

**TITLE 126  
LEGISLATIVE RULE  
WEST VIRGINIA BOARD OF EDUCATION**

**SERIES 75  
EDUCATION INNOVATION ZONES (3236)**

**§126-75-1. General.**

1.1. Scope. -- This legislative rule authorizes the West Virginia Board of Education (hereinafter WVBE) to designate education Innovation Zones in schools, groups of schools and departments or subdivisions of a school or schools; establishes an application, plan review, approval and amendment process; authorizes exceptions to certain policies, rules, interpretations and statutes; provides for approval of the Innovation Zone plan by certain employees of a school; provides for revocation of designation and plan approval; requires annual report by the WVBE; designates the order in which the WVBE must consider applications; provides for the voluntary transfer of employees; authorizes teacher job postings that exceed certain qualifications and requirements; and provides that a state institution of higher education may establish a school designated as an Innovation Zone, that such school may not receive certain funds; provides the procedure in which a state institution of higher education may apply for and establish an Innovation Zone school; and provides for the approval mechanism for an Innovation Zone school established by a state institution of higher education by the county board and by the WVBE.

1.2. Authority. -- West Virginia Constitution, Article XII, §2, and W.Va. Code §§18-2-5, 18-5B-1, 18-5B-2, 18-5B-3, 18-5B-4, 18-5B-5, 18-5B-6, 18-5B-7, 18-5B-8 and 18-5B-9.

1.3. Filing Date. -- September 24, 2009

1.4. Effective Date. -- October 26, 2009

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

**§126-75-2. Purpose.**

2.1. The purpose of this WVBE policy is to provide guidelines for implementation of education Innovation Zones to improve educational performance in a manner that provides greater flexibility from policy and law for principals and teachers to meet the needs of a diverse population of students. This WVBE policy will create the opportunity for information regarding the effects of specific innovative educational strategies on student achievement; and to provide more public school accountability for student achievement as measured by the state assessment programs and local assessment processes identified by the schools.

**§126-75-3. Essential Conditions for Eligibility for Innovation Zone Designation.**

3.1. The Innovation Zone application must include evidence of a significant contribution to preparing students for 21<sup>st</sup> century learning.

3.1.1. In determining the Innovation Zone focus, the school staff must determine what must be changed or improved to better prepare students with the knowledge and skills necessary for success in life and work in the 21st century.

3.1.2. The school staff must be able to defend their selection of the Innovation Zone focus based on the particular demographics and/or needs of their students and be consistent with West Virginia's Global 21 vision.

3.2. The Innovation Zone application must provide documentation of a critical mass of support and significant capacity for replication and scalability.

3.2.1. The proposed innovation must be derived from the creative vision of the local school staff.

3.2.2. The proposed innovation must have the support and documented commitment to ensuring the success of the proposal from at least eighty percent of the faculty in a vote taken in accordance with W.Va. Code §18-5B-6.

3.2.3. The proposed innovation must provide documentation of support from parents, students, the county board of education, the local school improvement council and school business partners.

3.2.4. The Innovation Zone proposal must engage students, parents and appropriate community members using two-way communication strategies that inform the innovation implementation process.

3.3. The Innovation Zone application must provide evidence of teacher collaboration and shared leadership.

3.3.1. The Innovation Zone proposal must identify any organizational barriers that would impede Innovation Zone implementation, and outline a process for addressing these barriers.

3.3.2. The Innovation Zone proposal must also include effective means of enhancing teacher leadership throughout the process.

3.4. The Innovation Zone application must include a component of teacher professional growth.

3.4.1. The Innovation Zone proposal must include job-embedded professional development that is on-going throughout the initiative.

3.4.2. The professional development may be delivered in a variety of ways, including the implementation of professional learning communities.

3.4.3. Professional development activities must relate to the desired innovation, and support the implementation processes selected for the Innovation Zone.

**§126-75-4. Focus of Innovation Zones.**

4.1. Innovation Zone applications may include in the project design, but not be limited to, the following 21<sup>st</sup> century curriculum and instructional components and processes:

4.1.1. 21<sup>st</sup> century curriculum components such as rigor and relevance in any content and integration of the 21<sup>st</sup> century skills (Thinking and Problem-Solving; Information/Communication Processing; Personal and Workplace Productivity Skills; Creativity and Innovation Skills; Student Self-Direction.)

4.1.2. 21<sup>st</sup> century instructional processes such as: Standards-Based Instruction; Problem-Based Learning; Contextual Learning; Performance Assessments; Classroom Assessments for Learning; Professional Learning Communities/Collaborative Teams; Technology Integration; Teacher-Facilitated/Student-Directed Learning.

4.2. Innovation Zone applications may also include in the project design:

4.2.1. Strategies that ensure that each student is prepared fully at each grade level from early childhood through intermediate grade levels, including additional intervention strategies at grade levels three and eight to reinforce the preparation of students who are not prepared fully for promotion; or an emphasis in the secondary grade levels on ensuring that each student is prepared fully for college or other post-secondary education.

4.2.2. Strategies that allow academically advanced students to pursue academic learning above grade level or not available through the normal curriculum at the school.

**§126-75-5. Education Innovation Zone Guidelines and Application Process.**

5.1. Innovation Zone application must follow the WVBE application timelines, as well as all application regulations indicated in law and policy; secure the necessary support and include all the components outlined in the official WVBE application and guidance documents that may be obtained from the WVDE.

5.2. The application process will consist of two phases, each of which shall include documentation of approval by eighty percent of the eligible employees affected by the Innovation Zone proposal, in accordance with §126-75-6.

5.2.1. In phase one, applicants must submit a WVBE Innovation Zone application seeking to be designated as an Innovation Zone. The application shall include a project design that meets the essential conditions outlined in §126-75-3 in this rule; is focused on one or more of the areas of focus outlined in §126-75-4; and that meets the requirements in §126-75-5.1 - 5.5.4.

5.2.2. Interviews followed by site visits as needed will be conducted in phase one to assess the degree of technical assistance needed to complete the objectives, outcomes, timelines, persons responsible and budget details for successful implementation of the Innovation Zone plan and to determine eligibility for the Innovation Zone planning grant.

5.2.3. Approval for designation as an Innovation Zone in phase one will include a planning grant awarded to assist with the study and research of the innovation strategy. Funding for the planning grant will be on a pro-rata basis with grants awarded, to the extent practicable, across geographic areas of the state, programmatic levels and in proportion to the number of teachers impacted by the innovation strategy.

5.2.4. In phase two, the applicants from phase one who receive designation as an Innovation Zone by the WVBE and State Superintendent based on the evaluation criteria listed in §126-75-7, will receive technical assistance and support from the WVDE to develop an implementation plan for their Innovation Zone project design.

5.2.5. The Innovation Zone implementation plan must fully describe the objectives, outcomes, timelines, persons responsible and budget necessary to implement the project design of the application submitted in phase one, and receive the approval of the WVBE Innovation Zone Selection Committee outlined in §126-75-9.

5.2.6. Innovation Zone planning grants shall be used to study and prepare for the innovation strategy and to develop a plan for implementation of the strategy. The Innovation Zone implementation plan shall be submitted for a eighty percent approval vote of all eligible affected teachers, and all other requirements outlined in §126-75-6 of this policy.

5.3. An Innovation Zone may request exception for any state or county policy, rule, statute, or interpretation except from an assessment program administered by the West Virginia Department of Education; any provision of law or policy required by the No Child Left Behind Act of 2001, Public Law No. 107-110 or other federal law; W.Va. Code §§18A-2-7; 18A-4-7A, 18A-4-7B, 18A-4-8 and 18A-4-8B, except as provided in W.Va. Code §18-5B-8 described in §126-75-5 of this rule; or any other information the state board requires.

5.4. The WVBE shall consider applicants for designation as an Innovation Zone in the following order: (1) A school and groups of schools; (2) a group of schools seeking designation across the same subdivision or department of the schools; and (3) a school seeking designation of a subdivision or a department.

5.5. In phase one the Innovation Zone application process, successful applicants will receive designation as an Innovation Zone based on the potential to meet the WVBE Innovation Zone evaluation criteria outlined in section §126-75-7 of this policy and following submission of a preliminary plan using the WVBE Innovation Zone application form to the WVBE Innovation Zone Selection Committee.

5.5.1. The WVBE Innovation Zone Selection Committee will make a recommendation to the WVBE for applicants who have the potential to meet the WVBE eligibility criteria identified

in section §126-75-7 of this policy for designation as an Innovation Zone based on interviews and site visits by WVDE staff and the WVBE Innovation Zone Selection Committee.

5.5.2. The WVBE and State Superintendent shall notify applicants of their decision within sixty days of receipt of the Innovation Zone application.

5.5.3. If the Innovation Zone application is disapproved, the WVBE and State Superintendent shall communicate the reasons for the disapproval to the applicant and make recommendations for improving the application.

5.5.4. The Innovation Zone applicant may amend and resubmit the initial application to the WVBE Innovation Zone Selection Committee.

5.6. In phase two of the Innovation Zone application process, the WVBE Innovation Zone Selection Committee and WVDE staff shall review Innovation Zone plans and approve those plans that fully describe the objectives, outcomes, timelines, persons responsible and budget necessary to implement the project design of the phase one application using a format and rubric provided by WVDE staff. The WVBE Innovation Zone Selection Committee shall recommend to the WVBE those applicants who have provided documentation of the study and research of the innovation strategy and who have a fully developed plan for implementation of the project design for the Innovation Zone.

5.6.1. The WVBE and State Superintendent shall notify Innovation Zone phase two applicants within sixty days of receipt of the plan, indicating that they may proceed with implementation of the Innovation Zone plan.

5.6.2. The notification in phase two of the application process will include WVDE technical assistance and support to assist with the implementation of the Innovation Zone plan.

5.6.3. If the Innovation Zone plan is disapproved in phase two, the WVBE and State Superintendent shall communicate the reasons for the disapproval to the applicant and make recommendations for improvement.

5.6.4. The Innovation Zone designee may amend and resubmit the application to the WVBE Innovation Zone Selection Committee.

5.7. If an Innovation Zone plan may not be implemented unless an exception to a statute is granted by the Legislature, the WVBE and State Superintendent may approve the plan upon the condition that the WVBE and State Superintendent submit the plan and a request for exception to a statute, along with supporting reasons, to the Legislative Oversight Committee on Education Accountability (LOCEA) who will review the plan and make a proposal to the Legislature.

5.8. A state institution of higher education may establish a new Innovation Zone school subject to the regulations provided in W.Va. Code §18-5B-9.

5.8.1. The school will be under the jurisdiction of the state institution of higher education.

5.8.2. The county board with jurisdiction over the school district in which the new school is planned to be located must approve the establishment of the new Innovation Zone school.

5.8.3. The state institution of higher education must enter into cooperative agreements with the county board or county boards whose students attend the new Innovation Zone school. The agreements shall include at least required reporting on student attendance, academic progress and any other matters relating to the administration, operation and support of the school agreed to by institution and the board or boards.

5.8.4. Students attending the school shall be enrolled in a school in their county of residence subject to the policies of the county. The students may participate in extracurricular and co-curricular activities at the county school in which they are enrolled and, subject to the cooperative agreement with the state institution of higher education, participate in curricular activities at the county school in which they are enrolled.

5.8.5. No funds provided to support the planning and implementation of school Innovation Zones pursuant to W.Va. Code §18-5B-9 may be used for a state institution of higher education to establish a new Innovation Zone school.

5.8.6. A school established in accordance with this section may not be funded with moneys appropriated by the Legislature to fund the Innovation Zone program or from state or county moneys that result from the school aid formula.

5.8.7. The process, timelines and selection criteria for a state institution of higher education to establish a new Innovation Zone school shall be the same as outlined in this rule for all applicants.

**§126-75-6. Rights of Employees in an Innovation Zone.**

6.1. An employee regularly employed at a school applying for or designated as an Innovation Zone whose job duties may be affected by implementation of the Innovation Zone or proposed plan may request a transfer to another school in the school district and the county board shall make every reasonable effort to accommodate the transfer.

6.2. If the Innovation Zone plan includes a job posting that exceeds the qualification provided in section seven-a, article four, chapter eighteen-a of W.Va. Code, teachers in the county must approve the job posting by a majority vote in accordance with W.Va. Code §18-5B-8.

6.3. During phases one and two of the application process an Innovation Zone plan shall be approved by eligible employees that are affected by the implementation of the Innovation Zone plan prior to submission of the plan to the county board of education in accordance with the regulations in W.Va. Code §18-5B-6:

6.3.1. An employee shall be eligible to vote in accordance with the provisions of this section if: (1) The employee is regularly employed at the school; and (2) the employee's primary job duties will be affected by the implementation of the Innovation Zone plan.

6.3.2. A panel consisting of the elected officers of the faculty senate of the school or schools, one representative of the service personnel employed at the school and three parent members appointed by the local school improvement council shall call the meeting required to vote on approval of the Innovation Zone designation and plan implementation.

6.3.3. The panel shall determine which employees are eligible to vote in accordance with the provisions in W.Va. Code §18-5B-6, and shall conduct the votes and certify the results to the principal, the county superintendent and the president of the county board.

6.3.4. The panel shall provide notice of the special meeting to all employees eligible to vote at least two weeks prior to the meeting and shall provide an absentee ballot to each employee eligible to vote who cannot attend the meeting to vote.

6.3.5. A secret ballot vote shall be conducted at a special meeting of all employees regularly employed at the school who are eligible to vote in accordance with this section to determine the level of employee commitment for approval of an Innovation Zone designation or plan.

6.3.6. At least eighty percent of the employees who are eligible to vote in accordance with this section must vote to apply for designation as an Innovation Zone and to approve the school's Innovation Zone plan.

6.3.7. Both the Innovation Zone application for designation (phase one) and the plan for implementation (phase two) shall be approved by vote by eighty percent of the affected school employees and documentation of the same shall be submitted to the county superintendent and board for review.

6.3.8. The county board shall within sixty days of receipt of the plan review the plan and with recommendations from the county superintendent report its support or concerns, or both, and return the plan and report to the school principal, faculty senate and local school improvement council.

6.3.9. In phase two, the county board shall be given an opportunity to present its concerns with the plan, if any, to the WVBE during its review.

**§126-75-7. WVBE Evaluation Criteria for Designation as an Education Innovation Zone.**

7.1. The level of staff commitment of those employees affected by the implementation of the Innovation Zone plan who are eligible to vote must be documented at eighty percent in support of the application, following all regulations in W.Va. Code §18-5B-6, including the use of a secret ballot during a special meeting.

7.2. Support from parents, students, the county board of education, the local school improvement council and school business partners must also be documented in accordance with W.Va. Code §18-5B-6.

7.3. The potential for an applicant to be successful as an Innovation Zone, as determined by meeting the essential conditions described in section §126-75-3 of this policy must be documented.

7.4. The quality of the Innovation Zone project design is reflected in goals, objectives and outcomes that are clearly specific and measurable, and up-to-date knowledge from research and practice.

7.5. The Innovation Zone proposal derives goals, objectives and outcomes from data analysis that includes, but is not limited to the needs assessment from the school's Five Year Strategic Plan and describes proposed innovative activities using processes that incorporate and build upon multiple research-based instructional strategies.

7.6. The Innovation Zone proposal reflects the capacity to manage and implement the proposed innovation.

7.7. The quality of the Innovation Zone evaluation design is reflected in the use of objective performance measures that are clearly related to the intended outcomes of the project and that will produce comparative quantitative and qualitative data.

7.8. The Innovation Zone proposal reflects the capacity to scaled to a statewide level and sustained beyond the initial funding period.

7.9. The Innovation Zone proposal meets the WVBE definition of innovation by breaking down existing patterns of mind and developing new ways of doing and seeing things, while allowing for differences in the degree of innovation from one school to another.

**§126-75-8. WVBE Evaluation Criteria for Approval of Education Innovation Zone Plan Implementation.**

8.1. Criteria for approval for Innovation Zone Plan implementation include a fully developed plan that describes the objectives, outcomes, timelines, persons responsible and budget necessary to implement the project design of the phase one application using a format and rubric provided by WVDE staff.

8.2. The WVBE Innovation Zone Selection Committee shall recommend to the WVBE those applicants who have provided documentation of the study and research of the innovation strategy and who have a fully developed plan for implementation of the project design for the Innovation Zone and have met all requirements in sections §126-75-3 and §126-75-7 of this policy and W.Va. Code §18-5B-6.

**§126-75-9. Progress Reviews and Annual Reports of Innovation Zones.**

9.1. The WVBE shall review at least annually, the progress of the development or implementation of an Innovation Zone plan and provide an annual report on Innovation Zones and the progress of Innovation Zone plans to the Legislative Oversight Committee on Education Accountability.

9.2. If, following such a review, the WVBE determines that a designated Innovation Zone has not made adequate progress toward developing or implementing its plan, the WVBE shall submit a report to the Innovation Zone identifying its areas of concern.

9.3. The WVBE, and/or its designated committee, may conduct an additional review within six months of submitting a report identifying areas of concern.

9.4. If, following such additional review, the WVBE and/or its designated committee, determines that the designated Innovation Zone has not made adequate progress toward developing or implementing its Innovation Zone plan, the WVBE may revoke the designation as an Innovation Zone, or rescind approval if there has been approval for implementation of the Innovation Zone.

**§126-75-10. WVBE Innovation Zone Selection Committee Membership and Responsibilities.**

10.1. WVBE Innovation Zone Selection Committee membership shall consist of at least ten official members.

10.2. The WVBE Innovation Zone Selection Committee members shall include two WVBE members selected by the WVBE President; the State Superintendent of Schools and/or designee; one representative of each state teacher organization; jointly selected by the WVBE President and State Superintendent; one representative of an institution of higher education that has a state-approved educator preparation program; jointly selected by the WVBE President and State Superintendent; one county superintendent, one building principal and one teacher selected by the State Superintendent; one representative of a community/business organization; jointly selected by the WVBE President and State Superintendent; and WVDE staff as ex-officio/resource persons.

10.3. The WVBE Innovation Zone Selection Committee shall review Innovation Zone designation and implementation plan proposals, including WVDE staff recommendations based on a review of applications that meet the required criteria.

10.4. The WVBE Innovation Zone Selection Committee and/or designees shall conduct interviews and/or on-site visits for prospective Innovation Zone applicants to assure applicant eligibility.

10.5. The WVBE Innovation Zone Selection Committee shall recommend to the WVBE for approval those Innovation Zone applicants that meet the WVBE selection criteria.

**§126-75-11. WVBE Innovation Zone Annual Review Committee Membership and Responsibilities.**

11.1. The WVBE Innovation Zone Annual Review Committee shall consist of an appropriate number of WVBE Selection Committee members and WVDE staff members and will be responsible for completion of progress reviews for Innovation Zone development or implementation.

11.2. The WVBE Innovation Zone Annual Review Committee shall review the progress of the development or implementation of an Innovation Zone plan and provide a report to the WVBE.

11.3. If, following such a review, the WVBE Innovation Zone Annual Review Committee determines that a designated Innovation Zone has not made adequate progress toward developing or implementing its plan, the WVBE shall submit a report to the Innovation Zone identifying its areas of concern.

11.4. If, following such a review, the WVBE and/or its designated committee, determines that the designated Innovation Zone has not made adequate progress toward developing or implementing its Innovation Zone plan, the WVBE may revoke the designation as an Innovation Zone, or rescind approval if there has been approval for implementation of the Innovation Zone.

**§126-75-12. Severability.**

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

**APPENDIX A****EDUCATION INNOVATION ZONES (POLICY 3236)  
PROPOSED IMPLEMENTATION TIMELINE**

<b>Timeline—Phase I</b>	<b>Process</b>
August 13, 2009	Education Innovation Zones Policy approved by the WVBE to go out for 30-day public comment period.
September 24, 2009	Education Innovation Zones Policy approved by the WVBE (following comment period)
October 26, 2009	Education Innovation Zones Policy becomes effective.
October – December 2009	The WVBE announces that applications are being accepted for Innovation Zone “designation”. WVDE staff develops and disseminates information about innovation zones with emphasis that the proposal must be clearly discussed with/embraced by all those impacted.
December 2009	The WVBE accepts applications for designation as an Innovation Zone. Interviews and on-site visits conducted by WVBE selection committee to assess the degree of technical assistance to be rendered for completion of Innovation Zone plan by the designee.
December 29, 2010	Deadline for submission of applications for designation as an Innovation Zone.
January 2010	WVBE selection committee reviews applications and makes recommendations to State Superintendent and WVBE.
January 2010	WVBE Selection Committee make a recommendation to the full WVBE for sites to be designated as Innovation Zones and makes selections based upon WVBE selection criteria. WVBE will announce sites designated as Innovation Zones. (If the innovation Zone proposal requires a waiver of W.Va. Code, the WVBE and State Superintendent may approve the Innovation Zone proposal on the condition that the request must be submitted to and approved by LOCEA).
January 2010	Planning Grants are distributed to Innovation Zones
January - April 2010	“Innovation Zone Planning Period” study and research of the innovation strategy will take place in this time period.
<b>Timeline—Phase II</b>	<b>Process</b>
April 2010 - May 2010	Technical Assistance provided to approved sites for assistance in completing Innovation Zone Plan.
June 2010	Deadline for submission of Innovation Zone Plan to WVBE.
July 2010	The WVBE and State Superintendent review the Innovation Zone plans and determine those plans that are approved, based on WVBE criteria, and make recommendations for improving any other plans that do not fully meet approval criteria.
September 2010	Innovation Zones begin implementation of plan.
September 2011	Annual Review of Innovation Zone progress on their plan.
October – December 2011	WVDE will report to WVBE and WVBE will report to LOCEA.