

**TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION**

**SERIES 38  
TEXTBOOK ADOPTION APPEAL PROCESS FOR PUBLISHERS (2445.412)**

**§126-38-1. General.**

1.1. Scope. - This legislative rule passed by the West Virginia Board of Education established procedures for filing appeals when a publisher's textbook is not recommended for inclusion on the state multiple list of textbooks.

1.2. Authority. - W.Va. Code §18-2A-8

1.3. Filing Date. - October 17, 1986

1.4. Effective Date. - October 17, 1986

**§126-38-2. Additional.**

2.1. Copy attached. Copies may be obtained in the Office of the Secretary of State and from the West Virginia Department of Education, Bureau of General, Special, and Professional Education.

**§126-38-3. Compliance rule.**

This legislative rule approved by the West Virginia Board of Education establishes the bases and timelines for filing/conducting appeals of textbooks not recommended by the West Virginia Textbook Advisory Committee. All appeals must be resolved prior to the November State Board meeting which finalizes the state multiple list for the appropriate grouping.

EDUCATIONAL PROGRAM DEVELOPMENT

2445.412

Educational Program Elements

Organizational and Administrative Elements

State-Wide/School District Services

Textbooks

Selection and Control

TEXTBOOK ADOPTION  
APPEAL PROCESS FOR PUBLISHERS

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TEXTBOOK ADOPTION  
APPEAL PROCESS FOR PUBLISHERS

PURPOSE

The purpose of this document is to describe the procedure by which a publisher which has grievances stemming from the West Virginia textbook adoption process may have a hearing of these grievances. The purpose of the appeal process is to provide textbook publishers the opportunity to appeal the recommendations of the West Virginia Textbook Advisory Committee that are not supportive of their textbooks being included on the Official State Multiple List of Textbooks recommended to the West Virginia Board of Education through the state superintendent of schools. This appeal process, described herein, outlines procedures to be followed in filing and processing the appeal.

The West Virginia Textbook Advisory Committee conducts official textbook hearings for all textbooks submitted for bid by publishers. The textbook hearings are held on or about the first week in September. The textbook hearing provides an open forum for the West Virginia Textbook Advisory Committee to receive textbook presentations conducted by textbook publishers and their respective consultants. The intent of the hearing is to provide publishers an opportunity to present information about the merits of their textbook/program, teacher's edition, accompanying instructional materials, bids and other items to be considered for inclusion on the Official State Multiple List of Textbooks that is recommended to the state superintendent for consideration by the West Virginia Board of Education.

## DEFINITIONS

1. Appeal - The procedures whereby a publisher contests the findings and decisions of the West Virginia Textbook Advisory Committee by requesting that the state superintendent of schools conduct a review of the findings and recommendations of the West Virginia Textbook Advisory Committee.
2. Appeal Bases - A publisher may base an appeal on any of the following errors the West Virginia Textbook Advisory Committee is alleged to have made during the hearing and/or evaluation meetings.
  - a. Hearing Meetings - The publisher contends that errors in communications and discussions during the hearing meeting occurred between the West Virginia Textbook Advisory Committee and the publisher or the publisher's representative.
  - b. Evaluation Meeting - The publisher contends that errors in data collection, interpretations of data, conclusions and/or recommendations by the West Virginia Textbook Advisory Committee resulted in the West Virginia Textbook Advisory Committee's recommendation to exclude his textbook/program from the Official State Multiple List of Textbooks.
3. Appeal To Executive Committee - Upon receiving notification from the state superintendent of schools that a publisher has filed an appeal that warrants a hearing, the ~~Executive Committee of the West Virginia~~ Textbook Advisory Committee will convene to review the appeal relative to the Appeal Bases and to provide a recommendation to the state superintendent of schools.

4. Appeal Board - A three member board, appointed by the state superintendent, to establish the process for investigating appeals by publishers relative to the actions of the West Virginia Textbook Advisory Committee and its Executive Committee. The Appeal Board shall consist of three members which include:
  - a former member of the West Virginia Textbook Advisory Committee,
  - a public school teacher or administrator, and
  - a staff member of the West Virginia Department of Education, exclusive of the Bureau of General, Special, and Professional Education.
5. Criteria for the Adoption of Textbooks - The School Laws of West Virginia and policies of the West Virginia Board of Education related to textbooks provide the criteria for state level adoption of textbooks.

#### APPEAL PROCEDURE

1. Submitting an Appeal
  - a. The decision of the West Virginia Textbook Advisory Committee to exclude a publisher's textbook/program, teacher's edition, bid, or any accompanying instructional materials from the Official State Multiple List of Textbooks will be transmitted by phone and mail to the publisher by the West Virginia Department of Education.
  - b. A publisher that wishes to contest the decision to exclude his textbook materials on the Official State Multiple List of Textbooks may file a letter of appeal requesting an appeal hearing.
  - c. The letter of appeal shall be sent by the publisher via certified mail or hand carried to the office of state superintendent of schools.

- d. The letter of appeal must be received by the state superintendent of schools within ten working days of the notice to exclude the publisher's materials from the Official State Multiple List of Textbooks.
  - e. Failure to file an appeal within the ten working days of the notification to exclude the publisher's textbook materials shall be considered a forfeiture of the right to appeal.
2. Appeal Format - A publisher shall identify in writing to the state superintendent of schools each condition relative to the Appeal Bases upon which the appeal is based. The publisher shall provide evidence to support contentions relative to the Appeal Bases.
  3. The Initiation of the Appeal - The state superintendent shall receive the publisher's request for an appeal hearing and will accept or reject the request not later than five working days following the receipt of the appeal.
  4. Appeals Based Upon Hearing and Evaluation Meetings
    - a. The state superintendent shall inform the Bureau of General, Special, and Professional Education that an investigation is required.
    - b. The Bureau of General, Special, and Professional Education through the Office of General and Professional Education shall assist the Executive Committee of the Textbook Advisory Committee in a review of the appeal.
    - c. The results of the review shall be submitted to the state superintendent for consideration.
    - d. The superintendent may:
      - accept the recommendation, or
      - reject the recommendation of the Executive Committee and refer the appeal to an Appeal Board.

- e. The results of the findings of the Executive Committee of the West Virginia Textbook Advisory Committee or the Appeal Board shall be submitted to the state superintendent for a recommendation to the West Virginia Board of Education.
- f. The decision of the West Virginia Board of Education shall be reported to the publisher and the Textbook Advisory Committee.

It is intended that the Appeals Procedure, once initiated by a publisher, be conducted in a reasonable time frame so that the final decision regarding the appeal will be rendered before the state superintendent's recommendation of the Official State Multiple List of Textbooks for consideration by the West Virginia Board of Education.

5. The Letter of Appeal

The Letter of Appeal shall include at least the following information:

- Name of Publisher
- Mailing Address/Zip Code of Publisher
- Telephone of Publisher
- Specification of the textbook/program, series, teacher's edition/manual and/or instructional materials being appealed
- Specification of alleged errors related to Appeal Bases and supporting data.

6. Notification Not To List - The Office of General and Professional Education will notify the publisher by telephone and certified letter of the West Virginia Textbook Advisory Committee's intent to exclude the textbook materials of a publisher from the Official State Multiple List of Textbooks. The reasons for the exclusion of the textbook materials will be communicated to the publisher.

7. Communications - The Office of General and Professional Education is responsible for keeping all parties informed and maintaining records regarding the various stages of the appeal process.

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