

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

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

RULE TYPE: Procedural; CITE AUTHORITY WV Code 18-2-5

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 153 (Policy 5711)

TITLE OF RULE BEING AMENDED: Copyright Protected Computer Software,
Print and Non-print Media

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 October 13, 1992 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Mrs. Wanda Kirchner, Coordinator
Office of Technonogy and Information Systems
West Virginia Department of Education
Building 6, Room B-346
1900 Kanawha Blvd. E.
Charleston, WV 25305

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

Barbara L. Estep
August 25, 1992

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

2-60

FISCAL NOTE WORKSHEET

HD NO _____ DRAFT NO _____ BILL NO _____ RESOLUTION NO _____
 SUBJECT Copyright Protected Computer Software, Print and Non-print Media 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	\$	\$	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	\$	\$			
CURRENT EXPENSES					
REPAIRS AND ALTERATIONS					
EQUIPMENT					
OTHER					
2. ESTIMATED TOTAL REVENUES	\$	\$	\$	\$	\$

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

IMPACTS
FISCAL:

STATE
STAFF:

DATE

AGENCY

AUTHORIZED REPRESENTATIVE

West Virginia Department of Education

EXECUTIVE SUMMARY

REVISION TO POLICY 5711: COPYRIGHT PROTECTED COMPUTER SOFTWARE, PRINT AND NON-PRINT MEDIA

Purpose

Policy 5711 describes the purpose of copyright protected computer software and compliance requirements. The revision to Policy 5711 adds other medias to the old policy and defines the intent and procedures in these areas.

Background

Policy 5711 was initially approved by the West Virginia Board of Education in December 1983, with an effective date of February 1984. As a continuation of Policy 5711, changes and additions are being forwarded and recommended.

Recommended Revisions

- The addendum to Policy 5711 does the following:
 - adds print and non-print media to title
 - lists media
 - adds other media to ethical, practical problems and consequences to piracy
 - requires appropriate software licenses for multi-access use software
 - adds RESA personnel to applicability/purpose sections and for providing reminders to staff.

Impact

Instructional

Students' knowledge of copyright laws should be broadened when including additional media.

Leadership

Central office personnel, principals, teachers, students, Regional Education Service Agencies and West Virginia Department of Education staff should be more informed regarding copyright laws.

Financial Impact

The policy requires no financial appropriations.

Staff Development Impact

All county, RESA and WVDE staff should become more informed of laws during the 1992-93 school year and ongoing thereafter.

Administrative Impact

School administrators should become more informed and able to guide staff in obeying copyright laws.

TITLE 126
PROCEDURAL RULE
WEST VIRGINIA BOARD OF EDUCATION
CHAPTER 18-2
SERIES 153
POLICY 5711

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OFFICE OF THE CLERK
SECRETARY OF STATE

Title: Copyright Protected Computer Software, Print and Non-print Media

SECTION 1. GENERAL

1-1A. SCOPE - This legislative rule states that copyright laws protecting computer software, print and non-print media should be adhered to by the West Virginia Department of Education, county boards of education, and all public school employees. This includes books, periodicals, videodiscs, compact discs, videotapes, 16 mm films, filmstrips, software, videoconferences, television programs, and any other media affected by copyright laws.

1-2B. Authority - W. Va. Code 18-2-5

1-3C. Filing Date - December-27,-1983

1-4D. Effective Date - February-27,-1984

E. Repeal of Former Rule - None. This is an updated policy.

SECTION 2. APPLICABILITY

This policy applies to West Virginia Department of Education personnel, Regional Education Service Agency personnel, and to employees of county boards and personnel that students receive and use microcomputer software programs available through the statewide computer network using any of the media mentioned in Section 1.

SECTION 3. COMPLIANCE REQUIREMENTS

To discourage violation of copyright laws, the following compliance requirements are specified: for these that receive and use microcomputer software programs available through the statewide computer network.

3-2A. Employees are expected to adhere to the provisions of P.L. 96-517 which allow the making of a backup copy of computer programs:

". . . It is not an infringement for the owner of a copy of a computer program to make or authorize the making of another copy or adaption of that computer program provided:"

a-1. such a new copy or adaption is created as an essential step in the utilization of the computer program.

WV Board of Education
Pro. Rule, Chapter 18-2
Series (School Personnel)
Section 3

b-2. that such a new copy and adaption is for archival purposes only and that all archival copies are destroyed in the event that continued possession should cease to be rightful.

3-3B. When software is to be used on in a disk--serving network/server system, ~~efforts will be made to secure this software from~~ copying appropriate software licenses will be obtained for multi-access use.

C. Programs available through the statewide computer network must comply with stipulations of the various purchase agreements.

3-4 D. Illegal copies of copyrighted programs shall not be made or used on school equipment.

3-5E. Under federal law, employees violating the copyright laws may be subject to fines, confiscation of material, and other criminal prosecution (e.g., confinement to prison, revocation of a license). Violations may also result in the employee's suspension and/or dismissal for insubordination under West Virginia Code 18A-2-8.

3-1F. ~~Students enrolled in programs of study using the statewide educational computer network~~ are to be taught the ethical and practical problems and consequences of software and media piracy.

3-6G. The Department, county boards of education, affected ~~by this policy~~ and RESAs will provide their employees with yearly reminders of their responsibility to adhere to and enforce the copyright laws and will provide inservice if appropriate.

3-7H. The school principal ~~should~~ shall establish practices to implement this policy at the school level. Examples of such practices would include arranging staff meetings on copyright laws and placing compliance postings on equipment.

COMMENT LOG
COPYRIGHT PROTECTED COMPUTER SOFTWARE, PRINT AND NON-PRINT MEDIA

Directions: Please use this form in commenting on the proposed revisions for Policy 5711: Copyright Protected Computer Software, Print and Non-print Media

Individual/Organization Wanda Kirchner, West Virginia Department of Education

Address Room B-346, 1900 Kanawha Boulevard, East

Charleston, WV 25305-0330

SECTION	COMMENT
Section 1: Scope - to include all medias	
Section 2: Purpose - addition of buyers of media and inclusion of all media	
Section 3: Addition of RESA personnel and inclusion of all media	

Please submit comments by October 13, 1992 to:

Wanda Kirchner, Coordinator, Office of Technology and Information Systems; West Virginia Department of Education; Building 6, Rm. B346; 1900 Kanawha Boulevard, E.; Charleston, WV 25305-0330