

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark in this Box

FILED

1987 SEP 11 PM 3:14

SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Health TITLE NUMBER: 64

CITE AUTHORITY Chapter 16, Article 3, Section 4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

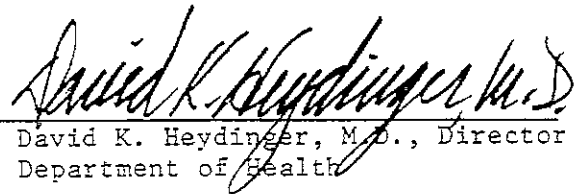
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 58

TITLE OF RULE BEING PROPOSED: Immunization Criteria for

Transfer Students.

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


David K. Heydinger, M.D., Director
Department of Health

REVISED
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Immunization Criteria for Transfer Students

Type of Rule: Legislative Interpretive Procedural

Agency Department of Health Address 1800 Washington Street, E.
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.
The provisions of the proposed new rule can be administered with existing personnel and equipment at both the state and the local school levels. The Department estimates that the number of students for whom provisional enrollment will be necessary to be no more than 50 per year.

3. Objectives of these rules:
This rule establishes minimum immunization criteria for provisional enrollment in school of children transferring from out-of-state schools.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens.

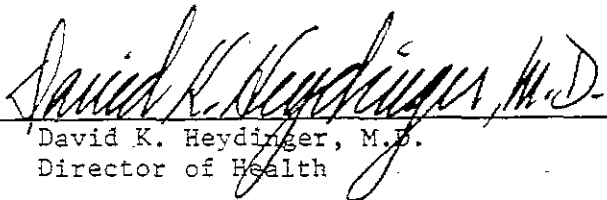
NONE. See Item #2

C. Economic Impact on Citizens/Public at Large.

NONE

Date August 31, 1987

Signature of Agency Head or Authorized Representative



David K. Heydinger, M.D.
Director of Health

WEST VIRGINIA DIRECTOR OF HEALTH

RULE ABSTRACT

Rule Title: Immunization Criteria for Transfer Students

CSR Title & Series: 64 CSR 58

Type: Legislative

Objective/Abstract: This rule establishes minimum immunization criteria for provisional enrollment in a West Virginia school of children transferring from a school outside the State.

For further information contact: Kay Howard, Regulatory Development Section, telephone 348-3223 or Jim Farris, Immunization Program, telephone 348-2188 or 1-800-642-3634, Health Department, 1800 Washington Street, East, Charleston, WV 25305.

[PROPOSED]

TITLE 64

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

Immunization Criteria for Transfer Students

Series 58

198__

For filing with
Legislative Rule-Making Review Committee

[PROPOSED]

WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH

Immunization Criteria for Transfer Students

64 CSR 58

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[PROPOSED]
TITLE 64
WEST VIRGINIA LEGISLATIVE RULES
DEPARTMENT OF HEALTH
Series 58

FILED

1977 SEP 11 AM 3:14

Title: Immunization Criteria for Transfer Students

Section 1. General

SECRETARY OF STATE

1.1. Scope - This rule establishes minimum immunization criteria for provisional enrollment in a West Virginia school of children transferring from a school outside the state.

1.2. Authority - This rule is issued by the director of health under the authority of and is related to Chapter 16, Article 3, Section 4 of the West Virginia Code.

1.3. Filing Date -

1.4. Effective Date -

Section 2. Application - This rule applies only to students who are transferring into a West Virginia school from a school outside the state.

Section 3. Minimum Criteria for Provisional Enrollment

3.1. No transfer student, unless he or she has a medical exemption, shall be allowed to enter a West Virginia school without at least one dose of diphtheria and tetanus toxoids and pertussis vaccine (DTP) or adult tetanus and diphtheria toxoids (Td) or pediatric diphtheria and tetanus toxoids (DT) based on age appropriateness, one dose of live or killed poliomyelitis vaccine, one dose of measles vaccine and one dose of rubella vaccine.

3.2. Transfer students to West Virginia schools shall have ninety days from the date of admission in which to complete a minimum of three doses of diphtheria and tetanus toxoids and pertussis vaccine (DTP) or adult tetanus and diphtheria toxoids (Td) or pediatric diphtheria and tetanus toxoids (DT) and three doses of poliomyelitis vaccine or be excluded from school.

DATE: September 11, 1987

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Department of Health

LEGISLATIVE RULE TITLE: Immunization Criteria for Transfer Students

1. Authorizing statute(s) citation Chapter 16, Article 3,
Section 4

2. a. Date filed in State Register with Notice of Hearing:
July 27, 1987

b. What other notice, including advertising, did you
give of the hearing?

Notice mailed to: county health departments, county

superintendents of schools, school nurses, State Department of
Education, various professional organizations.

c. Date of hearing (s): August 26, 1987

d. Attach list of persons who appeared at hearing, comments
received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved
proposed Legislative Rule following public hearing:
(be exact)

September 11, 1987

f. Name and phone number of agency person to contact
for additional information:

Kay Howard, Regulatory Development Section

Department of Health, telephone 348-3223

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

NA

b. Date of hearing: NA

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

NA

d. Attach findings and determinations and reasons:

Attached NA

Proposed Rules
Public Comments Received
Discussion and Response

Title: Immunization Criteria for Transfer Students, WV
Department of Health Legislative Rule, 64 CSR 58.

A public hearing regarding this rule was held on August 26, 1987, and was attended by James Simmons of Kanawha County Schools. Mr. Simmons did not wish to comment. Written comments were submitted by W. Tom McNeel, Ed.D., State Superintendent of Schools; Joanne Darmelio, R.N.; Lois Morgan, Assistant Director, Division of Local Health, Health Department. Copies are attached.

- (1) Comment (Dr. McNeel): Dr. McNeel stated his support of the rule.
- (2) Comment (Joanne Darmelio): It seems ridiculous that some West Virginia students could not enter kindergarten until they got a 6th DPT and polio because their doctors had given them all before fourth birthday and then let someone in who has one.

Response: The 6th shot mentioned in the comment is probably a booster which by order of the Director of Health must be administered after the 4th birthday and probably is a 4th or 5th shot rather than a 6th. In effect, the comments appear to be saying that it is unfair to permit transfer students to enroll in school without having completed a full course of immunization shots when non-transferring resident students are not permitted the same privilege. Perhaps one answer lies in the number of students and the statistical probability of a health hazard. The general provisions for admission of transfer students are established by statute. This rule only sets a time limit for completion.

Proposed: No change.

- (3) Comment (Lois Morgan): This proposed rule is silent regarding the assignment of authority when a transfer student is admitted with an incomplete immunization status. To assure that the intent of the rule is carried out it would seem appropriate to also identify or assign an authority person/persons.

Response: The Code is silent as to the responsibility for administration of this new provision. The Health Department

believes that the school system is responsible for monitoring compliance with the immunization completion criteria as part of its general administrative authority. It is anticipated that the number of students for whom provisional enrollment will be necessary to be no more than fifty per year.

Proposed: No change.

NOTE: The Director has made minor modifications in Section 1.1 and Section 2 which cause the text to follow the language of the authorizing status more closely. The changes are as follows:

Section 1.1. Scope - This rule establishes minimum immunization criteria for provisional enrollment in school of children transferring from another-state a school outside the state.

Section 2. Application - This rule applies only to students who are transferring into a West Virginia school from a school in another-state outside the state.

PUBLIC HEARING

Integration Criticism for Black Students

August 26, 1987 11:00 A.M.

GROUP REPRESENTED
(IF ANY)

DO YOU WISH TO COMMENT
(YES/NO)

NAME

ADDRESS

Fred King 151 11th Ave. S. 1st Fl.

Integration Report - Howard Dept.

JD Farris 151 11th Ave. S. 5th Fl. Integration Progress - North Dept.

James Johnson 200 Elizabeth Street Charleston Kanawha Co. Schools NO

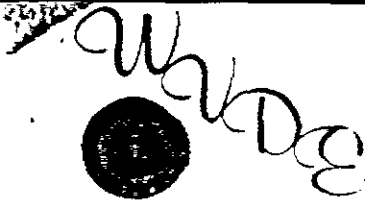
Comments Received
Regarding Proposed
Amendments to Immunization Criteria
For Transfer Students

By Mail

Joan Darmelio
Brooke County Schools

Lois Morgan, R.N.
Division of Local Health

Dr. Tom McNeel
State Superintendent of Schools



August 10, 1987

Kay Howard
West Virginia Department of Health
Regulatory Development Section
1800 Washington Street, East
Charleston, West Virginia 25305

Dear Ms. Howard:

The proposed rules for Immunization Criteria for Transfer Students have been reviewed by my staff. I would like to offer my support of the rules related to minimum immunization criteria for provisional enrollment and for the rule requiring completion of immunizations within 90 days of admission. I understand that students not fully immunized at the end of the 90 days are to be excluded from school.

Sincerely,

Tom McNeel
State Superintendent of Schools

TM:ct

0663g

RECEIVED

AUG 11 1987

**REGULATORY DEVELOPMENT
SECTION**

Aug. 7, 1987

Dept. of Health
Re: Immunization Criteria for
Transfer students

It seems ridiculous that
some West Virginia students could
not enter kindergarten until they get
a 6th DPT + Polio because their
doctors had given them all before
first birthday and then let someone
in who has one!

It would be better to work
towards all states having a standard
basic immunization law than progressing.

Josanne Daniels, R.N.

RECEIVED

AUG 10 1987

REGULATORY DEVELOPMENT
SECTION



State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

MEMORANDUM

RECEIVED

AUG 25 1987

REGULATORY DEVELOPMENT
SECTION

TO: Nancy Tolliver, Director
Office of Community Health Services

FROM: Lois Morgan, RN, BSN, Assistant Director
Division of Local Health *LM*

DATE: August 20, 1987

RE: Proposed Legislative Rule (16-3-4) Immunization Criteria for Transfer Students

This proposed Legislative Rule has raised at least one procedural concern - accountability. Who will be held accountable for assuring that a transfer student, admitted to a school without a complete series of immunizations, completes the series within the prescribed ninety (90) days? The school principal, school nurse, school teacher, local health officer?

Within this section of the Code (16-3-4), "Any teacher having information concerning any person who attempts to **enter** school for the first time without having been immunized....shall report the names of all such persons to the county health officer. It is the duty of the health officer....to see that such persons are immunized **before** entering school."

This proposed rule is silent regarding the assignment of authority when a transfer student is admitted with an incomplete immunization status. To assure that the intent of the rule is carried out it would seem appropriate to also identify or assign an authority person/persons.

LM:caw

DIVISION OF LOCAL HEALTH
OFFICE OF COMMUNITY HEALTH SERVICES
ROOM 560, BUILDING #3
CHARLESTON, WEST VIRGINIA 25305