

WEST VIRGINIA  
SECRETARY OF STATE

JOE MANCHIN, III

ADMINISTRATIVE LAW DIVISION

Form #5

Do Not Mark In This Box

FILED

2002 SEP 16 P 3:28

OFFICE OF THE 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: W.Va. Constitution, Article XII, §2, W.Va. Code §§18-2-5, 18-5-13, 18-5-13a and 18A-2-7(d)

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 \_\_\_ NO X

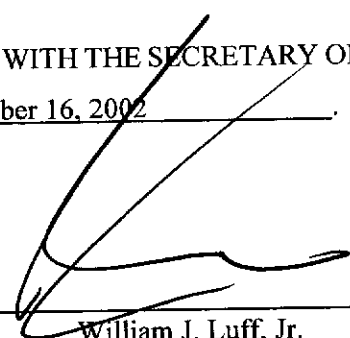
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 176

TITLE OF RULE BEING PROPOSED: School Closings or Consolidations (6204)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS October 16, 2002

  
\_\_\_\_\_  
William J. Luff, Jr.  
Deputy State Superintendent of Schools

SCANNED

EXECUTIVE SUMMARY  
WEST VIRGINIA DEPARTMENT OF EDUCATION

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**POLICY NUMBER AND TITLE:** Policy 6204  
School Closings or Consolidations

**PUBLIC COMMENT PERIOD ENDED:** August 12, 2002

**BACKGROUND:**

This new policy, which deals exclusively with school closings and consolidations, was placed on public comment on July 12, 2002. The comment period ended on August 12, 2002 and only three persons commented. Their comments are attached.

**PURPOSE / RESPONSE:**

This procedural rule modifies and clarifies the procedure to be utilized in school closings and consolidations in an effort to address the new legislation as well as the volume of litigation arising from the counties' efforts to comply. Three sections were modified in response to the comments received: §§ 2.1., 2.3. and 3.1. for consistency with state law and clarification.

It is requested that this policy be approved, as modified.

126CSR176

Title 126  
PROCEDURAL RULE  
BOARD OF EDUCATION

SERIES 176  
SCHOOL CLOSINGS OR CONSOLIDATIONS (6204)

FILED  
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WEST VIRGINIA  
DEPARTMENT OF STATE

**§126-176-1. General.**

1.1. Scope. -- This policy sets the requirements for county boards of education in proceeding with a potential school closing or consolidation except in cases in which a construction bond issue was passed by the voters and which bond issue included the schools to be closed or consolidated and was included in an approved Comprehensive Educational Facilities Plan (CEFP).

1.2. Authority. -- W.Va. Const. Article XII, §2 and W. Va. Code §§18-2-5, 18-5-13, 18-5-13a and 18A-2-7(d).

1.3. Filing Date. -- September 16, 2002.

1.4. Effective Date. -- October 16, 2002.

1.5. Repeal of former rule. -- None.

**§126-176-2. County Procedures.**

2.1. The county superintendent must prepare and reduce to writing, reasons and supporting data concerning proposed school closings or consolidations to be submitted to the West Virginia Board of Education [WVBE] for approval in accordance with this policy and the West Virginia Code. The written reasons shall:

2.1.1. be available for public inspection in the office of the county superintendent during the thirty days preceding the date of the public hearing, and

2.1.2. be delivered in duplicate to the:

a. principal of a school which is proposed to be closed or consolidated, and of any school which will receive the students who are relocated as a result of the closure or consolidation; and

b. chair, if any, of the local school improvement council representing

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b. chair, if any, of the local school improvement council representing a school which is proposed to be closed or consolidated, and any school which will receive the students who are relocated as a result of the closure or consolidation.

2.2. In addition, an executive summary will be prepared including the following items that will summarize with page references to the county's documentation, as defined above in Section 2.1., those items listed and shall be provided to the Office of School Facilities of the West Virginia Department of Education [WVDE].

### 2.2.1. Enrollment

#### a. Population changes;

A. trends in student population growth or decline in the county,

B. trends in the attendance area of the school targeted for closure or consolidation, and

C. trends in attendance area of the school or schools which will receive the students affected;

b. Population characteristics, such as birth rates and age composition of population (including the number of child bearing aged adults, pre-school children, and school-age children);

c. Projections of enrollment, by grade in respective attendance area, for the next ten years; and

#### d. Explanation of the projection method utilized addressing:

A. the Second Month Report for the current year;

B. the Second Month Report for the three years prior to the current year; and

C. the most recent census data for the county.

### 2.2.2. Facilities

a. Maps showing the school(s) targeted for closure or consolidation and the school(s) that will receive the students.

A. The map will include a legend indicating the grade

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configuration and student enrollment for each school on the map.

b. Physical appraisal of the school targeted for closure or consolidation and the school or schools which will receive the students. This appraisal should include age, number of buildings, general condition, adequacy of structural, electrical and mechanical systems to provide a safe and healthful environment. Attach the most recent School Building Authority (SBA) facility evaluation form and an updated form if the most recent SBA facility evaluation form is five years old or older.

c. Evaluation of the school targeted for closure or consolidation and the school or schools that will receive the students in regard to the school(s) adaptability to the present and proposed educational programs and the provisions of related services.

d. Measure of the utilization, as a percentage, of the school targeted for consolidation or closure and the school(s) which will receive the students in regard to the following:

A. What is the operating capacity of each facility?

B. What is the utilization factor of each school?

C. What will be the effect of this proposed school closure or consolidation as to utilization and operating capacity?

D. What is the projected enrollment of receiving school(s)?

e. Comparison of the accessibility (barrier-free environment) for the disabled students of the school targeted for closure or consolidation and the school or schools which will receive the students.

f. Elaboration of the effect the proposed school closing or consolidation will have on the school system's future plans regarding grade configuration, educational programs, and facility requirements.

### 2.2.3. Finance

a. Itemization of the anticipated cost or savings the county will experience in all areas as a result of the proposed school closure or consolidation. Such itemization shall be in the form of a table indicating the following:

A. the current cost at the school(s) to be closed for:

(a) utilities,

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- superintendent, and
- (b) personnel,
  - (c) maintenance,
  - (d) transportation,
  - (e) other factors as deemed relevant by the county
  - (f) the total cost of the above-listed items;

for: B. the anticipated cost at the school(s) to be receiving students

- superintendent, and
- (a) utilities,
  - (b) personnel,
  - (c) maintenance,
  - (d) transportation,
  - (e) other factors as deemed relevant by the county
  - (f) the total cost of the above-listed items;

school(s) to be receiving students for: C. the net cost or savings of the school(s) to be closed and the

- superintendent, and
- (a) utilities,
  - (b) personnel,
  - (c) maintenance,
  - (d) transportation,
  - (e) other factors as deemed relevant by the county
  - (f) the total cost of the above-listed items.

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b. Cost of any renovation or addition resulting from the proposed school closure or consolidation.

2.2.4. Personnel - An analysis of the effect the proposed school closure or consolidation will have on professional and service personnel.

2.2.5. Transportation - Explain any negative variances of Section 202.02 of Policy 6200 and the effects the variances may have on transportation.

2.2.6. Educational Program - Complete a projected educational program improvement analysis which includes a statement of assurance that the following have been considered:

a. W.Va. 126CSR16, WVBE Policy 2419 - Regulations for the Education of Exceptional Students

b. W.Va. 126CSR48, WVBE Policy 2450 - Distance Learning and the West Virginia Virtual School

c. W.Va. 126CSR42, WVBE Policy 2510 - Assuring the Quality of Education: Regulations for Education Programs

d. W.Va. 126CSR44, WVBE Policy 2520 - Content Standards and Objectives for West Virginia Schools

e. W.Va. 126CSR172, WVBE Policy 6200 - Handbook on Planning School Facilities

f. W.Va. 126CSR176, WVBE Policy 6204 - School Closings or Consolidations.

2.3. The county superintendent, on behalf of the county board of education, must provide notice for the public hearing which shall be advertised by publication in a newspaper in general circulation in the locality of the affected school and posted in all schools as hereinafter provided at least thirty days prior to the date of hearing.

2.3.1. The notice shall contain the time and place of the hearing and the proposed action of the county board.

a. The hearing shall not be scheduled to begin before 9:00 a.m. nor continue beyond 11:00 p.m.

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b. The hearing may recess, to continue on dates designated and announced by the county board just prior to the hearing recess, to be continued day-to-day until concluded.

c. Primary consideration should be given to conducting the hearing at the school facility proposed to be closed.

2.3.2. The notice shall contain the statement that the hearing location is subject to change if, at the time the meeting is called to order, it is determined that the meeting location is of insufficient size.

a. Consideration should be given to the accessibility of the location, parking at the location, occupant capacity, and other similar factors.

2.3.3. The notice shall contain a statement regarding an alternate date should the hearing be unable to be held on the scheduled date due to inclement weather or other factors beyond the control of the board.

2.3.4. The notice shall contain a date certain deadline for the submission of written material to be reviewed by the board, in no event later than the close of the public hearing to provide the county board time to consider the material before the vote.

2.3.5. A copy of the notice shall be posted at all schools, bus garages, and maintenance areas in the county in conspicuous working areas, for all professional and service personnel to observe.

2.4. County boards of education must complete the following on or before December 31<sup>st</sup> of the calendar year prior to the calendar year in which the closures or consolidations are to be effective:

2.4.1. Conduct a public meeting/hearing, in the county wherein the proposed action is to occur, which meets the following criteria:

a. The hearing shall be scheduled to last a reasonable amount of time, but in no event shall it be scheduled to begin before 9:00 a.m. nor continue beyond 11:00 p.m., but may recess and continue from day-to-day until concluded.

b. At least a quorum of the county board members and the county superintendent from the county wherein an affected school is located shall attend and be present at the public hearing;

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c. Members of the public may be present, submit statements and testimony, and question county school officials at the public hearing;

A. In the interests of time and efficiency, oral statements may be limited in duration to a period of not less than three minutes each and may be supplemented with written comments, timely submitted, in accordance with the notice deadline as outlined in Section 2.3.4. above, which shall not be included in the calculation of the time limitation.

B. Responses by the county superintendent or other designated school officials may occur during individual oral presentations, or at the conclusion of the individual's oral presentation, and shall not be included in the calculation of the time limitation as outlined above.

d. A separate hearing shall be held for each school closed or consolidated and may be held for each affected receiving school but is not required;

e. More than one hearing may be held during any one day;

f. The hearing shall be held in a facility of sufficient size to accommodate all those who desire to attend, subject to the provisions in Section 2.3.2. above;

g. If, at the time the hearing is called to order, it is determined by the board that insufficient space is available to accommodate all those who desire to attend, the hearing shall be recessed and moved to a new location of sufficient size to accommodate all those who desire to attend. If the meeting location is changed due to insufficient capacity, the county board shall cause the new meeting location to be posted at the original meeting location.

2.4.2. Receive and review findings and recommendations, timely submitted in accordance with the notice deadline as outlined in Section 2.3.4. above, from any local school improvement council representing an affected school.

2.4.3. Receive and review copies of any other written submissions and statements, timely submitted, in accordance with the notice deadline as outlined in Section 2.3.4., above.

2.4.4. After all above provisions have been completed, county boards of education must take a formal vote on the school closure(s) or consolidation(s).

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a. This vote may be at the conclusion of the final public hearing, or

b. This vote may be at a separate duly scheduled and noticed meeting of the county board of education.

2.5. When more than one school is proposed to be closed in the county:

2.5.1. A separate hearing shall be conducted for each school to be closed;

2.5.2. The vote on the school closing(s) shall not be conducted until the conclusion of each and every school closing hearing as described in Section 2.4.1., above.

2.6. After the vote and following substantial compliance with Sections 2.4. and 2.5., above, and prior to the implementation of any school closure or consolidation and following substantial compliance with all statutory and regulatory provisions, the county must file a request for an amendment of it's CEFP with the WVBE for approval and this amendment must:

2.6.1. be signed by the county superintendent and give the date the action was taken by the local board;

2.6.2. contain assurances that applicable Sections of the West Virginia Code §18-5-13 and §18-5-13a, and WVBE Policies 6200 and 6204 have been addressed;

2.6.3. contain justification for the proposed consolidation or school closing. This justification must be supported by supplemental data and information pertinent to the following subjects: enrollment, facilities, finance, personnel, transportation, and educational programs, as described above; and

2.6.4. contain documentation of all hearings, motions, public comments, and other actions concerning the proposed school closings and consolidations.

### **§126-176-3. Emergency School Closure.**

3.1. The State Superintendent of Schools may make a declaration that there is a need for an emergency school closure. Need for an emergency school closure may include, but shall not be limited to, damage to or destruction of the school building or property, situations which threaten the health and safety of students, and other catastrophic events including natural disasters or acts of war.

3.2. Once the State Superintendent has declared a need for an emergency school closure, consideration should be given to the following when determining the school(s) to which the displaced students will be transferred:

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3.2.1. Educational program - educational opportunities are equal or greater for students at the receiving school;

3.2.2. Transportation - proposed routing schedule does not result in undue time in transit for students according to recommended age-appropriate travel times;

3.2.3. Exceptional students - programmatic offerings and educational spaces are appropriately accessible to disabled students;

3.2.4. Health/safety - transfer of students would not result in any health/safety concerns which would adversely affect students and staff; and

3.2.5. Capacity - receiving school has the capacity to adequately house projected enrollment.

3.3. Following that emergency need declaration and transfer of students, the county shall proceed with the school closure procedure as outlined in Section 2, above, and shall include additional data regarding the circumstances giving rise to the emergency in the written reasons and supporting data.

### **§126-176-4. Assistance.**

4.1. Upon request, technical assistance shall be provided by the WVDE staff.

4.2. Such technical assistance by the WVDE staff should not supplant nor replace legal assistance provided by counsel engaged to represent the county board of education.

### **§126-176-5. Severability.**

5.1. 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 6204: School Closings and Consolidations 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 INCLUDING LONG-RANGE EFFECT

EFFECT OF PROPOSAL	ANNUAL		CURRENT	FISCAL YEAR	
	INCREASE	DECREASE		NEXT	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):

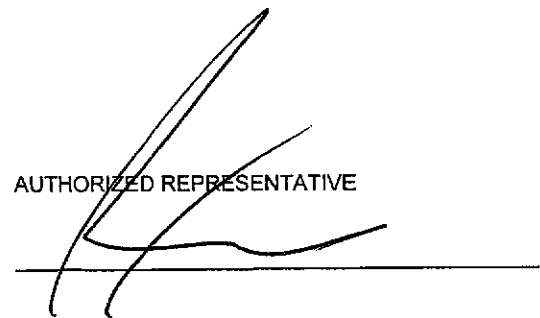
DATE

AGENCY

AUTHORIZED REPRESENTATIVE

June 13, 2002

West Virginia Department of Education



**POLICY 6204, SERIES 176  
SCHOOL CLOSINGS AND CONSOLIDATIONS  
COMMENT SUMMARY AND LOG**

**ACTION**  
 N =No Response  
 NA=Not Accepted  
 A =Accepted

**TYPE**  
 -=Negative  
 +=Positive  
 o=Neutral

Date	Individual/Organization	Comment(s)	Action/ Type	Rationale
8/16/02	Margaret Bragg Challenge Clay County HC 75, Box 93 Ivydale, WV 25113	<p>2.1.1 The proposed closing, reasons and data are only available to the public to be reviewed in the Board office. This can be an intimidating place to review. A copy of made available to the principal and the LSIC chair of the school being considered. Why not a public notice in the paper and a copy made available in the public library?</p> <p>2.2.1(a) A.B.C            Trends in enrollment and student population are to be considered but this fails to take into account the cross country transfers that are being allowed or the bussing out of district as has been done at Marsh Fork.</p>	NA/o	<p>Required by W.V. Code §18-5-13a(1).</p> <p>Public notice by publication is covered by W.Va. Code §59-3-1 et seq.</p> <p>Trends could include additional or loss of students due to transfers and may also be included in "projections" under §2.2.1.C.</p>



Date	Individual/Organization	Comments	Action/ Type	Rationale
8/16/02	Margaret Bragg Challenge Clay County HC 75, Box 93 Ivydale, WV 25113	2.4.4 a. Is this really enough time to consider hours of public comment and to thoroughly examine written comments that are submitted. There is also a provision for emergency school closure that does not specify what would constitute such an emergency.	NA/  A/+	The Board has discretion to vote should they believe they have had sufficient time. E.g. - No opposition, etc.  Revise §3.1 to include a non-exhaustive list of emergency situations.
8/16/02	Carolyn McCune West Virginia Citizen Post Office Box 218 Meadow Bridge, WV 25976	2.1 The Board of Education has the responsibility of preparing items for proposed school closings, not the superintendent. This statement probably needs to be restated.  2.1.1 The documents should be made available to the public in the areas in which they live, such as at each affected school. Also, a copy as a public notice, should be in the newspaper.  2.2.1 (a) The trends in enrollment do not take into account the out-of-county transfers and the bussing of in-county students to another school in the county outside the school area.	A/+  NA/  NA/	Revised language to read: "The C.S., on behalf of the county board of education,...."  Required by W.Va. §18-5-13a(2) Remaining documentation is much too voluminous to publish in newspaper.  Trends could include additional or loss of students due to transfers and may also be included in "projections" under §2.2.1.c.



Date	Individual/Organization	Comments	Action/Type	Rationale
8/16/02	Carolyn McCune West Virginia Citizen Post Office Box 218 Meadow Bridge, WV 25976	<p>2.3.1a This time frame is absolutely too long. Who could make an honest effort in listening and comprehending information for fourteen hours? The attention span of an individual lasts about 20 minutes. The "listeners" would be totally exhausted and could not make a reasonable decision.</p> <p>2.3.4 Do not believe that 30 days is long enough for individuals to evaluate the closure data and do independent research to verify the information in the closure document. The time should be at least 60 days if this policy wants county boards to have detailed information before voting.</p> <p>2.3.5 Should be posted on the outside of each school so the public could have access to the information.</p> <p>2.4.1a Same as 2.3.1a--too long a day!</p> <p>2.4.1A Believe oral statements should be at five minutes rather than three minutes. At our closure hearing, our time was given at 30 seconds.</p>	<p>NAV</p> <p>NAV</p> <p>NAV</p> <p>NAV</p>	<p>\$2.3.1.b. give the board discretion to recess the hearing so that it will not last 14 hours unless they so choose.</p> <p>It is believed that the period between public notice and the close of the public hearing is sufficient time for the public to review the information and submit public comments</p> <p>Notice is available through publication and in each school building, each of which is a public facility.</p> <p>See above response.</p> <p>Language says, "not less than three minutes" giving boards' discretion to make them longer if time permits.</p>

Date	Individual/Organization	Comments	Action/ Type	Rationale
8/16/02	Carolyn McCune West Virginia Citizen Post Office Box 218 Meadow Bridge, WV 25976	<p>2.4.1Bd Should be an definite--either required or not required.</p> <p>2.4.1Be How many hearings during one day? There should be a maximum number and maximum number of hours.</p> <p>2.4.1Bf Not only should the facility be of sufficient size, but should be in a place with an adequate sound system.</p> <p>2.4.3 Need to give the citizens more time than 30 days to review and submit information. At least 60 days.</p> <p>2.4.4a Do not think a vote should be taken at the conclusion of the final public hearing. It does not give the board members the opportunity to review the statements given to them during the hearings. "2.4.4a" should not be an option unless the board has already made up its mind before the hearings have begun and the board is just having the hearings to satisfy state law/policy.</p> <p>2.6 Seems as though the CEFP should be first and then the hearings second.</p> <p>§§126-176-3. Emergency School Closure.</p>	<p>NA/ NA/ NA/ NA/ NA/ NA/</p>	<p>County boards are given discretion</p> <p>County boards must use discretion in matters of scheduling taking into account all relevant factors. This policy cannot forsee all relevant factors.</p> <p>Addressed in Policy 6200, School Facilities Planning</p> <p>It is believed that the period between public notice and the close of the public hearings sufficient time for the public to review information and submit public comments.</p> <p>The Board has discretion to vote should they believe they have had sufficient time. E.g. - no opposition, etc.</p> <p>The hearings ensure that the public has had input on any decision to amend a CEFP.</p>

Date	Individual/Organization	Comments	Action/ Type	Rationale
8/16/02	Carolyn McCune West Virginia Citizen Post Office Box 218 Meadow Bridge, WV 25976	<p>3.1 What constitutes an emergency?</p> <p>3.2.2 Since most counties ignore the guidelines of 30, 45, and 60 minutes (and 45 and 60 are too long) for travel times when consolidating schools, what time is this policy going to use?</p> <p>3.2.4 What health/safety issues are considered in this statement of the policy? Are you considering winter mountain roads, not enough sleep for the children on long bus rides, what???</p> <p>3.2.5 Does capacity include lunchroom space, locker space, hallway travel space?</p>	<p>A/+</p> <p>NA/</p> <p>NA/</p>	<p>Revised §3.1 to include a non-exhaustive list of emergency situations.</p> <p>Addressed in Policy 4336, WV School Transportation Regulations.</p> <p>Any health/safety issues that adversely affect students and staff.</p> <p>Addressed in Policy 6200, School Facilities Planning</p>



Date	Individual/Organization	Comments	Action/Type	Rationale
8/15/02	Shirley Gue Consultant 5585 Zid Camp Road Ashton, WV 25503	<p>2.1.1. Contd. inspection at the local schools AND the superintendents office? Please consider inserting the word "closure." Public hearings are held by boards for a variety of reasons. Input hearings, C.E.F.P public hearings etc. There is room for confusion without it being titled a CLOSURE HEARING.</p> <p>2.2.1.C.b. Please consider inserting: in individual communities affected and county wide.</p> <p>2.3. .... Please consider inserting "the county superintendent on behalf of the Board"</p> <p>2.3.4. Since the closure document is only on review for 30 days, written submissions and responses prior to public hearing will be difficult if not impossible for public citizens. Evaluating the closure data and independent research verification alone could take 30 days or longer. It could be advantageous to increase the review period to 60 days if truly wanting county boards to have detailed written submissions to consider before voting.</p>	<p>NA/ A/+ _</p> <p>NA/ NA/</p>	<p>This is a subsection of §2.1. dealing with "proposed school closings or consolidations".</p> <p>Population characteristics are considered on a countywide basis.</p> <p>Revised language to read: "The C.S. on behalf of the county board of education,...." It is believed that the period between public notice and the close of the public hearing is sufficient time for the public to review the information and submit public comments.</p>



Date	Individual/Organization	Comments	Action/ Type	Rationale
8/15/02	Shirley Gue Consultant 5585 Zid Camp Road Ashton, WV 25503	few weeks the entire 10 year plan revamped through closure hearings. The approach conflicts with the purpose of the 10-year plan being a roadmap to the educational facility goals a county is require to have.	NA/	The holding of public hearings prior to CEFP amendment ensures that public input is considered before a decision is made to amend a CEFP.

**Rebecca Tinder**

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**From:** mbragg [ijram98@hotmail.com]  
**Sent:** Thursday, August 15, 2002 10:53 AM  
**To:** rtinder@access.k12.wv.us  
**Subject:** Policy 6204

Rebecca,

I mailed in my comments on this proposed policy. I had somehow misplaced the last pages with your address and the comment form, so it went to the main WVDE address.

Margaret ( Marge) Bragg

HC 75 Box 93  
Ivydale, WV 25113  
August 15, 2002

West Virginia Department of Education  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

To Whom It May Concern:

AUG 16 2002

Policy Number 6204

I have read the proposed policy for the closure and consolidation procedures and am concerned about several sections of the new policy.

2.1.1 The proposed closing, reasons and data are only available to the public to be reviewed in the Board office. This can be an intimidating place to review. A copy is made available to the principal and the LSIC chair of the school being considered. Why not a public notice in the paper and a copy made available in the public library?

2.2.1 (a) A .B.C Trends in enrollment and student population are to be considered but this fails to take into account the cross county transfers that are being allowed or the bussing out of district as has been done at Marsh Fork.

2.2.1 (c). Projected enrollments are just that, projections. In our county I believe that Ivydale's enrollment was projected to have decreased each year since the CEFP and in fact it has grown to the highest in more than 12 years. The projected 98 students is, in fact 142.

2.2.2 b.d.A.B.C. A physical appraisal of the school might not be a good indicator since there was speculation that at Cairo the building was allowed to deteriorate in order to make closure easier.

2.3.1 a.b. and 2.4.1 a. A hearing can start at 9am and end at 11pm. I think a time limit of a range of hours ( possibly 5 to 7) should be included. Who can make a reasonable decision after 14 hours of discussion? Also recess can be called and the hearing continued the next day. Under what conditions should recess be allowed? Many times people make special arrangements to attend these hearings and a change or continuation could prohibit them from attending and participating.

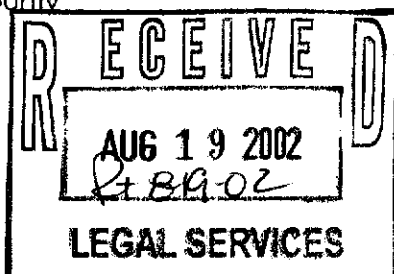
2.4.4 a. Is this really enough time to consider hours of public comment and to thoroughly examine written comments that are submitted?

There is also a provision for emergency school closure that does not specify what would constitute such an emergency.

I sincerely hope that you will consider these suggestions when drafting the final policy.

Margaret Bragg

Margaret Bragg  
Challenge Clay County



See Email

**ASAP**

**Rebecca Tinder**

**From:** Rebecca Tinder [rtinder@access.k12.wv.us]  
**Sent:** Monday, August 19, 2002 9:14 AM  
**To:** Marlene Price  
**Cc:** cwelswic@access.k12.wv.us  
**Subject:** FW: Comments

Marlene,

Please add this to a comment log and return it to me so I may type up my portion. Thank you.

~Rebecca

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

**From:** Shirley Gue [mailto:sgue@sprynet.com]  
**Sent:** Thursday, August 15, 2002 12:17 PM  
**To:** Rebecca M. Tinder  
**Subject:** Comments

**POLICY 6204  
SERIES 176  
SCHOOL CLOSINGS AND CONSOLIDATIONS  
COMMENT RESPONSE FORM**

**Comment Period Ends: August 16, 2002**

Please use this form when commenting on proposed Policy 6204. You may attach additional sheets if necessary.

Individual/Organization: Shirley Gue

Title: Consultant

Street Address: 5585 Zid Camp Road

City/State/Zip Code: Ashton, WV 25503

**§126-176-1. General.**

Please note my comments on the proposed policy are in blue.

**§126-176-2. County Procedures.**

Policy for review 2.1. states: "The county superintendent must prepare and reduce to writing, reasons and supporting data concerning proposed school closings or consolidations to be submitted to the West Virginia Board of Education [WVBE] for approval in accordance with this policy and the West Virginia Code." This conflicts with House Bill 4149. H.B. 4149 states this is the responsibility of the county board. Perhaps rewording that : the county superintendent on behalf of the board ( or approval of the board) must prepare and reduce to writing , reasons, etc., could address the conflict between state code and proposed policy. Local citizens would certainly expect the state board to hold county board members accountable for such a serious task since they are elected by the public. Please consider some way of inserting the responsibility of county board members as it is stated in state code.

Proposed Policy 2.1.1. states: "be available for public inspection in the office of the county superintendent during the thirty days preceding the date of the public hearing, and" Please consider making the documents available to public inspection at each affected school. Sadly, the citizens of many rural communities could have some difficulty getting to the county board office during normal business hours. Since 2.1.2. States the closure document is to be delivered in duplicate to "a. principal of a school which is proposed to be closed or consolidated," couldn't you also make it available for public inspection at the local schools AND the superintendents office?

Please consider inserting the word "closure." Public hearings are held by boards for a variety of reasons. Input hearings, C.E.F.P public hearings etc. There is room for confusion without it being titled a CLOSURE HEARING.

#### 2.2.1. Enrollment

C. trends..b. Population characteristics, such as birth rates and age composition of population (including the number of child bearing aged adults, pre-school children, and school-age children); Please consider inserting: in individual communities affected and county wide.

2.3. The county superintendent must provide notice for the public hearing which shall be advertised by ... Please consider inserting "the county superintendent on behalf of the Board"

2.3.4. The notice shall contain a date certain deadline for the submission of written material to be reviewed by the board, in no event later than the close of the public hearing to provide the county board time to consider the material before the vote. Since the closure document is only on review for 30 days, written submissions and responses prior to public hearing will be difficult if not impossible for public citizens. Evaluating the closure data and independent research verification alone could take 30 days or longer. It could be advantageous to increase the review period to 60 days if truly wanting county boards to have detailed written submissions to consider before voting.

2.3.5. A copy of the notice shall be posted at all schools, bus garages, and maintenance areas in the county in conspicuous working areas, for all professional and service personnel to observe. Please consider posting a copy of the notice on all entrances of all schools etc., so the public has the same consideration at school employees.

**Section 2.4.1. B e. More than one hearing may be held during any one day; How many?**

**2.4.2. Receive and review findings and recommendations, timely submitted in accordance with the notice deadline as outlined in Section 2.3.4. above, from any local school improvement council representing an affected school. Please note comments on 2.3.4. above.**

**2.4.3. Receive and review copies of any other written submissions and statements, timely submitted, in accordance with the notice deadline as outlined in Section 2.3.4., above. Please note comments on 2.3.4. above.**

**2.6. After the vote and following substantial compliance with Sections 2.4. and 2.5., above, and prior to the implementation of any school closure or consolidation and following substantial compliance with all statutory and regulatory provisions, the county must file a request for an amendment of it's CEFP with the WVBE for approval and this amendment must: This makes no sense. The proposed changes should be amended first so that county citizens can have a little confidence in the county's 10 year plan. Many consolidations and school closure proposals are occurring with very little planning and/or preparation. Many county committees worked for at least 12 months on the 10 year C.E.F.P.'s to meet all state mandates. Former committee member's watch in shock as more than a years work is tossed out the window and in a few weeks the entire 10 year plan revamped through closure hearings. The approach conflicts with the purpose of the 10-year plan being a roadmap to the educational facility goals a county is required to have.**

**§126-176-3. Emergency School Closure.**

**§126-176-4. Assistance.**

**§126-176-5. Severability.**

**Please return comments to:**

**Rebecca M. Tinder, Esquire  
Legal Services  
West Virginia Department of Education  
Building 6, Room 362, Capitol Complex  
1900 Kanawha Boulevard East  
Charleston, West Virginia 25305-0330  
E-mail address: [rtinder@access.k12.wv.us](mailto:rtinder@access.k12.wv.us)  
Fax Number: (304) 558-0048**

**Marlene Price**

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**From:** Rebecca Tinder [rtinder@access.k12.wv.us]  
**Sent:** Monday, August 19, 2002 10:23 AM  
**To:** Marlene Price  
**Subject:** FW: Policy 6204

Please add this to the comment log and email it to me for updating. ~Rebecca

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

**From:** Carolyn [mailto:carritt-mccune@citynet.net]  
**Sent:** Friday, August 16, 2002 5:41 PM  
**To:** rtinder@access.k12.wv.us  
**Subject:** Policy 6204

**POLICY 6204**

**SERIES 176**

**SCHOOL CLOSINGS AND CONSOLIDATIONS**

*Added*

**COMMENT RESPONSE FORM**

**Comment Period Ends: August 16, 2002**

Please use this form when commenting on proposed Policy 6204. You may attach additional sheets if necessary.

Individual/Organization: Carolyn McCune

Title: West Virginia Citizen

Street Address: P. O. Box 218

City/State/Zip Code: Meadow Bridge, WV  
25976

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**§126-176-1. General.**

**§126-176-2. County Procedures.**

**2.1 The Board of Education has the responsibility of preparing items for**

proposed school closings, not the superintendent. This statement probably needs to be restated.

2.1.1 The documents should be made available to the public in the areas in which they live, such as at each affected school. Also, a copy as a public notice, should be in the newspaper.

2.2.1 (a) The trends in enrollment do not take into account the out-of-county transfers and the bussing of in-county students to another school in the county outside the school area.

2.2.1 (c) Projected enrollments...whose projections are to be used? Within the last year I have seen two projections of population for Fayette County for the next ten years--one stating that the population will be declining and the other that it will be increasing. Projection is an educated guess and there are too many changing factors to make definite decisions. The aftermath of September 11, 2001 should teach us something. What has happened to the United States surplus?

2.2.2 b. Physical appraisal may not be a good indicator for closure. Some counties let the buildings deteriorate so it will make consolidation an easier method. No school building should become run-down to the point of no return. Some of our government buildings are much older than the school buildings, but maintenance has been kept up and they are still usable landmark buildings.

2.3 The board of education has this responsibility, not the superintendent

2.3.1a This time frame is absolutely too long. Who could make an honest effort in listening and comprehending information for fourteen hours? The attention span of an individual lasts about 20 minutes. The "listeners" would be totally exhausted and could not make a reasonable decision.

2.3.4 Do not believe that 30 days is long enough for individuals to evaluate the closure data and do independent research to verify the information in the closure document. The time should be at least 60 days if this policy wants county boards to have detailed information before voting.

2.3.5 Should be posted on the outside of each school so the public could have access to the information.

2.4.1a Same as 2.3.1a--too long a day!

2.4.1A Believe oral statements should be at five minutes rather than three minutes. At our closure hearing, our time was given at 30 seconds.

2.4.1Bd Should be an definite--either required or not required.

2.4.1Be How many hearings during one day? There should be a maximum number and maximum number of hours.

2.4.1Bf Not only should the facility be of sufficient size, but should be in a place with an adequate sound system.

2.4.3 Need to give the citizens more time than 30 days to review and submit information. At least 60 days.

2.4.4a Do not think a vote should be taken at the conclusion of the final public hearing. It does not give the board members the opportunity to review the statements given to them during the hearings. "2.4.4a" should not be an option unless the board has already made up its mind before the hearings have begun and the board is just having the hearings to satisfy state law/policy.

2.6 Seems as though the CEFPP should be first and then the hearings second.

### §126-176-3. Emergency School Closure.

3.1 What constitutes an emergency?

3.2.2 Since most counties ignore the guidelines of 30, 45, and 60 minutes (and 45 and 60 are too long) for travel times when consolidating schools, what time

is this policy going to use?

3.2.4 What health/safety issues are considered in this statement of the policy? Are you considering winter mountain roads, not enough sleep for the children on long bus rides, what???

3.2.5 Does capacity include lunchroom space, locker space, hallway travel space?

§126-176-4. Assistance.

§126-176-5. Severability.

P.S. Sorry I was unable to get this to you sooner. Have been trying for several days to get your page on the internet and was not able to do so; therefore, had to go via email.

Please return comments to:

Rebecca M. Tinder, Esquire

Legal Services

West Virginia Department of Education

Building 6, Room 362, Capitol Complex

1900 Kanawha Boulevard East

Charleston, West Virginia 25305-0330

E-mail address: [rtinder@access.k12.wv.us](mailto:rtinder@access.k12.wv.us)

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**West Virginia Department of Education**

**1900 Kanawha Boulevard East**

**Charleston, WV 25305**

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