.3. The process shall require the county board to annually, before June 30, assess the county superintendent's achievement of the written goals or objectives, except that the assessment shall be made before March 1 if the superintendent's contract is to expire on the ensuing June 30.

6.1.4. The process shall require the county board to annually, before June 30, evaluate the county superintendent's success in improving student achievement generally across the county and specifically as it relates to the management and administration of low performing schools, except that this evaluation shall be made before March 1 if the superintendent's contract is to expire on the ensuing June 30.

6.1.5. The process shall require the county board to evaluate the superintendent's performance in executive session, and to thereafter make available to the public a general statement about the evaluation process and the overall result. The process shall specify how the county board will arrive at the general statement about the evaluation process and the overall result.

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6.1.6. The process shall allow for the release of additional information about the evaluation only by mutual consent of the county superintendent and the county board.

§126-143-7. Optional Process Criteria.

7.1. The process by which the county board shall annually evaluate the performance of its superintendent may include these features:

7.1.1. The process may require or allow the county board to annually, before June 30, assess the county superintendent's performance in the areas of community relations, school finance, personnel relations, curricular standards and programs, and overall leadership of the school district as indicated primarily by improvements in student achievement, testing and assessment, except that this assessment shall be made before March 1 if the superintendent's contract is to expire on the ensuing June 30. If the process includes such assessments, the process shall specify how the assessments will be made, including any ratings or rankings that will be employed.

7.1.2. The process may require or allow the county board to annually, before June 30, assess the superintendent's performance of any other duties of the chief executive officer of the county board as delineated in the superintendent's contract or other written agreement with the county board [W.Va. Code §18-4-10(1)], and the degree to which the superintendent keeps the county board apprised continuously of any issues that affect the county board or its schools, programs and initiatives. [W.Va. Code §18-4-10(9)].

7.1.3. The process may, with the consent of the county superintendent who is to be evaluated, incorporate input from other parties, such as citizens and school employees, about the superintendent's performance. However, any such input shall be used only to inform the county board in its evaluation of the superintendent.

§126-143-8. Catalog of Evaluation Instruments.

8.1. The West Virginia School Boards Association shall maintain a catalog of evaluation instruments which comply with this policy and shall make them available to county boards.

§126-143-9. Use of Evaluation Results.

9.1. A county board may use the results of its evaluation of the superintendent's performance to determine whether to offer the superintendent a new contract and the level of compensation or benefits to offer the superintendent in any new contract.

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§126-143-10. Evaluation Training.

10.1. As an integral part of the process for evaluating the performance of county superintendents for the 2004-2005 school year and subsequent school years, all county board members and county superintendents shall receive evaluation training approved by the State Board and conducted jointly by the West Virginia School Boards Association and the West Virginia Association of School Administrators.

§126-143-11. Severability.

11.1. If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this rule.

FISCAL NOTE WORKSHEET

(Submit 4 Copies)

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

SUBJECT Policy 5309: County Superintendent Performance Evaluations FUND _____

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 97-98	THEREAFTER
1. ESTIMATED TOTAL COST	\$ - 0 -	\$ - 0 -	\$ - 0 -	\$ - 0 -	\$ - 0 -
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER	\$	\$	\$	\$	\$
2. ESTIMATED TOTAL REVENUES	\$ - 0 -	\$ - 0 -	\$ - 0 -	\$ - 0 -	\$ - 0 -

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

DATE

AGENCY

AUTHORIZED REPRESENTATIVE

August 28, 2003

West Virginia Department of Education

[Handwritten Signature]

**POLICY 5309: COUNTY SUPERINTENDENT PERFORMANCE
EVALUATIONS**

COMMENT PERIOD ENDS: October 24, 2003

Directions: Please use this form to provide comments/suggestions regarding revised Policy 5309.

Individual/Organization: _____

Title: _____ Business: _____

Street Address: _____

City/State/Zip: _____

COMMENTS/SUGGESTIONS
§126-143-1. General.
§126-143-2. Purpose.

§126-143-3. Authorization Required.

§126-143-4. Processes for School Year 2004-2005.

§126-143-5. Processes for Subsequent School Years.

§126-143-6. Required Process Criteria.

§126-143-7. Optional Process Criteria

§126-143-8. Catalog of Evaluation Instruments.

§126-143-9. Use of Evaluation Results.

§126-143-10. Evaluation Training.

§126-143-11. Severability.

Please Mail the Completed Comment Sheet to:
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