126CSR176

Title 126
PROCEDURAL RULE
BOARD OF EDUCATION
SERIES 176

SCHOOL CLOSINGS OR CONSOLIDATIONS (6204)

§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. - October 13, 2005.

1.4. Effective Date. - November 12, 2005.

1.5. Repeal of former rule. - This procedural rule amends W. Va. §126CSR176 "School Closings or Consolidations (6204)" (hereinafter Policy 6204) filed September 16, 2002 and effective October 16, 2002.

§126-176-2. County Procedures.

2.1. The county board 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 the county board designates to 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 a school which is proposed to be closed or consolidated, and any school

which the county board designates to 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 the county board designates to 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, if available;

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 the county board designates to receive the students.

A. The map will include a legend indicating the grade 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 the county board designates to 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 the county board designates to_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 the county board designates to 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 schools designated by the county board to be 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 the county board designates to 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,

(b) personnel,

(c) maintenance,

(d) transportation,

(e) other factors as deemed relevant by the county superintendent, and

(f) the total cost of the above-listed items;

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

(a) utilities,

(b) personnel,

(c) maintenance,

(d) transportation,

(e) other factors as deemed relevant by the county superintendent, and

(f) the total cost of the above-listed items;

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

(a) utilities,

(b) personnel,

(c) maintenance,

(d) transportation,

(e) other factors as deemed relevant by the county superintendent, and

(f) the total cost of the above-listed items.

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 126CSR172, WVBE Policy 6200 - Handbook on Planning School Facilities, (hereinafter 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 General, Vocational and Special Educational Programs,

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

e. Policy 6200, and

f. Policy 6204.

2.3. The county board must provide notice for the public hearing which shall be advertised through a Class III legal advertisement for three weeks prior to the date of the hearing in a newspaper in general circulation in the locality of any school to be closed or consolidated and in the locality of any school that has been designated by the county board to receive students from the schools to be closed or consolidated. The notice also shall be posted in all schools as hereinafter provided in Section 2.3.5. of this policy 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.

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 31st 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;

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 school that has been designated by the county board to receive students from the schools to be closed or consolidated 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; and

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).

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 compliance with Sections 2.4. and 2.5., above, and prior to the implementation of any school closure or consolidation and following 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.

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:

3.2.1. Educational program - educational opportunities are equal or greater for students at the school designated by the county board to be a 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 – the school designated by the county board to be a 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.