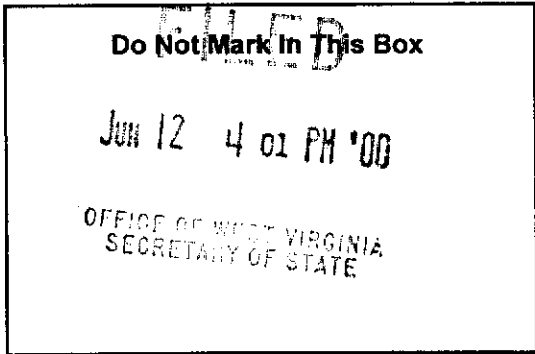


WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5



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. Constitution, Article XII, §2, W.Va. Code §18-2-5 & §18A-4-8a

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X
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 XX NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 163

TITLE OF RULE BEING AMENDED: College Hours or Comparable Training in a Trade or
Vocational School (5301)

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

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS July 12, 2000.



Dr. David Stewart
State Superintendent of Schools

EXECUTIVE SUMMARY
WEST VIRGINIA BOARD OF EDUCATION
Policy Number and Title: Policy 5301 - College Hours
or Comparable Training in a Trade or Vocational School

PUBLIC COMMENT PERIOD ENDING: May 17, 2000

BACKGROUND:

Policy 5301 was initially filed on July 13, 1994 to establish the number of contact hours considered to be comparable to 12 college hours for determining the additional pay for service personnel.

PURPOSE:

The purpose of the proposed revisions is to reflect the changes made to West Virginia Code §18A-4-8a during the recent legislative session. The statute was revised to provide an additional \$10 per month in pay to the service personnel who have completed sixty and seventy-two hours of college or comparable training in a trade or vocational school. The previous statute provided an additional \$10 only for those who have completed twelve, twenty-four, thirty-six or forty-eight hours of college or comparable training.

PROPOSED REVISIONS:

- The only change is that sixty and seventy-two hours were added to the policy to conform to the statute.

IMPACT:

Provides an additional incremental salary increase of \$10 per month for the service personnel who have attained twelve, twenty-four, thirty-six, forty-eight, sixty, or seventy-two hours of college or comparable training, for a maximum of \$60 per month.

COMMENTS/SUGGESTIONS RECEIVED:

The comment period extended from April 17, 2000 through May 17, 2000. Comments were received from seven respondents, which are summarized in the attached comment/ suggestion log. All seven respondents recommended deletion of the phrase "... in an area relevant to current or anticipated employment with a West Virginia board of education." Consequently, this phrase has been deleted from the proposed policy. This is the only change made to the policy as a result of the comments and suggestions received.

5301s

126CSR163

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 163
College Hours or Comparable Training
in a Trade or Vocational School (5301)

FILED

JUN 12 4 01 PM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§126-163-1. General.

1.1. Purpose - The purpose of this policy is to establish guidelines for providing the additional pay specified in West Virginia Code §18A-4-8a for service personnel who have earned the following college hours or comparable training in a trade or vocational school: twelve; twenty-four; thirty-six; forty-eight; sixty; or seventy-two.

1.2. Authority - West Virginia Constitution, Article XII, Section 2 and West Virginia Code §18-2-5 and §18A-4-8a.

1.3. Filing Date - June 12, 2000

1.4. Effective Date - July 12, 2000

§126-163-2. Applicability.

2.1. This policy applies only to service personnel. The policy provides guidance for county boards of education in determining the additional monthly pay for service personnel who have earned twelve, twenty-four, thirty-six, forty-eight, sixty or seventy-two college hours or comparable training in a trade or vocational school.

§126-163-3. Definitions.

3.1. Accredited institution of higher education - A college or university accredited: (1) by the official accrediting agency of the state in which the institution is located, and; (2) by one of the six regional accrediting agencies recognized by the National Commission on Accrediting (Middle States, New England, Northwest, North Central, Southern, and Western associations), the American Association of Bible Colleges, the Association of Independent Colleges and Schools or the Association of Theological Schools, to award degrees at a stipulated level, i.e. bachelor's degree, master's degree, and/or doctorate degree.

3.2. Approved trade, vocational, technical, business or similar institution - An institution approved by a state or national institutional or specialized accrediting agency or the Bureau of Apprenticeship and Training, U.S. Department of Labor.

3.3. College hours or comparable training in a trade or vocational school shall be defined to include any combination of the following:

126CSR163

3.3.1. Semester hour - An hour of college credit from an accredited institution of higher education on the semester system.

3.3.2. Quarter hour - An hour of college credit from an accredited institution of higher education on the quarter system. One quarter hour is equivalent to two-thirds of a semester hour.

3.3.3. Comparable credit obtained in a trade or vocational school - Each fifteen contact hours of training obtained from an approved trade, vocational, technical, business or similar institution shall be equivalent to one semester hour of college credit.

§126-163-4. Verification of Hours.

4.1. Verification of credit will be an official transcript of course work completed from an accredited institution of higher education or a grade report of completed contact hours in a post-secondary program from an approved trade, vocational, technical, business, or similar institution. Each employee is responsible for obtaining and providing copies of the required records to his/her employer.

4.2. County boards of education are responsible for verifying the number of hours completed by their respective employees for additional pay purposes.

FISCAL NOTE WORKSHEET
(Submit 4 Copies)

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

SUBJECT Policy 5301: College Hours or Comparable Training 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	THEREAFTER
1. ESTIMATED TOTAL COST	\$	\$	\$	\$ See Below	\$ See Below
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER	\$	\$	\$	\$	\$
2. ESTIMATED TOTAL REVENUES	\$	\$	\$	\$	\$

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

The cost of the legislative change to West Virginia Code 18A-4-8a was estimated to be \$220,095 for the 2000-01 year for county board employees. This is an additional cost for the State through the Public School Support Program.

No additional cost will be incurred as a result of the policy.

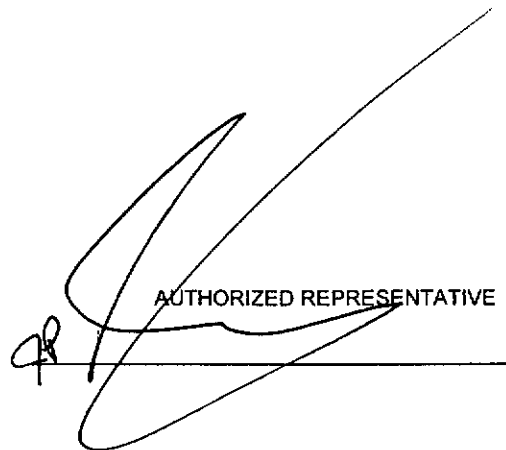
DATE

3-27-2000

AGENCY

Education

AUTHORIZED REPRESENTATIVE



COMMENT/SUGGESTION LOG
Policy 5301: College Hours or Comparable
Training in a Trade or Vocational School

Comment Period: April 17, 2000 - May 17, 2000

Action
 N: No Response
 NA: Not Accepted
 A: Accepted

Type
 - Negative
 + Positive
 * Neutral

<u>Date Received</u>	<u>Individual/Organization</u>	<u>Comments/Suggestions</u>	<u>Action/Type</u>	<u>Rationale</u>
May 15, 2000	Nancy Davis, Treasurer Lewis County Schools	Delete the phrase "...in an area relevant to current or anticipated employment by a West Virginia board of education." Most difficult determination to make: (1) no information in regard to employee's anticipated employment; and (2) must subjectively determine what is relevant to current employment.	A+	Makes policy easier to administer and eliminates subjectivity.
May 16, 2000	Rhonda Mahan, Sec Department of Education	Would like to see any additional training in a trade or vocational school used in determining add'l pay.	A+	Makes policy easier to administer and eliminates subjectivity.
May 17, 2000	WV School Service Personnel Association Ken Legg, Exec Sec.	The WVSSPA believes that the following language should be removed "... in an area relevant to current or anticipated employment by a West Virginia board of education. Several reasons were listed, including (1) no corresponding requirement that college hours be relevant to current or anticipated employment - same philosophy should be equally applicable to trade or vocational school and there is no indication in statute of a legislative intent to the contrary; (2) the variety of potential job classifications is so wide that it is virtually inconceivable that any sort of trade or vocational school training would not have relevance; with current language in effect, application could differ widely both within the same county and among all 55 county boards; and (4) school systems should be geared to train people to perform a skill whatever the need may be.	A+	Makes policy easier to administer, complies with legislative intent, and eliminates potential for inequities.

COMMENT/SUGGESTION LOG
Policy 5301: College Hours or Comparable
Training in a Trade or Vocational School

Comment Period: April 17, 2000 - May 17, 2000

Action
 N: No Response
 NA: Not Accepted
 A: Accepted

Type
 - Negative
 + Positive
 * Neutral

<u>Date Received</u>	<u>Individual/Organization</u>	<u>Comments/Suggestions</u>	<u>Action/Type</u>	<u>Rationale</u>
May 17, 2000	Sharon Haddix, Treasurer Harrison County Schools	The phrase "...in an area relevant to current or anticipated employment with a WV county BOE" should be deleted. Statement is difficult to administer, especially what is considered to be anticipated employment.	A+	Makes policy easier to administer.
May 17, 2000	Diane Hill, Accountant Department of Education	Any education or training beyond the 12 grade should be compensated in any current/anticipated employment.	A+	Eliminates inequities and makes policy easier to administer.
May 17, 2000	Helen Whitehair, Asst. Supt. Upshur County Schools	We cannot predict anticipated employment; this should be removed. We need examples of similar institutions.	A+	Makes policy easier to administer. Examples will be provided on request.
May 17, 2000	Olive Batten Certification Clerk Upshur County Schools	How exactly are we to determine what is relevant to current or anticipated employment. This should be removed. What are some examples of similar institutions.	A+	Makes policy easier to administer. Examples will be provided on request.

5301cla

**Policy 5301: College Hours or Comparable
Training in a Trade or Vocational School
Comment Response Form**

Please use this form when commenting on proposed Policy 5301. You may attach additional sheets if necessary.

Individual/Organization: Nancy Davis/Lewis County Board of Education

Title: Treasurer/Business Manager

Street Address: 322 East Third Street

City/State/Zip: Weston, WV 26452

Comments/Suggestions

It is my opinion that the section 126-163-2 "Applicability" should be amended and the phrase... "**in an area relevant to current or anticipated employment by a West Virginia county board of education**" be omitted. This is a most difficult determination to make, having no information in regard to an employee's anticipated employment and also to subjectively determine what is relevant to their current position. By striking this phrase any college hours or comparable training in a trade or vocational school can be credited to an employee regardless of course content.

Complete response form by listing each section of the policy.

Return comments by **May 17, 2000** to:

**Joseph Panetta
Director of School Finance
West Virginia Department of Education
Building 6, Room 215
1900 Kanawha Boulevard East
Charleston, WV 25305**

**E-mail: jpanetta@access.k12.wv.us
Fax: (304) 558-8867**

**Policy 5301: College Hours or Comparable
Training in a Trade or Vocational School
Comment Response Form**

Please use this form when commenting on proposed Policy 5301. You may attach additional sheets if necessary.

Individual/Organization: Rhonda Mahan

Title: Secretary III - Department of Education

Street Address: _____

City/State/Zip: _____

Comments/Suggestions

I would like to see any additional training in a trade or vocational school used in determining additional pay. All additional training you receive helps you to be a better employee whether it is related to the job you now have or not.

Complete response form by listing each section of the policy.

Return comments by May 17, 2000 to:

**Joseph Panetta
Director of School Finance
West Virginia Department of Education
Building 6, Room 215
1900 Kanawha Boulevard East
Charleston, WV 25305**

E-mail: jpanetta@access.k12.wv.us
Fax: (304) 558-8867

**Policy 5301: College Hours or Comparable
Training in a Trade or Vocational School
Comment Response Form**

Please use this form when commenting on proposed Policy 5301. You may attach additional sheets if necessary.

Individual/Organization: West Virginia School Service Personnel Association

Title: Kenneth C. Legg, Executive Secretary

Street Address: 1610 Washington St., East

City/State/Zip: Charleston, WV 25311

Comments/Suggestions

See attachment.

Complete response form by listing each section of the policy.

Return comments by **May 17, 2000** to:

**Joseph Panetta
Director of School Finance
West Virginia Department of Education
Building 6, Room 215
1900 Kanawha Boulevard East
Charleston, WV 25305**

E-mail: jpanetta@access.k12.wv.us

Fax: (304) 558-8867

Commentary on Policy 5301

The WVSSPA believes that the following language should be removed from §126-163-2, 2.1:

“...in an area relevant to current or anticipated employment by a West Virginia county board of education.”

We believe that this language is too restrictive of the type of college, vocational or trade school instruction that would be eligible for credit for the following reasons:

- ❑ There is no corresponding requirement that college hours be relevant to the current or anticipated classification held by a service personnel in order to be counted under this policy. The legislature obviously believed that any further education received by a school service employee would tend to make that person a better employee. We believe that this same philosophy is equally applicable to trade or vocational school instruction and there is no indication in the statute of a legislative intent to the contrary. Even something that would appear to have little apparent relevance on the face of it, such as training in a cosmetology school, would tend to make a service personnel a better employee. Many studies have indicated the connection between good grooming and self-esteem. The connection between self-esteem and job performance is clear. Further, in addition to doing their jobs, school service personnel, like their colleagues in the teaching ranks, are role models for students and representatives of the school system to the public. The effect a well-groomed employee in either of these roles is very likely to be salutary. Police statistics show that there is a close correlation between juvenile delinquency and the way students dress and groom themselves.
- ❑ The variety of potential classifications of which a service personnel could hold is so wide that it is virtually inconceivable that any sort of trade or vocational school training would not have relevance to one or the other of them. For example, we enclose a copy of the courses offered at the Carver Career Center in Kanawha County with the classification titles to which each course might apply. Under the statutory system embodied by West Virginia Code §§18A-4-8b & 18A-4-8g, service personnel are not limited to their current classification or any set of classifications. The only limitations on the ability of service personnel to move to any classification title contained in West Virginia Code §18A-4-8 are the needs of the particular county board of education and the qualifications of the particular employee. Let us take as an example the relevance of cosmetology school. Aides, who work with special education children functioning at certain levels, often teach these students life skills including grooming. Further, these students are often in need of a boost in self-esteem. An aide skilled in helping the young female students fix their hair and the rudiments of application of make-up might completely alter the attitude of these students in a positive manner.

- As the above points demonstrate, we believe the proper application of the phrase "anticipated employment" would lead to approval of virtually all trade and vocational school instruction. However, eliminating the language altogether would serve this purpose even more efficiently. With the current language in effect, at least fifty-five different persons across the state interpret this language. We believe it quite likely that the application of this language differs widely. We are particularly concerned about how the phrase "anticipated employment" might be used. It is quite possible that one employee might be granted credit for a particular course and another employee denied credit for the same course. Let us suppose two employees, one a man in a blue-collar classification and the other a woman in a clerical position, take an electrician's course at a local trade or vocational school. It is easy to imagine an administrator, honest but not particularly sensitive to gender equity issues, granting credit to the man because it is conceivable that he may eventually move into the electrician classification but denying credit to the woman because he could not anticipate her ever doing so. Admittedly, the problem in this example could be resolved in other ways. However such resolution would depend on the woman ever discovering what had occurred and the resolution would likely require litigation. Further, the difference in application of the language "anticipated employment" might not be based on gender, race, or some other legally prohibited basis. Perhaps an administrator might stretch the point farther for a popular employee than would be done for a less personable service employee.
- Our school system should be geared to train people to perform a skill whatever the need may be whether it is school related, for industrial needs or various professional services. Why confine training related to those skills of service personnel jobs? West Virginia loses thousands of talented persons annually because they cannot find jobs here. Many times this is so because these people have no college, trade or vocational school training or other skill that renders them employable. When persons become employed as service personnel in our public schools, it is not a guarantee they will spend a career in those jobs. Suppose they are laid off. Suppose they become physically disabled to the point they are no longer capable of performing their duties. Would it not be to the advantage of both the employee and the state if they have already obtained some college, trade, or vocational school credit that would assist them in finding another job? Surely, it would be advantageous to the state that such persons find employment, even if not as school service personnel for a county board of education, rather than remaining unemployed. Again, we return to training in cosmetology. Such a skill would be useful not only in finding alternative employment as a beautician, but possibly in teaching in that area or selling or manufacturing cosmetics.

In conclusion, we note that the legislative intent would not be impaired by removal of the language in question. Further, the language in question creates great potential for abuse. The difficulty of discovering such abuse if it occurs and the difficulty of remedying such abuse if it is discovered make it prudent to simply remove the language, which creates this possibility.

WVSSPA
May 17, 2000

Carvet Programs

AgriScience/Natural Resources, S Groundsman, Custodian
 Building Construction, S a variety of maintenance classifications
 Collision Repair, S mechanics, Chief mechanic
 Computer Aided Drafting, S Secretary III, Printing Operator, Draftsman
 Cosmetology, S/A Aide
 Culinary Apprentice, S/A* Cook, Cafeteria Manager
 Dental Assistant, S Aide
 Electrical Technology, S/A Electrician, Electronic Technician
 Environmental Technician, S A variety of maintenance classifications
 Ford ASSET Automotive Technology, A* Mechanic
 Health Occupations, S Aide
 Heating and Air Conditioning, S/A HVAC Technician
 Information and Office Technology, S Secretary, Accountant
 Manicuring, S/A Aide
 Medical Information Specialist, A Aide
 Pharmacy Technician, A Aide
 Plumbing, S Plumber
 Respiratory Care Technology, A* Aide
 Surgical Technology, A* Aide
 Welding Technology, S/A Welder

* Associate Degree Programs

S=Secondary Program (Available to adult students on a space available basis)

A=Adult Program (all except Associate Degree programs available to secondary students on a space available basis)

S/A=Both Secondary and Adult Programs available

Carver Career Center is a large, modern, well-equipped career school designed to provide technical training and placement for high school students and adults. Carver is located minutes from Charleston, on old Route 60 at Malden.

Carver has been twice recognized as a West Virginia School of Excellence and twice recognized by REDBOOK magazine as a "Best School in the Nation"

Secondary Programs

Secondary students typically attend Carver for a half-day their 11th and 12th grade years or a full-day the senior year, earning a total of eight elective credits. Arrangements can be made for a secondary student to attend an evening program. There are no tuition charges for secondary students. All instructional supplies, tools and equipment are provided. Enrollment in a secondary program is through the home high school counselor.

Adult Programs

Adult programs vary in length from six months to three years and class schedules vary by program. Special arrangements may be made for adults who cannot attend full time. Financial aid is available to qualified students. Entrance requirements vary by program, but a high school diploma or GED is required for all adult applicants.

Tuition for all full-time adult programs is \$1.25 per clock hour. There is an additional one-time charge for books and fees. A \$15.00 non-refundable registration fee must be paid by all adult registrants. Some programs require a pre-entrance test at a fee. All adult students not already covered by health insurance must purchase school insurance.

Note: All costs are subject to change without notice.

WV DOE

From: Sharon Haddix [shaddix@access.k12.wv.us]
Sent: Wednesday, May 17, 2000 4:32 PM
To: jpanetta@access.k12.wv.us
Subject: RE: 5301

The phrase in section 2.1 stating " in an area relevant to current or anticipated employment by a WV county BOE" should be deleted. This statement will be difficult to administer, especially determining what is considered to be anticipated employment within a county school system. Service personnel who seek additional training should be compensated regardless since it improves their educational background. Thanks!!

-----Original Message-----

From: WV DOE [mailto:jpanetta@access.k12.wv.us]
Sent: Wednesday, May 17, 2000 4:22 PM
To: Sharon Haddix
Subject: 5301

Attached is the policy we discussed.

Policy 5301: College Hours or Comparable
Training in a Trade or Vocational School
Comment Response Form

Please use this form when commenting on proposed Policy 5301. You may attach additional sheets if necessary.

Individual/Organization: Diane Hill
Title: Accountant III West Virginia Dept. of Education
Street Address: 424 Seneca Dr.
City/State/Zip: Charleston, WV 25302

Comments/Suggestions

Section 126-163-2 of policy 5301:

I believe a person who has attended a trade or vocational school to become a Certified Cosmetologists should receive compensation for the total 2000 hrs. of schooling and passing of a state board exam in determining the additional monthly pay.

Any education or training beyond the 12 grade should be compensated in any current or anticipated employment with West Virginia Education.
This is "Continuing Professional Education"

Complete response form by listing each section of the policy.

Return comments by May 17, 2000 to:

Joseph Panetta
Director of School Finance
West Virginia Department of Education
Building 6, Room 215
1900 Kanawha Boulevard East
Charleston, WV 25305

E-mail: jpanetta@access.k12.wv.us
Fax: (304) 558-8867

**Policy 5301: College Hours of Comparable
Training in a Trade or Vocational School
Comment Response Form**

Please use this form when commenting on proposed Policy 5301. You may attach additional sheets if necessary.

Individual/Organization: Helen Whitehair

Title: Assistant Superintendent, Upshur County Schools

Street Address: 102 Smithfield Street

City/State/Zip: Buckhannon, WV 26201

Comment/ Suggestions

- 2.1 We can not predict anticipated employment this should be removed.
- 3.2 We need examples of similar institutions.

Complete response form by listing each section of the policy.

Return comment by **May 17, 2000** to:

**Joseph Panetta
Director of School Finance
West Virginia Department of Education
Building 6, Room 215
1900 Kanawha Boulevard East
Charleston, WV 25305**

**Policy 5301: College Hours or Comparable
Training in a Trade or Vocational School
Comment Response Form**

Please use this form when commenting on proposed Policy 5301. You may attach additional sheets if necessary.

Individual/Organization: Olive F. Batten

Title: Certification Clerk, Upshur County Schools

Street Address: 102 Smithfield Street

City/State/Zip: Buckhannon, WV 26201

Comment/Suggestions

- 2.1 How exactly do we determine what is relevant to current or anticipated employment?
I believe that this should be removed.
- 3.2 What are some examples of similar institutions?

Complete response form by listing each section of the policy.

Return comments by **May 17, 2000** to:

**Joseph Panetta
Director of School Finance
West Virginia Department of Education
Building 6, Room 215
1900 Kanawha Boulevard East
Charleston, WV 25305**