

## GROUP I

### LEGISLATIVE CHANGES 2015-2016

#### POLICIES SUBJECT TO CHANGE

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## GROUP I

### LEGISLATIVE CHANGES 2015-2016

**HB 2598 amended and reenacted WVC §18-20-2 relating to school accommodations for students with exceptionalities and requiring that teachers receive instruction relating to the school's plan of accommodations for students with disabilities.**

**If a student has a Section 504 plan, the school is required by House Bill 2598 to instruct each of the student's teachers about the plan's contents and requirements. If the plan is written, each teacher must receive a copy of the plan and of every update, and must sign a receipt acknowledging that they were given the copies. *W. Va. Code § 18-20-2(f)*.**

**These amendments also address the requirement to provide the services of a Sign Support Specialist or an Educational Sign Language Interpreter I or II when deemed appropriate. *W. Va. Code § 18-20-2(e)*.**

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>I. INSTRUCTION</b>	<b>Last Review:</b>
<b>File: I.8. Educational Services for Students with Exceptionalities</b>	<b>August, 2014</b>

Recognizing its responsibility to provide educational services for all student populations, the Pendleton County Board of Education reaffirms the goal of providing full educational opportunities for all students with exceptionalities, aged birth through 21. The Current West Virginia [\*State Board of Education Policy-2419 Regulations for the Education of Students with Exceptionalities\*](#) shall be placed on the agenda for the second meeting of the Pendleton County Board of Education each August and formally adopted by the Board and it shall be the guiding framework for providing educational services to all eligible students with exceptionalities.

These policies and procedures apply to preschool, early childhood, middle childhood, adolescent and adult students whose educational programs require special education and related services. These apply to three year olds, as of their third birth date, through five year olds with disabilities, students with exceptionalities ages five through twenty-one, all exceptional gifted students in grades nine through twelve and to all gifted students in grades one through eight as specified. Rights under these regulations cease to apply at the end of the school year in which the student turns twenty-one years of age, that is, the year in which the student is twenty-one years of age prior to September 1 or the student has met graduation requirements for a standard high school diploma.

Pursuant to federal and state regulations and statutes, Pendleton County school officials shall, in collaboration with other agencies, carry out an aggressive search for disabled clients residing in the county. The target groups for this search shall be:

- ❖ Individuals with exceptionalities ages birth through twenty-one;
- ❖ Gifted individuals from first through eighth grades; and
- ❖ Exceptional gifted in grades nine through twelve.

The search shall include students with exceptionalities who are homeless or are wards of the state and students with exceptionalities attending private schools, regardless of the severity of their exceptionality, who are in need of special education and related services. Mandated child find activities include identification of students residing in other states who are attending private schools in West Virginia.

Education is a right extended to all exceptional individuals and not a privilege; therefore individuals between the ages of three and 21 who are identified as exceptional shall be granted the instructional and related services required to assure that they will receive a free appropriate education in the Pendleton County Schools. Instruction may take place in the classroom, in the home, in hospitals and institutions and other settings deemed to be appropriate.

Gifted students in grades one through eight and all exceptional gifted students in grades nine through 12 will also receive appropriate services. This fundamental right to an education must also be extended to students with disabilities who have been suspended or expelled from school. They must be provided special education and related services to meet their unique educational needs.

The Board views the Individualized Educational Program (IEP) as a communication vehicle between parents and school personnel and enables them, as equal participants, to jointly identify the student's educational needs, what services will be provided to meet those needs, and what the anticipated outcomes may be. The IEP process provides an opportunity for resolving any differences between the parents and the public agency concerning the special education needs of an exceptional student; first, through the IEP meeting; and second, through the procedural protections that are available to the student and the student's parents. All qualified special needs students must have a completed IEP prior to the implementation of any modifications of their educational program.

If a student with exceptional needs is enrolled in a teacher's class, and if the teacher did not participate in the meeting to develop the student's individualized education program, s/he must acknowledge reading and understanding the student's IEP by signing a copy. The teacher must also help the student succeed in class by making any needed or identified accommodations and modifications. These requirements apply to all teachers, including, but not limited to, teachers of music, musical education, and driver education.

Every teacher of a student for whom the board of education prepares a plan of accommodation pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, shall receive specific instruction from the school regarding the contents and requirements of 2015R2429 the plan and, if the plan is prepared in writing, the teacher shall receive a copy of the written plan and every update thereto and the teacher shall sign an acknowledgment of receipt of each plan and update.

No professional educator may be required to prepare or implement an IEP which exceeds the requirements of federal and state laws, policies, rules or regulations.

Details of specific programs and the State Standards may be procured from the Director of Special Education at the County Office.

### **Providing Services of a Sign Support Specialist or an Educational Sign Language Interpreter I or II**

The following guidelines shall be followed when a student's individualized education plan (IEP) or education plan established pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, requires the services of a sign support specialist or an educational sign language interpreter I or II:

- ❖ Any educational sign language interpreter I or II assigned to assist that student is a related service provider member of the education team who participates in IEP meetings and works with the team to implement the IEP;
- ❖ A sign support specialist may be assigned to a student with an exceptionality other than deaf or hard of hearing if it is determined that the student needs signs to support his or her expressive communication; and

- ❖ A sign support specialist may be assigned to a student who is deaf or hard of hearing in lieu of an interpreter only if an educational sign language interpreter I or II is unavailable, and the sign support specialist is executing a professional development plan while actively seeking certification as an educational sign language interpreter I or II. After two years the sign support specialist may remain in the assignment only if an educational sign language interpreter I or II remains unavailable, and with an approved waiver by the West Virginia Department of Education. An employee in this situation is entitled to full payment of the costs of certification acquisition or renewal pursuant to the certification renewal provisions of WVC §18A-2-4.

**(PL 93-380 and 94-142; WVC §18-20-1 et seq; SBP 2419 P.L. 94-142 and 105-17 (1997 amendments to IDEA), Rehabilitation Act of 1973 (504), Americans with Disabilities Act of 1990)**

## SB 7 Requiring CPR and Care for Conscious Choking Instruction in Public Schools

This bill amends and reenacts §18-2-9 of the Code of West Virginia relating to required instruction in cardiopulmonary resuscitation (CPR) and first aid in public school health education subjects; adding care for conscious choking first aid instruction; adding requirement for recognition of symptoms of drug and alcohol overdose in health curriculum. The bill elaborates upon the required CPR instruction. Each student, prior to graduation, must have at least 30 minutes of instruction in the proper administration of CPR and the psychomotor skills necessary to perform it.

SBP 2520.5 SBP 2520.5- Next Generation Health Education 5-12 Content Standards and Objectives also provides guidance for the health curriculum.

You will note that some outdated portions of the existing policy have been revised or removed.

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>I. INSTRUCTION</b>	<b>Last Review:</b>
<b>File: I.9. Special Instructional Programs/Concerns</b>	<b>August, 2014</b>

Preparing students for life in the 21<sup>st</sup> century requires that school systems provide programs that address a diverse spectrum of issues and concerns. To that end, the Pendleton County Schools are directed to provide instruction in the following areas as appropriate.

### (P) I.9.1. Health Education

WVC §18-2-9 directs the State Board of Education to require all of the public schools to teach the subject of health education, including instruction in any of the grades six through twelve as considered appropriate by the county board, on:

- ❖ The prevention, transmission and spread of acquired immune deficiency syndrome and other sexually transmitted diseases;
- ❖ substance abuse, including the nature of alcoholic drinks and narcotics, tobacco products and other potentially harmful drugs, with special instruction as to their effect upon the human system and upon society in general;
- ❖ the importance of healthy eating and physical activity to maintaining healthy weight; and
- ❖ education concerning cardiopulmonary resuscitation and first aid, including instruction in the care for conscious choking, and recognition of symptoms of drug or alcohol overdose.

The course curriculum requirements and materials for the instruction shall be adopted by the state board by rule in consultation with the Department of Health and Human Resources. The state board shall prescribe a standardized health education assessment to be administered within health education classes to measure student health knowledge and program effectiveness.  
(WVC §18-2-9)

### (P) ~~I.9.1.~~ I.9.1.1. AIDS/HIV Education

The goal of this policy is to assist in the protection of students by providing them with the knowledge and skills necessary to avoid behavior that will put them at risk of infection with the human immunodeficiency virus (HIV) and other sexually transmitted diseases. The instructional program shall include the following components, but is not limited to the following:  
(WVC 18-2-7; 18-2-9; 18-5-15d; SBP 2520.5)

- ❖ **Instructional program**

- AIDS and other sexually transmitted diseases prevention education shall be integrated into current programs of study such as health, science, developmental guidance, and social studies at all appropriate grade levels.
- The program shall be comprehensive to provide not only knowledge about the disease AIDS and other sexually transmitted diseases, but also have a focus on the behaviors and skills necessary to prevent exposure to the virus.
- ~~All high school students will, upon completion of the course requirements for graduation, have received appropriate AIDS prevention education. Such instruction shall normally be delivered within the health and science course requirements for graduation. The students who may have completed such classes prior to the implementation of this policy will be provided instruction at the most appropriate class available prior to their graduating. Redundant to first statement.~~
- ~~Guidelines, such as those published by the Centers for Disease Control and the January 29, 1988 MMWR shall be used in the curriculum development. Outdated!~~

#### ❖ **Staff development**

- Provisions shall be made for all school staff to receive in-service training about the nature of ~~the~~ AIDS and other sexually transmitted diseases ~~epidemic~~ and means of controlling ~~its~~ their spread and the role of the school in providing education to prevent transmission.
- Educational personnel responsible for classroom instruction shall receive staff development that will enable them to implement effective AIDS and other sexually transmitted diseases educational programs.
- Educational personnel responsible for delivering instruction shall periodically participate in staff development activities that will provide current information related to AIDS and other sexually transmitted diseases education.

#### ❖ **Parent involvement**

- ~~Parent or guardians shall be made aware of and invited to staff development programs related to AIDS prevention education~~
- ~~As curricular materials are developed and/or adopted, parents or guardians shall be made aware of them. The AIDS curriculum and materials shall be available for parental examination.~~
- An opportunity shall be afforded to the parent or guardian of a child subject to instruction in the prevention, transmission and spread of acquired immune deficiency syndrome and other sexually transmitted diseases to examine the course curriculum requirements and materials to be used in such instruction.
- Parents or guardians may exempt their child from participation in the AIDS and other sexually transmitted diseases instruction by providing written notice to the school principal.

#### ❖ **Curriculum development**

- ~~The county shall provide a comprehensive AIDS education program.~~
- Pendleton County professional personnel shall utilize the Health Content Standards set forth in SBP 2520.5 to design curricula, allocate instructional resources, provide a basis for assessing student achievement and progress, and promote a rigorous and challenging health education curriculum including instruction about AIDS and other sexually transmitted diseases.
- As appropriate, the development of the curricula for these programs shall include the participation of professional personnel, parents and community representatives.
- ~~Such an AIDS prevention education curriculum shall be developed with the assistance of professional personnel, parents, and community representatives.~~
- ~~The AIDS educational program shall be included in the broad comprehensive program of study devoted to Family Life Issues. This program of study shall include family life education, drug education, self esteem, and sexually transmitted diseases.~~  
(WVC §18-2-9 and §18-5-15d)

**(P) I.9.3. I.9.1.2. Cardiopulmonary Resuscitation Instruction (CPR) and First Aid Training**

Consistent with [SBP 2520.5- Next Generation Health Education 5-12 Content Standards and Objectives](#) and WVC §18-2-9 the Pendleton County Board of Education has directed that all students enrolled in the high schools shall receive instruction in Cardiopulmonary Resuscitation (CPR) and First Aid prior to graduating from high school. ~~The CPR and First Aid instruction shall be provided to all sophomore students as an integral part of their physical education instruction that year. All instruction shall be carried out by qualified, trained, certified CPR instructors. The coordination of the CPR and First Aid instruction shall be the responsibility of the building principal. The instructor shall utilize such outside medical resources from the County Heart Association personnel and equipment as may be necessary and expedient to see that the program is efficiently and effectively completed.~~ at least thirty minutes of instruction prior to graduation on the proper administration of cardiopulmonary resuscitation (CPR) and the psychomotor skills necessary to perform cardiopulmonary resuscitation. The term “psychomotor skills” means the use of hands-on practicing to support cognitive learning. Cognitive-only training does not qualify as “psychomotor skills”.

The CPR instruction must be based on an instructional program established by the American Heart Association or the American Red Cross or another program which is nationally recognized and uses the most current national evidence-based Emergency Cardiovascular Care guidelines and incorporates psychomotor skills development into the instruction.

A licensed teacher is not required to be a certified trainer of cardiopulmonary resuscitation to facilitate, provide or oversee such instruction. The instruction may be given by community members, such as emergency medical technicians, paramedics, police officers, firefighters, licensed nurses and representatives of the American Heart Association or the American Red Cross.

A local school district may offer CPR instruction for longer periods of time and may enhance the curriculum and training components, including, but not limited to, incorporating into the instruction the use of an automated external defibrillator (AED): Provided, That any instruction that results in a certification being earned must be taught by an authorized CPR/AED instructor.

SBP 2520.5 also requires that all students receive instruction in basic First Aid skills and procedures such as controlling bleeding, airway obstructions, fractures, wound treatment, etc.

Click on the above link for details of SBP 2520.5.  
(WVC §18-2-9; SBP2520.5)

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**SB 287 is an act to amend the code by adding a new section, designated §18-2-32 , relating to providing for awarding posthumous high school diplomas under certain circumstances; and designating these provisions as “Todd’s Law”. This bill directs the State Board of Education to allow a high school diploma to be issued to a deceased student, at the request of the parent, guardian or custodian, if the student was enrolled in a West Virginia public school at the time of death, died after the completion of 11th grade, and was academically eligible or on track to complete the requirements for graduation at the time of death. W. Va. Code § 18-2-32.**

**NEW POLICY**

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>I. INSTRUCTION</b>	<b>Last Review:</b>
<b>File: I.17. Graduation Requirements</b>	<b>August, 2014</b>

**(P) I.17.11. Posthumous High School Diplomas**

Notwithstanding any provision of this code to the contrary, the state board shall provide for the awarding of a high school diploma to a deceased student, at the request of the parent, guardian or custodian, if the student:

- ❖ Was enrolled in a public school in this state at the time of death;
- ❖ Was academically eligible, or on track to complete the requirements for graduation at the time of death; and
- ❖ Died after the completion of the eleventh grade school year.  
(WVC §18-2-32)



## House Bill 2377--Authorizing State Board of Education to Approve Certain Alternatives With Respect to Instructional Time

House Bill 2377 empowers the State Board of Education to approve on a case-by-case basis, certain alternatives proposed by county boards and by schools to “the letter of the law” on instructional time. The State Board may approve a proposed alternative only if, in the State Board’s judgment, the alternative meets the “spirit and intent” of applicable statutes and has the sole purpose of improving student learning within a reasonable period.

### NEW POLICY

<b>PENDLETON COUNTY BOARD OF EDUCATION</b> <b>I. INSTRUCTION</b> <b>File: I.26. School Calendar</b>	<b>Adopted: October 1, 2013</b> <b>Last Review:</b> <b>August, 2014</b>
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### (P) I.26.2. Alternatives for Meeting Instructional Time Requirements#

Legislation has empowered the State Board of Education to approve on a case-by-case basis, certain alternatives proposed by county boards and by schools to “the letter of the law” on instructional time. The State Board may approve a proposed alternative only if, in the State Board’s judgment, the alternative meets the “spirit and intent” of applicable statutes and has the sole purpose of improving student learning within a reasonable period. Such alternatives must:

- ❖ Achieves the spirit and intent of the laws for an instructional term that provide the instructional time necessary for students to meet or exceed the high quality standards for student performance adopted by the state board;
- ❖ Ensures sufficient time within the instructional term to promote the improvement of instruction and instructional practices;
- ❖ Incorporates a school calendar approved in accordance with the approval process required by section forty-five, article five of this chapter;
- ❖ Allows for school-level determination of alternatives affecting time within the school day that preserve the spirit and intent of providing teachers with:
  - Sufficient planning time to develop engaging, differentiated instruction for all students in all classes, which includes at least 40 minutes in length for the elementary level and as required by §18A-4-14 of the code for the secondary level; and
  - Collaborative time for teachers to undertake and sustain instructional improvement. This determination may be made only in the form of a school policy that is part of the school’s strategic improvement plan and is approved by a vote of the faculty senate; and
- ❖ Has the sole purpose of improving student learning and that improvement is evident within a reasonable period.

(WVC §18A-2-5)

House Bill 2005  
Relating to Alternative Programs for the Education of Teachers  
In effect June 12, 2015

H.B. 2005 contains this significant amendment to §18A-3-2a: “Citizen coach” certificates for persons to serve the public schools as athletic coaches or coaches of other extracurricular activities may now be issued even if a currently employed certified professional educator has applied for the position

HB 2669 amends and reenacts WVC §16-3D-2 and §16-3D-3 relating to compulsory tuberculosis testing; defining terms; removing requirement for compulsory tuberculosis testing for school children transferring from outside this state; omitting the requirement for all school personnel to have one tuberculin test at the time of employment; and eliminating the requirement that local health officers be responsible for arranging follow-up of school personnel and students who are not able to get a physician evaluation for a positive tuberculin skin test.

Going forward you will only have to test employees or students that you “suspect” to have active tuberculosis. In all probability, the responsibility for determining who is “suspect” will fall to your school nurses and county health officials.

<b>PENDLETON COUNTY BOARD OF EDUCATION</b> <b>P. PERSONNEL – PROFESSIONAL AND SERVICE</b> <b>File: P.2. Employment of Professional Staff</b>	<b>Adopted: August 20, 2003</b> <b>Last Review:</b> <b>August, 2014</b>
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**(P) P.2.6. Testing for Tuberculosis**

~~All school personnel (including full time or part time substitutes) shall have one approved tubereulin skin test at the time of employment performed by the local health department or the person’s physician. Additional tuberculosis skin tests or other medical screens may be required by the local health department or Commissioner of the Bureau for Public Health, if medically indicated. Positive reactors and those with previous positive skin tests are to be immediately referred to a physician for evaluation and treatment or further studies. School personnel found to have tuberculosis shall have their employment suspended until the local health officer, in consultation with the Commissioner, approves a return to work. School personnel who have not had the required examination will be suspended from employment until reports of examination are confirmed by the local health officer.~~

~~The local health officer shall be responsible for arranging proper follow up of school personnel and students who are unable to obtain physician evaluation for a positive tubereulin skin test.~~

~~The Commissioner shall have the authority to require selective testing of students and school personnel for tuberculosis when there is reason to believe that they may have been exposed to the tuberculosis organism.~~

~~The school nurse shall identify and refer any students or school personnel to the local health officer in instances where he/she may have reason to suspect that the individual has been exposed to tuberculosis or has symptoms indicative of the disease.~~  
~~(WVC §16-3D-3)~~

School personnel found or suspected to have active tuberculosis shall have their employment suspended until the local health officer, in consultation with the commissioner, approves a return to work.

The commissioner may require selective testing of students and school personnel for tuberculosis when there is reason to believe that they may have been exposed to the tuberculosis organism or they have signs and symptoms indicative of the disease. School nurses shall identify and refer any students or school personnel to the local health department in instances where they have reason to suspect that the individual has been exposed to tuberculosis or has symptoms indicative of the disease.

(WVC §16-3D-3)

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**(P) P.2.7. Issuing Permits to Non-School Personnel Coaches**

It is the policy of the Board to utilize school employees for coaching positions whenever possible; therefore, the Superintendent and school principals shall make every attempt to secure coaches from within the school or within the school system. In the event the Superintendent must recommend a non-school person for a middle or high school coaching position, he/she may petition the State Superintendent to issue a permit to the person who will be serving as either an extracurricular activity coach (sponsor) or an athletic coach. Such permits are subject to the following limitations:

- ❖ Such person shall be employed under a contract with the Pendleton County Board of Education which specifies the duties to be performed, which specifies a rate of pay equivalent to the rate of pay for professional educators in the district who accept similar duties as extra duty assignments and which provides for liability insurance associated with the activity: **Provided**, that such person shall not be considered an employee of the Board for salary and benefit purposes other than as specified in the contract;
- ~~❖—A currently employed certified professional educator has not applied for the position; and~~
- ❖ Such person completes an orientation program designed and approved in accordance with state board rules (SSAC provides the orientation program).

The Board further requires that all such employees receive and read carefully all county policies and regulations regarding the responsibilities of school personnel entrusted with the supervision of students. Such employees shall be required to submit to a tuberculin skin test as prescribed by law and shall submit to and FBI background check.

Such extracurricular assignments are for one year only and must be reposted annually in the event that a currently employed certified professional educator should desire the job.

The above regulations applied to both paid and unpaid non-school personnel coaches.

(WVC §18A-3-2a)

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HB 2381 is an act to amend the code by adding thereto a new section, designated §18A-4-2c, relating to providing a teacher mentoring increment for classroom teachers with national board certification. This legislation grants a \$2,000 annual increment to National Board-certified teachers who are assigned to certain schools where, as part of their regular employment, they serve as mentors to other teachers. The schools are those identified by the State Department of Education as “persistently low performing” because they are among the lowest 20 percent of schools in three-year aggregate math and reading/language arts scores on the statewide summative assessment. The mentoring must involve working under the principal’s direction to improve the other teachers’ professional practice knowledge and skills through on-site embedded professional development and other appropriate building-level approaches. W. Va. Code § 18A-4-2(a),(b),(c).

While this law allows these mentors to work with new teachers in their school, it should not be confused with the mentors you may appoint to work with new teachers in your schools that are not persistently low performing. I am not aware of any specific amount that has been prescribed for payment of mentors you may appoint to assist new teaches in your school system.

**NEW POLICY**

<p><b>PENDLETON COUNTY BOARD OF EDUCATION</b>  <b>P. PERSONNEL – PROFESSIONAL AND SERVICE</b>  <b>File: P.2. Employment of Professional Staff</b></p>	<p><b>Adopted: August 20, 2003</b>  <b>Last Review:</b>  <b>August, 2014</b></p>
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**(P) P.2.9. Teacher Mentoring Increment for Classroom Teachers with National Board Certification**

An additional \$2,000 shall be paid annually to each classroom teacher who:

- ❖ Holds a valid certificate issued by the National Board for Professional Teaching Standards;
- ❖ Is employed to teach at a school designated as a persistently low performing school by the West Virginia Department of Education; and
- ❖ Is also assigned as part of their regular employment, to serve in a mentoring capacity for other teachers at the school.

The additional payment:

- ❖ Shall be in addition to any amounts prescribed in the applicable state minimum salary schedule;
- ❖ Shall be paid in equal monthly installments; and
- ❖ Shall be considered a part of the state minimum salaries for teachers.

For the purposes of this policy:

- ❖ “Persistently low performing school” means a school identified by the department as being among the lowest twenty percent of schools in the state in three-year aggregate mathematics and reading/language arts scores on the statewide summative assessment; and
- ❖ “Mentoring” means working under the direction of the principal to improve the professional practice knowledge and skills of other teachers employed at the school through on-site embedded professional development and other appropriate school building level approaches.

Mentoring includes, but is not limited to, an assigned role in the comprehensive system for teacher induction and professional growth pursuant to §18A-3c-3, and may include working with other teachers to improve instruction at the school.

A national board certified teacher who becomes eligible for an additional payment under §18A-3c-3 remains eligible for five consecutive years of employment at the same school in the same assignment regardless of a subsequent change in the designation of the school as a persistently low performing

school. The teacher may become eligible again at the same school if it continues to be persistently low performing or at a different persistently low performing school, but not sooner than five years from the beginning of a previous eligibility.

Nothing in this section permits continued eligibility if the certificate issued by the National Board for Professional Teaching Standards is no longer valid.

Notwithstanding any other provision of this chapter to the contrary, a county may use other funds, including federal and local funds, available to them to increase or provide other incentives for highly qualified teachers to teach at persistently low performing schools.  
**(WVC §18A-4-2c)**

<b>PENDLETON COUNTY BOARD OF EDUCATION</b> <b>P. PERSONNEL – PROFESSIONAL AND SERVICE</b> <b>File: P.3. Employment of Service Personnel</b>	<b>Adopted: August 20, 2003</b> <b>Last Review:</b> <b>August, 2014</b>
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**(P) P.2.6. Testing for Tuberculosis**

~~All school personnel (including full time or part time substitutes) shall have one approved tuberculin skin test at the time of employment performed by the local health department or the person's physician. Additional tuberculosis skin tests or other medical screens may be required by the local health department or Commissioner of the Bureau for Public Health, if medically indicated. Positive reactors and those with previous positive skin tests are to be immediately referred to a physician for evaluation and treatment or further studies. School personnel found to have tuberculosis shall have their employment suspended until the local health officer, in consultation with the Commissioner, approves a return to work. School personnel who have not had the required examination will be suspended from employment until reports of examination are confirmed by the local health officer.~~

~~The local health officer shall be responsible for arranging proper follow up of school personnel and students who are unable to obtain physician evaluation for a positive tuberculin skin test.~~

~~The Commissioner shall have the authority to require selective testing of students and school personnel for tuberculosis when there is reason to believe that they may have been exposed to the tuberculosis organism or.~~

~~The school nurse shall identify and refer any students or school personnel to the local health officer in instances where he/she may have reason to suspect that the individual has been exposed to tuberculosis or has symptoms indicative of the disease.~~

School personnel found or suspected to have active tuberculosis shall have their employment suspended until the local health officer, in consultation with the commissioner, approves a return to work.

The commissioner may require selective testing of students and school personnel for tuberculosis when there is reason to believe that they may have been exposed to the tuberculosis organism or they have signs and symptoms indicative of the disease. School nurses shall identify and refer any students or school personnel to the local health department in instances where they have reason to suspect that the individual has been exposed to tuberculosis or has symptoms indicative of the disease.  
**(WVC §16-3D-3)**

**Senate Bill 378 --Relicensing Electricians without Retesting Under Certain Circumstances**  
 Electricians previously licensed by the State Fire Marshal, but who did not renew their electrician's license, may now do so, without retesting, within three years of the date of the last renewal, provided that the license has not been revoked.

**House Bill 2702--Redefining Service Personnel Class Titles of Early Childhood Classroom Assistant Teacher**

This bill renames the three service personnel class titles established in 2013 for Aides employed in public school kindergarten programs. The former class titles of "Early Childhood Assistant Teacher – Temporary Authorization," "Early Childhood Assistant Teacher – Permanent Authorization" and "Early Childhood Assistant Teacher – Paraprofessional Certificate" are replaced, respectively, with the class titles of "Early Childhood Assistant Teacher I," "Early Childhood Assistant Teacher II" and "Early Childhood Assistant Teacher III." The definition and pay grade of each is as before, except that the minimum requirements to be classified as an Early Childhood Assistant Teacher II are to be determined by the State Board of Education and need no longer meet or exceed the requirements for a child development associate. A person holding the position of Aide in a kindergarten program on or after July 1, 2014, must hold a multiclassification that includes an Aide and/or Paraprofessional class title. W. Va. Code § 18-5-18(b); W. Va. Code § 18A-4-8(i)(36),(37),(38); W. Va. Code § 18A-4-8(u).

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>P. PERSONNEL – PROFESSIONAL AND SERVICE</b>	<b>Last Review:</b>
<b>File: P.3. Employment of Service Personnel</b>	<b>August, 2014</b>

**(P) P.3.4. Commercial Driver's License and Electrician License for School Personnel and Educational Sign Language Interpreter Certification**

**Bus Operators:**

Employees engaged in work related activities that require the driving of a motor vehicle used in commerce to transport at least 16 passengers (including the driver) or property shall be required to hold a commercial driver's license (CDL) as a condition of employment. The Board shall reimburse the employee for any fees related to obtaining the CDL.

A bus operator shall be disqualified from driving a school bus or any other commercial motor vehicle if convicted of driving a school bus commercial motor vehicle while engaged in texting. A driver is considered to be engaged in texting if s/he is operating a motor vehicle with the engine running, including while temporarily stopped because of traffic, a traffic control device, or other momentary delays. However, a driver is not considered to be operating a motor vehicle when the driver has moved the vehicle to the side of or off a highway and halted in a location where the vehicle can safely remain stationary, regardless of whether the motor is running.

**Electricians:**

If the Board requires employees who perform electrical work to hold a license, it shall also pay the cost of such license.

An electrician previously licensed by the State Fire Marshal who did not renew his or her electrician's license may renew the license without retesting within three years of the date of the last renewal: Provided, That the electrician's license had not been revoked and that the applicant pays double the current fee if his or her license has been lapsed for two renewal periods, or triple the current fee if his or her license has been lapsed for three renewal periods.

### **Sign Language Interpreters:**

The cost of certification renewal and satisfying the requirements of the West Virginia Registry of Interpreters shall be paid in full by the Board for any service person who is:

- ❖ Employed as an educational sign language interpreter I or II and is required to complete any testing, training or continuing education in order to renew or maintain certification at that level;
- ❖ Employed as an educational sign language interpreter I and is required to complete any testing, training or continuing education to advance to an educational sign language interpreter II; or
- ❖ Employed as a sign support specialist and is required to complete any testing, training or continuing education in order to advance to an educational sign language interpreter I or II.

For any service person required to hold certification as a condition of employment, any time devoted to acquiring or maintaining the certification, including instructional time and training, constitutes hours of continuing education for purposes of meeting the annual continuing education requirements in state board policy. (WVC §18A-2-4)

### **(P) P.3.20. Special Requirements for Kindergarten Aides**

The state board shall establish the minimum requirements for all paraprofessional personnel employed in kindergarten programs established pursuant to the code and no such paraprofessional personnel may be employed in any kindergarten program unless he or she meets the minimum requirements.

Beginning July 1, 2014, any person previously employed as an aide in a kindergarten program and who is employed in the same capacity on and after that date and any new person employed in that capacity in a kindergarten program on and after that date shall hold the position of aide and either Early Childhood Classroom Assistant Teacher—Temporary Authorization, Early Childhood Classroom Assistant Teacher—Permanent Authorization or Early Childhood Classroom Assistant Teacher—Professional Certification.—Early Childhood Classroom Assistant Teacher I, Early Childhood Classroom Assistant Teacher II or Early Childhood Classroom Assistant Teacher III.

Any person employed as an aide in a kindergarten program that is eligible for full retirement benefits before July 1, 2020, may remain employed as an aide in that position and ~~may not be required to acquire licensure pursuant to the code.~~ shall be granted an Early Childhood Classroom Assistant Teacher permanent authorization by the state superintendent pursuant to §18A-3-2a of the state code.

### **Definitions:**

- ❖ "Early Childhood Classroom Assistant Teacher I" means a person who does not possess minimum requirements for the permanent authorization requirements, but is enrolled in and pursuing requirements;
- ❖ "Early Childhood Classroom Assistant Teacher II" means a person who has completed the minimum requirements for a state-awarded certificate for early childhood classroom assistant teachers as determined by the State Board;
- ❖ "Early Childhood Classroom Assistant Teacher III" means a person who has completed permanent authorization requirements, as well as additional requirements comparable to current paraprofessional certificate;

(WVC §18-5-18; §18A-4-8)



## Senate Bill 12 – Relating to Payment of Separated Employees’ Outstanding Wages.

Senate Bill 12 affects how soon an employer must pay final wages to a separating employee. Whether an employee is discharged or resigns, the employer is required to pay the employee on or before the next regular payday for work that the employee performed prior to the separation of employment. Prior to this bill, employers were required to pay discharged employees by the next regular payday or within four business days, whichever occurred first. Likewise, under the prior version of the Act, if a resigning employee gave the employer at least one pay period’s written notice of the employee’s intention to quit, the employer was required to pay the employee, by the time of quitting, all wages earned. By establishing a uniform time period, Senate Bill 12 removes the different deadlines that previously applied to paying discharged employees and those who quit or resign their employment.

An employer who does not pay an employee on time will now be liable to the employee for twice the wages due, instead of three times the wages due. W. Va. Code § 21-5-4(e).

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>P. PERSONNEL – PROFESSIONAL AND SERVICE</b>	<b>Last Review:</b>
<b>File: P.6. Employee Contracts and Compensation Plans</b>	<b>August, 2014</b>

### (P) P.6.6. Employees Separated from Payroll before Paydays

~~Whenever the Pendleton County Board of Education discharges an employee, it shall pay the employee's wages in full no later than the next regular payday or four business days, whichever comes first. wages due for work that the employee performed prior to the separation of employment on or before the next regular payday on which the wages would otherwise be due and payable: Provided, That fringe benefits, as defined in §21-5-1, that are provided an employee pursuant to an agreement between the employee and employer and that are due, but pursuant to the terms of the agreement, are to be paid at a future date or upon additional conditions which are ascertainable are not subject to this subsection and are not payable on or before the next regular payday, but shall be paid according to the terms of the agreement. For purposes of this section, “business day” means any day other than Saturday, Sunday or any legal holiday as set forth in §2-2-2 of the code.~~

~~Payment shall be made through the regular pay channels or, if requested by the employee, by mail. For purposes of this section, “business day” means any day other than Saturday, Sunday or any legal holiday as set forth in WVC §2-2-1.~~

~~Payment may be made in person in any manner permissible under §21-5-3, through the regular pay channels or, if requested by the employee, by mail. If the employee requests that payment under this section be made by mail, that payment shall be considered to have been made on the date the mailed payment is postmarked.~~

~~In the event an employee quits or resigns, the Board shall pay the employee's wages in full no later than the next regular payday or four business days, whichever comes first. Payment shall be made through the regular pay channels or by mail if requested by the employee. However, if the employee gives at least one pay period's notice of intention to quit the Board shall pay all wages earned by the employee at the time of quitting.~~

~~In the event an employee intends to resign his/her position at the conclusion of the school term, and such employee wishes to submit an early letter of resignations as a courtesy to the Board of Education, he/she shall be instructed to indicate the effective date of the resignation as June 30 of the~~

current year. June 30 shall be recognized as the day of separation and all wages due the employee shall be dispersed as prescribed by law.

If the Board fails to pay an employee wages as required under WVC §21.5-4, it, in addition to the amount which was unpaid when due, is liable to the employee for ~~three~~ two times that unpaid amount as liquidated damages. Every employee shall have a lien and all other rights and remedies for the protection and enforcement of his or her salary or wages, as s/he would have been entitled to had he or she rendered service therefore in the manner as last employed.

**(WVC §21-5-4)**

## Senate Bill 529 -- Relating to PERS, SPRS and TRS Benefits and Costs

Under Senate Bill 529, persons who first become members of the retirement system on or after July 1, 2015 (1) may take voluntary retirement at age 62, instead of age 60, and upon attaining ten or more years of actual, contributing service, rather than five or more years of service, (2) may not apply accrued annual or sick days to acquire additional credited service, (3) will have a “final average salary” that is based on the highest annual compensation received during any period of five consecutive years of contributing service, rather than three consecutive years of credited service, contained within their final 15 years of credited service, and (4) will have their teacher system final average salary computed without taking into account compensation for services rendered in a position covered by the public retirement system. *W. Va. Code § 5-13-2(h)*; *W. Va. Code § 5-10-2(8)*; *W. Va. Code § 5-10-15a*; *W. Va. Code § 5-10-20*.

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>P. PERSONNEL – PROFESSIONAL AND SERVICE</b>	<b>Last Review:</b>
<b>File: P.7. Employee Fringe Benefits</b>	<b>August, 2014</b>

### (P) P.7.5. Retirement Plan

The 2008 Special Legislature Session resulted in a significant change in the retirement options available to school employees. Prior to that session, school employees were divided into two groups for retirement benefits: 1) The Teachers’ Defined Benefit Retirement System (TDBS) and 2) The Teachers’ Defined Contribution System (TDCRS). The new legislation allowed the merging of these two competing plans based upon the desires of school employees across the state. All school employees are now participating in one of the following plans:  
(WVC §18-7A-13; §18-7A-13a; §18-7A-14; §18-7B-3; §18-7B-7; §18-7B-7a; §18-7B-8; §18-7D-1 thru 11)

#### **TEACHERS’ DEFINED BENEFITS RETIREMENT SYSTEM (TDBS)**

The State Teachers’ Retirement System (TRS) was established on July 1, 1941 for the purpose of providing retirement benefits for teachers and school service personnel. This plan remained in effect until July 1, 1991. The TRS was reopened for employees hired after July 1, 2005 and it was merged with TDCRS July 1, 2009. The current TDBS is a defined benefit plan in which an active member contributes 6% of his or her gross monthly salary into the retirement plan. The employer contributes an additional 15% of the member’s gross monthly salary into the plan for employees hired before July 1, 2005 and 7.5% for employees hired for the first time on or after July 1, 2005.

#### **Retirement Benefits for Employees/Members Employed Prior to July 1, 2015**

In order to qualify for regular retirement benefits, a member of TRS must meet eligibility requirements. A member who is currently in covered employment may:

- ❖ Retire with full benefits at age 60 with 5 or more years of service all of which shall be actual, contributory ones.
- ❖ Retire with full benefits at age 55 with 30 or more years of service.
- ❖ Retire with full benefits at any age with 35 or more years of service.
- ❖ Retire with reduced benefits before age 55 with at least 30 but less than 35 years of service.

A member with 5 or more years of contributing service who terminates employment prior to retirement, but does not withdraw his or her employee contributions, will be eligible for retirement benefits at age 62, or at age 60 with 20 years of contributing service.

Upon retirement in the TDBS plan, members must apply to the State Retirement Board for their benefits and select one of the benefit payment options available to them. Retirement benefits are based on two percent of the average of the member's ~~three~~ five highest fiscal years of total earnings from covered employment during the member's last fifteen years of service.

### **Utilization of Accrued Sick and Annual Leave at Retirement for Employees/Members Employed Prior to July 1, 2015**

A member may elect to use unused annual/vacation and/or sick leave toward an increase in retirement benefits, on the basis of two days of retirement service credit for each day of unused annual/vacation and/or sick leave. Such days will constitute additional service in the computation of the member's retirement annuity. The additional credited service shall not be used in meeting initial eligibility for retirement criteria. Lump sum payments of annual/vacation leave shall not be used in the computation of retirement benefits under TDBS.

In the alternative to increasing retirement benefits, any member who participates in a Public Employees Insurance Agency (PEIA) insurance plan may elect to use any unused annual/vacation and sick leave days at the time of retirement to purchase health insurance under the PEIA or to acquire additional credited service under TRS. Unused leave cannot be used for both options.

If an individual was enrolled in the PEIA insurance plan before July 1, 1988, and coverage has been continuous since that time, his or her unused annual/vacation and/or sick leave may be used to pay towards health insurance premiums. The retiree may purchase one month of single health coverage for every two days of unused annual/vacation and/or sick leave, or one month of family health coverage for every three days of used annual/vacation and/or sick leave.

If an individual was enrolled in the PEIA insurance plan between July 1, 1988 and June 30, 2001, and coverage has been continuous since that time, the retiree may purchase one-half month of single health coverage for every two days of unused annual/vacation and/or sick leave, or one-half month of family health coverage for every three days of unused annual/vacation and/or sick leave. Members enrolled in the PEIA insurance plan on or after July 1, 2001 are not eligible to use unused annual/vacation and/or sick leave towards the purchase of health insurance.

### **Retirement Benefits for Employees/Members Employed on or After July 1, 2015**

- ❖ A member who has 10 or more years of contributing service, and attains or has attained the age of 62 years with an annuity in accordance with established guidelines.
- ❖ Any member who has ten or more years of contributing service and who leaves the employ of the Board prior to attaining age 62 years for any reason except his or her disability or death, but does not withdraw his/her accumulated contributions from the fund is entitled to an annuity computed according to established guidelines. His or her annuity shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 64 years.
- ❖ Any member who qualifies for deferred retirement benefits and has twenty or more years of contributing service in force, but does not withdraw his/her accumulated contributions from the fund is entitled to an annuity according to established guidelines. His or her annuity shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 63 years.
- ❖ Any member who has 10 or more years of contributing service in force, is currently employed by the Board and who elects to take early retirement, which for the purposes of this subsection means retirement following attainment of age 57 but prior to attaining age 62, is entitled to the full

- computation of annuity according to established guidelines but with the reduced actuarial equivalent of the annuity the member would have received if his or her benefit had commenced at age 62 when he or she would have been entitled to full computation of benefit without any reduction. His or her annuity shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 60 years.
- ❖ Any member who has 20 or more years of contributing service in force, is currently employed by the Board and who elects to take early retirement, which for the purposes of this subsection means retirement following attainment of age 60 but prior to attaining age 62, is entitled to the full computation of annuity according to established guidelines but with the reduced actuarial equivalent of the annuity the member would have received if his or her benefit had commenced at age 62 when he or she would have been entitled to full computation of benefit without any reduction. His or her annuity shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 57 years.
  - ❖ Any member who has 30 or more years of contributing service in force, is currently employed by the Board and who elects to take early retirement, which for the purposes of this subsection means retirement following attainment of age 55 but prior to attaining age 62, is entitled to the full computation of annuity according to established guidelines but with the reduced actuarial equivalent of the annuity the member would have received if his or her benefit had commenced at age 62 when he or she would have been entitled to full computation of benefit without any reduction. His or her annuity shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 55 years.
  - ❖ A member who has 10 or more years of contributing service, and attains or has attained the age of 62 years with an annuity in accordance with established guidelines.
  - ❖ Any member who has ten or more years of contributing service and who leaves the employ of the Board prior to attaining age 62 years for any reason except his or her disability or death, but does not withdraw his/her accumulated contributions from the fund is entitled to an annuity computed according to established guidelines. His or her annuity shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 64 years.
  - ❖ Any member who qualifies for deferred retirement benefits and has twenty or more years of contributing service in force, but does not withdraw his/her accumulated contributions from the fund is entitled to an annuity according to established guidelines. His or her annuity shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 63 years.
  - ❖ Any member who has 10 or more years of contributing service in force, is currently employed by the Board and who elects to take early retirement, which for the purposes of this subsection means retirement following attainment of age 57 but prior to attaining age 62, is entitled to the full computation of annuity according to established guidelines but with the reduced actuarial equivalent of the annuity the member would have received if his or her benefit had commenced at age 62 when he or she would have been entitled to full computation of benefit without any reduction. His or her annuity shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 60 years.
  - ❖ Any member who has 20 or more years of contributing service in force, is currently employed by the Board and who elects to take early retirement, which for the purposes of this subsection means retirement following attainment of age 60 but prior to attaining age 62, is entitled to the full computation of annuity according to established guidelines but with the reduced actuarial equivalent of the annuity the member would have received if his or her benefit had commenced at age 62 when he or she would have been entitled to full computation of benefit without any reduction. His or her annuity shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 57 years.
  - ❖ Any member who has 30 or more years of contributing service in force, is currently employed by the Board and who elects to take early retirement, which for the purposes of this subsection means retirement following attainment of age 55 but prior to attaining age 62, is entitled to the full computation of annuity according to established guidelines but with the reduced actuarial equivalent of the annuity the member would have received if his or her benefit had commenced at age 62 when he or she would have been entitled to full computation of benefit without any reduction. His or her annuity

shall begin the first day of the calendar month next following the month in which his or her application for same is filed with the board of trustees on or after his or her attaining age 55 years.

### **Utilization of Accrued Sick and Annual Leave at Retirement for Employees/Members Employed after July 1, 2015**

For those persons who first become members of the retirement system on or after July 1, 2015, accrued annual or sick days may not be applied to acquire additional credited service.

When an employee participating in the PEIA insurance plan who elected to participate in the plan on and after July 1, 1988, is compelled or required by law to retire before reaching the age of sixty-five, or when the participating employee voluntarily retires as provided by law, that employee's annual leave or sick leave, if any, shall be credited toward one half of the premium cost of the insurance provided by this article, for periods and scope of coverage determined according to the following formulae:

- ❖ One additional month of single retiree coverage for every two days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement; or
- ❖ one additional month of coverage for a retiree, his or her spouse and dependents for every three days of annual leave or sick leave, or both, which the employee had accrued as of the effective date of his or her retirement.
- ❖ The remaining premium cost shall be borne by the retired employee if s/he elects the coverage.

For purposes of this subsection, an employee who has been a participant under spouse or dependent coverage and who reenters the plan within 12 months after termination of his or her prior coverage shall be considered to have elected to participate in the plan as of the date of commencement of the prior coverage.

For purposes of this subsection, an employee shall not be considered a new employee after returning from extended authorized leave on or after July 1, 1988.

## House Bill 2939--Relating to Requirements for Mandatory Reporting of Sexual Offenses on School Premises Involving Students

House Bill 2939 has amended the existing child abuse laws to require mandatory reporting of sexual offenses on public or private school premises involving or between students. A teacher or other school employee who personally observes sexual contact, sexual intercourse or sexual intrusion of a child on school premises, school buses or other transportation used for a school purpose must immediately, but not later than 24 hours, report the circumstances or cause a report to be made to the State Police or other law enforcement agency having jurisdiction to investigate.

You will note that this policy has been rearranged a bit in order to clearly reflect the changes in the law.

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>P. PERSONNEL – PROFESSIONAL AND SERVICE</b>	<b>Last Review:</b>
<b>File: P.9. Professional Conduct and Responsibilities</b>	<b>August, 2014</b>

### (P) P.9.3. Reporting Suspected Child Abuse and Neglect

The purpose of these procedures is to protect the best interests of any child who may be subjected to abuse or neglect in the home, the school, or any other environment. West Virginia's abuse and neglect laws are very specific about the duties and responsibilities of all school personnel regarding the reporting of suspected incidents of abuse or neglect. The following is a summary of these laws and regulations as they relate to school personnel.

#### Mandatory Reporting of Abuse and Neglect

- ❖ School personnel, Board approved volunteers, volunteer coaches and non-school personnel paid coaches who have reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than 48 hours after suspecting this abuse or neglect, report the circumstances or cause a report to be made to the Department of Health and Human Resources.
- ❖ In any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint.
- ❖ Any person required to report under WVC §49-2-803 shall also immediately notify the person in charge of the school facility or designee who may supplement the report or cause an additional report to be made.
- ❖ Any person over the age of 18 who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child, shall immediately, and not more than 48 hours after receiving such a disclosure or observing the sexual abuse or sexual assault, report the circumstances or cause a report to be made to the Department of Health and Human Resources or the State Police or other law-enforcement agency having jurisdiction to investigate the report.

In the event that the individual receiving the disclosure or observing the sexual abuse or sexual assault has a good faith belief that the reporting of the event to the police would expose either the reporter, the subject child, the reporter's children or other children in the subject child's household to an increased threat of serious bodily injury, the individual may delay making the report while s/he undertakes measures to remove themselves or the affected children from the perceived threat of additional harm. The individual makes the report as soon as practicable after the threat of harm has been reduced.

The law-enforcement agency that receives a report under shall report the allegations to the Department of Health and Human Resources and coordinate with any other law-enforcement agency, as necessary to investigate the report.

- ❖ Reports of child abuse or neglect pursuant to the law shall be made immediately by telephone to the local Department of Health and Human Resources and shall be followed by a written report within 48 hours if so requested by the agency. As appropriate, the county prosecuting attorney may also be notified of the incident.
- ❖ Personnel, who in good faith, submits a report of suspected abuse or neglect shall be immune from any civil or criminal liability that might otherwise arise from their actions.
- ❖ The Department of Health and Human Resources shall notify any person mandated to report suspected child abuse and neglect under the provisions of §49-2-804 of whether an investigation into the reported suspected abuse or neglect has been initiated and when the investigation is completed.
- ~~❖ Any person required by law to report abuse or neglect and who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so shall be guilty of a misdemeanor and upon conviction shall be confined in jail for not more than 30 days or fined not more than \$1,000 or both.~~
- ❖ Any person required to report cases of children suspected of being abused and neglected may take or cause to be taken, at public expense, photographs of the areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child. Any photographs or x-rays taken shall be sent to the appropriate child protective service as soon as possible.
- ~~❖ Nothing in the law prevents individuals from reporting abuse and neglect on their own behalf if circumstances dictate such an action.~~

### **Mandatory Reporting of Sexual Offenses on School Premises**

Any school teacher or other school personnel who receives a disclosure from a witness, which a reasonable prudent person would deem credible, or personally observes any sexual contact, sexual intercourse or sexual intrusion, as those terms are defined in article eight-b, chapter sixty-one, of a child on school premises or on school buses or on transportation used in furtherance of a school purpose shall immediately, but not more than 24 hours, report the circumstances or cause a report to be made to the State Police or other law-enforcement agency having jurisdiction to investigate the report: *Provided*, That this subsection will not impose any reporting duty upon school teachers or other school personnel who observe, or receive a disclosure of any consensual sexual contact, intercourse, or intrusion occurring between students who would not otherwise be subject to section three, five, seven or nine of article eight-8, chapter sixty-one of this code: *Provided, however*, That any teacher or other school personnel shall not be in violation of this section if he or she makes known immediately, but not more than 24 hours, to the principal, assistant principal or similar person in charge, a disclosure from a witness, which a reasonable prudent person would deem credible, or personal observation of conduct described in this section: *Provided further*, That a principal, assistant principal or similar person in charge made aware of such disclosure or observation from a teacher or other school personnel shall be responsible for immediately, but not more than 24 hours, reporting such conduct to law enforcement.

The Board of Education and school administrators shall provide all employees (including substitutes) with a written statement setting forth the requirement contained in this subsection and shall obtain and preserve a signed acknowledgment from school employees that they have received and understand the reporting requirement.

The reporting requirements contained in this section specifically include reported, disclosed or observed conduct involving or between students enrolled in a public or private institution of education, or involving a student and school teacher or personnel. When the alleged conduct is between two students or between a student and school teacher or personnel, the law enforcement body that received the report under this section is required to make such a report under this section shall additionally immediately, but not more than 24 hours, notify the students' parents, guardians, and custodians about the allegations.



### **Freedom of Individuals to Make Reports**

Nothing in the code is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if that person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

### **Failure to Report; Penalty**

Any person, official or institution required by this article to report a case involving a child known or suspected to be abused or neglected, or required by section eight hundred nine of this article to forward a copy of a report of serious injury, who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction, shall be confined in jail not more than ninety days or fined not more than \$5,000, or both fined and confined.

Any person, official or institution required by this article to report a case involving a child known or suspected to be sexually assaulted or sexually abused, or student known or suspected to have been a victim of any non-consensual sexual contact, sexual intercourse or sexual intrusion on school premises, who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than six months or fined not more than \$10,000, or both.

**(WVC §49-2-801; §49-2-803; §49-2-809; §49-2-810; §49-2-812)**

SB 238 amended WVC §18-5-19 and §18-5-19d relating to limiting the liability of county boards of education for loss or injury from the use of school property made available for unorganized recreation.

I believe this change in the code makes it necessary for us to revisit our thinking about “high risk” and “low risk” activities described in the existing policy. I believe the new language in the law specifically addresses what we call “low risk” activities (the occasional use of school facilities for recreational activities such as walking on the track) In light of this amendment, I believe we need to be more specific about the type of community activities which require the purchase of liability insurance by community groups when using school facilities.

I no longer think you can include organized youth groups which have competitive schedules such as little league, community basketball leagues, etc. in what is called “low risk” activities. The same would be true of any adult groups who have organized leagues and regularly scheduled activities which require the use of school facilities.

I realize our original intent was to be “user friendly” in establishing guidelines for community use of school facilities, but we must be realistic in protecting the Board regarding its liability in allowing and encouraging such activities.

I have drafted some changes I offer for your consideration.

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>R. RELATIONS WITH THE COMMUNITY</b>	<b>Last Review:</b>
<b>File: R.4. Community Use of School Facilities</b>	<b>August, 2014</b>

**(P) R.4.5. Liability insurance for activities**

The Board of Risk and Insurance Management and WVC §18-5-19d require the Board of Education to protect itself from unnecessary risk when allowing community use of its facilities. Generally speaking, there are two types of activities that may be scheduled for which requests will be received:

- ❖ Very basic recreational activities and community meetings. Basic recreational activities refer to things such as occasional use of gyms for evening sports activities, walking on the track, ~~youth team sports and other~~ similar activities. Activities of this type present a low risk of accidental injury and would not require liability insurance.
- ❖ On occasion the school principal will receive a request to allow a high-risk activity on the school site (i.e. donkey basketball, alumni football game, etc.). Activities of this type will require liability insurance coverage.

Included also in the high risk group would be any organized community youth or adult groups who regularly schedule activities on or within school facilities (i.e. little league, community youth basketball, football or other sports, adult softball leagues, adult basketball leagues, etc.)

In the event a principal receives what he/she perceives to be a high-risk request it shall be presented to the Superintendent who will make the final decision. It is fundamental to this process that all principals review each request carefully and seek advice from the Superintendent as appropriate.

The person, organization, or association requesting to use a school facility for a high-risk activity shall file a liability insurance policy in the name of the Pendleton County Board of Education in the amount of one million dollars (\$1,000,000) with the Superintendent. The policy shall cover the Board/District with general comprehensive liability coverage of any claim, demand, action, suit or judgment by reason of alleged negligence or other acts resulting in bodily injury or property damage to any person arising out of the use of school property for a community activity.

- ❖ The required insurance may be purchased privately or it may be purchased pursuant to §18-5-19d through the State Board of Risk and Insurance Management.
  
- ❖ As used in these procedures, “organization or association” is defined as a non-profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, charitable, incorporated or unincorporated association or organization or a rescue unit or other similar volunteer community service organization or association. The definition does not include associations or organizations that are associated with political issues.

In addition to the liability protection for organized use outlined in WVC §18-5-19d, county boards are not liable for any loss or injury arising from the use of school property made available for unorganized recreation. County boards are, however, liable for their acts or omissions which constitute gross negligence or willful and wanton conduct which is the proximate cause of injury or property damage. Unorganized recreational activities might include, but are not limited to, walking on the track, “pick-up basketball game on an outdoor court, etc.

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**House Bill 2025 -- Prohibiting Certain Sex Offenders From Loitering Within One Thousand Feet of a School or Child Care Facility.**

**This bill creates the new misdemeanor offense of criminal loitering by certain sex offenders who are on supervised release for ten years or more. The misdemeanor is committed when a covered person, with no legitimate purpose, and after being asked by an authorized person to leave, enters or remains on property within 1,000 feet of a facility that educates, entertains or cares for minor children. *W. Va. Code § 61-8-29(a),(b),(c).***

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>R. RELATIONS WITH THE COMMUNITY</b>	<b>Last Review:</b>
<b>File: R.7. Visitors to the School</b>	<b>August, 2014</b>

**(P) R.7.3. Loitering on School Property**

No one shall be in the school buildings or on school premises after school hours unless he/she is on official school business, is participating in a supervised school activity, is authorized by the administration or is a spectator at an activity open to the public. Unauthorized person loitering upon school property may be treated as trespassers.

Any person who loiters (trespasses) on or about school grounds and buildings in violation of posted rules shall be guilty of a misdemeanor, and, upon conviction for the first offense thereof, shall be fined not more than \$100 or imprisoned in the County jail not more than 30 days, or both such fine and imprisonment. Upon a second offense or subsequent offense conviction, any such person shall be fined not more than \$500 or imprisoned in the County jail not more than one year, or both such fine and imprisonment.

**Criminal Loitering by Persons on Supervised Release**

Any person serving a period of supervised release of ten years or who loiters within 1000 feet of the property line of the residence or workplace of a victim of a sexually violent offense for which the person was convicted shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than thirty days.

Any person serving a period of supervised release of ten years or more for an offense where the victim was a minor who loiters within 1000 feet of the property line of a facility or business the principal purpose of which is the education, entertainment or care of minor children, playground, athletic facility or school bus stop shall be guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not more than thirty days.

A person does not violate the above provisions unless s/he has previously been asked to leave the proscribed location by an authorized person and thereafter refuses to leave or leaves and thereafter returns to the proscribed location.

As used in this policy “Authorized person” means:

- ❖ A law-enforcement officer acting in his or her official capacity;

- ❖ A security officer employed by a business or facility to protect persons or property acting in his or her employment capacity;
- ❖ An owner, manager or employee of a facility or business having a principal purpose the caring for, education or entertainment of minors;
- ❖ A victim or parent, guardian or lawful temporary or permanent custodian thereof;
- ❖ An employee of a county Board of Education acting in his or her employment capacity.

“Facility or business, the principal purpose of which is the education, entertainment or care of minor children” means:

- ❖ A pre-school, primary, intermediate, middle or high school, either public or private;
- ❖ A childcare facility;
- ❖ A park;
- ❖ An athletic facility used by minors;
- ❖ A school bus stop.

“Loitering” means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose.

Nothing in the law shall be construed to prohibit or limit a person’s presence within 1000 feet of a location or facility referenced in this policy if the person is there present for the purposes of supervision, counseling or other activity in which the person is directed to participate as a condition of supervision or where the person has the express permission of his/her supervising officer to be present.  
**(WVC §61-6-14a; §61-8-29)**

SB 286 amended WVC §16-3-4 and §16-3-5, both of which address the mandatory immunization of children entering your schools. The basic immunization requirements have remained in place, and the mandate is still in place, but some of the language in the old law has been softened a bit (i.e. parents who refuse to permit their children to be immunized are no longer guilty of a misdemeanor and subject to a fine.) However, physicians who provide a false certification of immunization are guilty of a misdemeanor and subject to a fine.

Portions of the old law have been reworded, including a more clearly defined process for dealing with requests for an exemption from the immunization requirements. Exemptions may not be granted by physicians in general. They may be granted only by the Commissioner or a physician appointed by the Commissioner to serve as Immunization Officer. A request for exemption must be accompanied by the certification of a licensed physician stating that the physical condition of the child is such that immunization is contraindicated or there exists a specific precaution to a particular vaccine. Parental preference or religious reasons ARE NOT acceptable reasons.

Strike throughs indicate outdated or amended language in your existing policy.

HB 2669 amended WVC §16-3D-3 relating for testing for tuberculosis. The state has taken another step back from the regulation of this disease among school children. Going forward you will only have to test employees or students that you “suspect” to have active tuberculosis. In all probability, the responsibility for determining who is “suspect” will fall to your school nurses and county health officials.

<p><b>PENDLETON COUNTY BOARD OF EDUCATION</b></p> <p><b>S. STUDENTS</b></p> <p><b>File: S.3. School Entrance Requirements</b></p>	<p><b>Adopted: August 20, 2003</b></p> <p><b>Last Review:</b></p> <p><b>August, 2014</b></p>
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Entrance and enrollment requirements for the Pendleton County Schools shall conform to the provisions defined in State Code and State Board of Education Policy.

**(P) S.3.1. Age and Immunization Requirements**

**Age:**

Parents desiring to enroll their children in Pendleton County Schools must provide documentation of the following:

- ❖ Children enrolling in kindergarten must be at least five years of age prior to September 1 of the year of entrance;
- ❖ Children enrolling in the first grade must be six years of age prior to September 1 of the year of entrance;
- ❖ Children enrolling in pre-school programs must be four years of age prior to September 1 of the year of entrance; and

**Immunization Requirements:**

The immunization requirements for entry into the Pendleton County Schools are established by the *West Virginia Department of Health and Human Resources Interpretative Rule 64CSR95 Immunization Requirements and Recommendations for New School Enterers*; [SBP 2423 Communicable Disease Control Policy](#) and state codes WVC §16-3-4; §16-3D-3 and §18-5-15.

~~All children entering prekindergarten (Pre-k), kindergarten and a West Virginia public school for the first time shall have been successfully immunized against the following: diphtheria, hepatitis, mumps, chicken pox, polio, tetanus, rubeola, rubella and whooping cough.~~

No child or person may be admitted or received in any of the schools of the state or a state-regulated child care center until he or she has been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough or produces a certificate from the commissioner granting the child or person an exemption from the compulsory immunization requirements of §16-3-4.

Any school or state-regulated child care center personnel having information concerning any person who attempts to be enrolled in a school or state-regulated child care center without having been immunized against chickenpox, hepatitis-b, measles, meningitis, mumps, diphtheria, polio, rubella, tetanus and whooping cough shall report the names of all such persons to the commissioner.

The immunization requirements of the Department of Health and Human Resources by age groups are listed below:

#### Minimum Immunization Requirements for Pre-K Program Entry

Vaccine	Requirement	Vaccine	Requirement	Provisional Enrollment
Hepatitis A	2 doses	Hepatitis B	3 doses	Students may be provisionally enrolled with at least one dose of each required vaccine and allowed up to 8 months to obtain up-to-date status
DTaP	4 doses	Varicella (chicken pox)	1 dose	
IPV	3 doses	MMR	1 dose	
Hib	4 doses	PCV	4 doses	

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#### Minimum Immunization Requirements for New School Enters K-12

Vaccine	Requirement	Provisional Enrollment
DTaP/DTP Td/Tdap	4 doses	After one dose, student may be allowed up to 8 months to complete the series.
Polio (IPV)	1 dose	After one dose, student may be allowed up to 90 days to complete the series.
Measles, Mumps & Rubella (MMR)	2 doses	After one dose, student may be allowed up to 30 days to complete the series.
Varicella	2 doses	After one dose, children <b>less than 13 years of age</b> may be allowed up to 90 days to obtain 2nd dose; children aged <b>13 years and older</b> may be allowed up to 30 days to obtain the 2nd dose.
Hepatitis B	3 doses	After one dose, student may be allowed up to 4 months to complete the series.

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#### West Virginia Immunization Requirements for 7<sup>th</sup> and 12<sup>th</sup> Graders

Beginning in 2012-2013, state law and rules require that all children entering school in West Virginia in grades 7 and 12 must show proof of immunization against diphtheria, pertussis, tetanus, and meningococcal disease unless properly medically exempted.

Pursuant to State Board of Education *Policy 2423 – Communicable Disease Control*, beginning in the school year 2012-2013, two additional vaccine requirements shall be added for students entering the 7<sup>th</sup> and the 12<sup>th</sup> grades, in accordance with the guidance from the Advisory Committee on Immunization Practices (ACIP) and the revised rule of the West Virginia Bureau for Public Health 64CSR95. Proof of Tdap and Meningococcal vaccination shall be presented upon entry to seventh and twelfth grade as indicated in Interpretive Rule, Immunization Requirement and Recommendations for New School Enterers, 64CSR95.

The table below outlines immunization requirements as most commonly met. The West Virginia Bureau for Public Health recommends that vaccine doses administered 4 days or fewer before the minimum interval or age should be considered valid.

### 7<sup>th</sup> Grade School Entry Requirement

Vaccine	Requirement	Provisional Enrollment
Tdap (tetanus, diphtheria, acellular pertussis)	Proof of booster dose of Tdap vaccine	No provisional enrollment permitted
MCV4 (meningococcal / meningitis)	Proof of 1 <sup>st</sup> dose of MCV4 vaccine	No provisional enrollment permitted

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### 12<sup>th</sup> Grade School Entry Requirement

Vaccine	Requirement	Provisional Enrollment
Tdap (tetanus, diphtheria, acellular pertussis)	Proof of booster dose of Tdap vaccine	No provisional enrollment permitted
MCV4 (meningococcal / meningitis)	<b>One or two doses required.</b> One dose of MCV4 is required if Received after the 16th birthday. Second dose is required if the if first dose was before 16th birthday.	No provisional enrollment permitted

### Exemptions to immunization:

~~Medical exemptions must be requested by a physician who has treated or examined the child and be reviewed and approved by the local health officer in the county in which the child attends school. Requests for exemptions must be based on current standards of immunization practice and include the following information: the vaccine(s) being exempted, the specific medical reason for the exemption, whether the exemption is temporary or permanent, and, if temporary, when the exemption should be reevaluated.~~

The Commissioner (Bureau official who serves as State Health Officer) is authorized to grant, renew, condition, deny, suspend or revoke exemptions to the compulsory immunization requirements of



this section, on a statewide basis, upon sufficient medical evidence that immunization is contraindicated or there exists a specific precaution to a particular vaccine.

- ❖ A request for an exemption to the compulsory immunization requirements of §16-3-4 must be accompanied by the certification of a licensed physician stating that the physical condition of the child is such that immunization is contraindicated or there exists a specific precaution to a particular vaccine;
- ❖ The Commissioner is authorized to appoint and employ an Immunization Officer to make determinations on request for an exemption to the compulsory immunization requirements of §16-3-4 on a statewide basis, and delegate to the Immunization Officer the authority granted to the commissioner by §16-3-4;
- ❖ A person appointed and employed as the Immunization Officer must be a physician licensed under the laws of this state to practice medicine;
- ❖ The Immunization Officer's decision on a request for an exemption to the compulsory immunization requirements of §16-3-4 may be appealed to the State Health Officer; and
- ❖ The final determination of the State Health Officer is subject to a right of appeal pursuant to the provisions of §29A-5-1 to 29A-5.

West Virginia State Law does not allow for non-medical exemptions to immunization requirements; therefore, requests for exemption on the basis of religious beliefs cannot be granted.

### **Testing for Tuberculosis**

Students found or suspected to have active tuberculosis shall be temporarily removed from school while their case is reviewed and evaluated by their personal physician and the local health officer. Students shall return to school when their personal physician and the local health officer, in consultation with the commissioner, indicate that it is safe and appropriate for them to return.

The commissioner may require selective testing of students and school personnel for tuberculosis when there is reason to believe that they may have been exposed to the tuberculosis organism or they have signs and symptoms indicative of the disease. School nurses shall identify and refer any students or school personnel to the local health department in instances where they have reason to suspect that the individual has been exposed to tuberculosis or has symptoms indicative of the disease.

### **Transferring Students:**

- ~~❖ Transfer students who have been West Virginia residents must show proof of full immunization before admission into public schools.~~
- ~~❖ Transfer students enrolling from out of state, transferees from home schools, or private schools in West Virginia may be provisionally enrolled under the minimum criteria established by the State Health Director. These minimum criteria include the requirement that at least one dose of each required vaccine has been taken.~~
- ~~❖ All students transferring from a school located outside this state or enrolling for the first time from outside the state shall furnish a certificate from a licensed physician stating that an approved tuberculin test has been conducted within four months prior to the beginning of the school year. If the student cannot produce certification from a physician as required by the law, then the student shall have an approved tuberculin skin test done with the result read and evaluated prior to admittance to school.~~
- ~~❖ Students having a positive reaction to the tuberculin skin test must be immediately evaluated by a physician and, if medically indicated, x rayed. Such students will receive periodic x rays thereafter when medically indicated. The Pendleton County Health Department or the school health nurse will be responsible for arranging proper follow up for students who are unable to obtain physician evaluation for a positive tuberculin skin test.~~

**HB 2550 is an act which amends and reenacts WVC §18-8-4 relating to truancy intervention; defining excused and unexcused absences; providing that notice of a student’s three unexcused absences be given to parent, guardian or custodian; providing that a parent, guardian or custodian have a mandatory conference with the principal or other designated representative of the school when the student has five unexcused absences; and increasing number of unexcused absences by a student before a complaint must be made against the parent, guardian or custodian of the student.**

Hopefully these changes will be helpful in that they are intended to promote communication between the home and school.

Charles,

You will note that the duties of the Director have been reordered a bit to accommodate the changes in the law. We can still “tweak” this policy if it does not accurately describe your role so long as we stay within the legal guidelines.

<b>PENDLETON COUNTY BOARD OF EDUCATION</b> <b>S. STUDENTS</b> <b>File: S.6. Attendance Policy</b>	<b>Adopted: August 20, 2003</b> <b>Last Review:</b> <b>August, 2014</b>
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**(P) S.6.4. Attendance Director Responsibilities**

The County Attendance Director and his/her assistants shall diligently promote regular school attendance by performing the following tasks:

- ❖ Ascertain reasons for unexcused absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under §18-8-1a;
- ❖ Take such steps as are, in their discretion, best calculated to encourage the attendance of students and to impart upon the parents and guardians the importance of attendance and the seriousness of failing to do so; and
- ❖ For the purposes of this policy, the following definitions shall apply:
  - “Excused absence” shall be defined to include:
    - Personal illness or injury of the student or in the family;
    - Medical or dental appointment with written excuse from physician or dentist;
    - Chronic medical condition or disability that impacts attendance;
    - Participation in home or hospital instruction due to an illness or injury or other extraordinary circumstance that warrants home or hospital confinement;
    - Calamity, such as a fire or flood;
    - Death in the family;
    - School-approved or county-approved curricular or extra-curricular activities;

- Judicial obligation or court appearance involving the student;
  - Military requirement for students enlisted or enlisting in the military;
  - Personal or academic circumstances approved by the principal;
  - Such other situations as may be further determined by the county board; and
  - Provided, That absences of students with disabilities shall be in accordance with the Individuals with Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in compliance therewith.
- “Unexcused absence” shall be any absence not specifically included in the definition of “excused absence”.
- ❖ In the case of three total unexcused absences of a student during a school year, the attendance director or assistant shall serve written notice to the parent, guardian or custodian of the student that the attendance of the student at school is required and that if the student has five unexcused absences, a conference with the principal or other designated representative will be required.
  - ~~❖ In the case of five total unexcused absences of a child during a school year, the attendance director or his/her assistant shall serve written notice to the parent, guardian, or custodian of such child that the attendance of such child at school is required and that within ten days of receipt of the notice the parent, guardian, or custodian, accompanied by the child, shall report in person to the school the child attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the unexcused absences of the child.~~
  - ❖ In the case of five (5) total unexcused absences, the attendance director or assistant shall serve written notice to the parent, guardian or custodian of the student that within five (5) days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the unexcused absences of the student, including the adjustment of unexcused absences based upon such meeting.
  - ❖ In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant shall make complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state.
- More than one parent, guardian or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within ten calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later
- ❖ The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in §50-1-8 shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days’ advance notice of the date, time and place of the hearing.
  - ~~❖ If the parent, guardian, or custodian does not comply, then the Attendance Director or assistant shall make complaint against the parent, guardian, or custodian before a magistrate of the county.~~
  - ~~❖ More than one parent, guardian, or custodian may be charged in a complaint.~~
  - ~~❖ The initial service of a summons or warrant issued pursuant to the provisions of §18-8-4 shall be attempted within ten calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.~~
  - ❖ When a student’s school and residence are not in the same county, an action to enforce compulsory school attendance may be brought in either county. The magistrate court and circuit court of either county have jurisdiction to try offenses arising under the truancy laws.
  - ❖ When any doubt exists as to the age of a student absent from school, the Attendance Director and

assistants have authority to require a properly attested birth certificate or an affidavit from the parent, guardian, or custodian of the student, stating age of the student. In the performance of his or her duties, the county attendance director has authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

- ❖ The Director is responsible for reporting all school dropouts each month to the WV Department of Education and to the WV Department of Motor Vehicles, when applicable.
- ❖ The Director is responsible to make a monthly attendance report to the Superintendent of Schools and the Board showing the activities of the school attendance office and the status of attendance in the county at the time due to provisions in W. Va. Code §18-8-4.
- ❖ The Director shall provide each school principal with a current copy of the state regulations as outlined in the compulsory attendance law and driver's license revocation law.
- ❖ Serve on the county's Dropout Prevention Committee comprised of principals, teacher/counselors, parents and community leaders.
- ❖ Develop a countywide good attendance recognition program.
- ❖ Support and require the school principal to implement and execute the duties as defined in WVC18-8-5.
- ❖ Conduct an annual attendance evaluation to determine the effectiveness of this policy.
- ❖ Perform other duties as may be required.

In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant director also shall perform the following duties:

- ❖ Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;
- ❖ Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible non-enrollees;
- ❖ Cooperate with existing state and federal agencies charged with enforcing child labor laws;
- ❖ Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required.
- ❖ Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;
- ❖ Participate in school teachers' conferences with parents and students;
- ❖ Assist in such other ways as the county superintendent may direct for improving school attendance;
- ❖ Make home visits of students who have excessive unexcused absences, as provided above, or if requested by the chief administrator, principal, or assistant principal; and
- ❖ Serve as the liaison for homeless children and youth.

The County Attendance Director and Assistant Directors, in the performance of their duties, have authority to take without warrant any student absent from school in violation of the provisions of the code and to place such student in the school in which such student he or she is or should be enrolled.

All attendance directors and assistants hired for more than two-hundred days (200) may be assigned other duties determined by the superintendent during the period in excess of two-hundred (200) days. The county attendance director and assistants are responsible under direction of the county superintendent for efficiently administering school attendance in the county.

**(WVC §18-8-3; §18-8-4 and §18-8-5)**

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**HB 2502 is an act to amend and reenact §61-7-11a of the Code of West Virginia, relating to persons possessing deadly weapons on school buses or on the premises of educational facilities; authorizing active law-enforcement officers in certain circumstances to possess a firearm or deadly weapon on a school bus, on school property or at school sponsored functions; authorizing retired law-enforcement officers in certain circumstances to carry deadly weapons on a school bus, on school property or at school sponsored functions when certain conditions are met; and establishing reporting requirements for the school principal.**

**I believe this update of the code was needed and will be helpful. You will note that some items in the existing policy have been consolidated in the change process.**

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>S. STUDENTS</b>	<b>Last Reviewed:</b>
<b>File: S.12. County Student Discipline Policies</b>	<b>August, 2014</b>

### **(P) S.12.6. Deadly Weapons**

According to W.Va. Code §18A-5-1a(a) and §61-7-11a, ~~a student will not~~ it is unlawful for any person to possess a firearm or deadly weapon as defined in W.Va. Code §61-7-2, on any school bus as defined in W.Va. Code §17A-1-1, or in or on any public or private primary or secondary education building, structure, facility or grounds thereof, including a vocational education building, structure, facility or grounds thereof where secondary vocational education programs are conducted, or at any school-sponsored function as defined in W.Va. Code §61-7-11a.

As defined in W.Va. Code §61-7-2, a “deadly weapon” means any of the following:

According to WVC Code §61-7-2 “Deadly weapon” means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term “deadly weapon” shall include, but not be limited to: ~~the instruments defined in subdivisions (1) through (8), inclusive, of this section~~ blackjack, gravity knife, knife, switchblade knife, nunchuka, metallic or false knuckles, pistol or revolver, or other deadly weapons of like kind or character which may be easily concealed on or about the person.

For the purposes of WVC §18A-5-1a and §61-7-11a, in addition to the definition of “knife” set forth in subdivision (3) WVC Code §61-7-2, the term “deadly weapon” also includes any instrument included within the definition of “knife” with a blade of three and one-half inches or less in length.

Additionally, for the purposes of WVC §18A-5-1a and §61-7-11a, the term “deadly weapon” includes explosive, chemical, biological and radiological materials. A dangerous weapon may also include any device that is primarily used for self-protection, or the use of a legitimate tool, instrument or equipment as a weapon including, but not limited to: pens, pencils, compasses or combs with the intent to harm another.

Notwithstanding any other provision of this section, the term "deadly weapon" does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes.

- ~~❖—Devices intended to cause injury or bodily harm;~~
- ~~❖—Any device used in a threatening manner that could cause injury or bodily harm;~~
- ~~❖—Any device that is primarily used for self protection;~~
- ~~❖—Dangerous weapons include, but are not limited to: blackjack, gravity knife, knife, switchblade knife, nunchuka, metallic or false knuckles, pistol or revolver;~~
- ~~❖—A dangerous weapon may also include the use of a legitimate tool, instrument or equipment as a weapon including, but not limited to: pens, pencils, compasses or combs with the intent to harm another;~~
- ~~❖—Dangerous weapons may also include explosives, chemical, biological and radiological materials; or~~
- ~~❖—A pocketknife with a blade of three and one half inches or less shall not be included in the definition of knife as defined in WVC §61-7-2 unless such knife is knowingly used or intended to be used to produce serious bodily injury or death.~~

**The above items would be redundant to language contained in the preceding narrative.**

The following are exceptions to this policy:

- ~~❖—a law enforcement officer acting in his or her official capacity;~~
- ~~❖—a person specifically authorized by the Board of Education or principal of the school where the property is located to conduct programs with valid educational purposes; or~~
- ~~❖—programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms.~~
- ❖ A law-enforcement officer employed by a federal, state, county or municipal law enforcement agency;
- ❖ A retired law-enforcement officer who:
  - Is employed by a state, county or municipal law enforcement agency;
  - Is covered for liability purposes by his or her employer;
  - Is authorized by a county board of education and the school principal to serve as security for a school;
  - Meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c); and
  - Meets all of the requirements for handling and using a firearm established by his or her employer, and has qualified with his or her firearm to those requirements.
- ❖ A person specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;
- ❖ A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;
- ❖ Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;
- ❖ The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity; or
- ❖ The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity.

A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than ten years, or fined not more than \$5,000, or both fined and imprisoned.

~~The principal shall report any possession of a deadly weapon discovered by such principal on school premises to the state superintendent of schools within seventy two hours after such violation occurs.~~

~~The principal shall report any possession of a deadly weapon discovered by such principal to the appropriate local office of the division of public safety within seventy two hours after such violation occurs.~~

A school principal subject to the authority of the State Board of Education who discovers a violation of this policy shall report the violation as soon as possible to:

- ❖ The State Superintendent of Schools; and
- ❖ The appropriate local office of the Division of Public Safety, county sheriff or municipal police agency.

No person shall have a firearm whether loaded or unloaded in any automobile on the premises of the Pendleton County Board of Education in his automobile whether the same is locked or unlocked.

Any student who violates this policy shall be suspended immediately and shall be subject to expulsion by the Pendleton County Board of Education. Any employee who is in violation of this policy will be subject to immediate disciplinary action. Student and employee violations of this policy shall also be referred to local law enforcement agencies. Local law enforcement agencies shall be alerted when this policy is violated by a member of the public.

(WVC §17A-1-1; §18A-5-1a; §61-7-2; §61-7-11a; SBP 4373)

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**House Bill 2535--Relating Generally to Suicide Prevention Training, “Jamie’s Law”**

**Known as Jamie’s Law, this legislation requires public middle and high school administrators, by September 1 of each school year, to disseminate and provide opportunities for all middle and high school students to discuss suicide prevention awareness information. The information to disseminate may be obtained from the Bureau for Behavioral Health and Health Facilities or from a suicide prevention training program approved by the State Board of Education. *W. Va. Code § 18-2-40***

**NEW POLICY**

<b>PENDLETON COUNTY BOARD OF EDUCATION</b>	<b>Adopted: August 20, 2003</b>
<b>S. STUDENTS</b>	<b>Last Reviewed:</b>
<b>File: S.13. Health Services</b>	<b>August, 2014</b>

**(P) S.13.4. “Jamie’s Law-Suicide Prevention Training**

On or before September 1, 2015 and each year thereafter, a public middle and high school administrator shall disseminate and provide opportunities to discuss suicide prevention awareness information to all middle and high school students. The information may be obtained from the Bureau for Behavioral Health and Health Facilities or from a commercially developed suicide prevention training program approved by the State Board of Education in consultation with the bureau to assure the accuracy and appropriateness of the information.

It shall be the responsibility of the Director of Curriculum and Instruction, to work with school principals and teachers to determine the manner in which this training will be accomplished within the established curriculum.

**(WVC §18-2-40)**



SB 243 added a new section, designated §15-5-6a, relating to school nutrition standards during a state of emergency or state of preparedness; authorizing Governor or Legislature to temporarily suspend legislative rules establishing nutrition standards for foods and beverages served to students in public schools during a state of emergency or state of preparedness. This exemption is only allowed if safe alternatives are available for distribution and only in the affected geographic area.

**NEW POLICY**

<p><b>PENDLETON COUNTY BOARD OF EDUCATION</b></p> <p><b>T. TRANSPORTATION, SAFETY, FOOD SERVICES &amp; INSURANCE</b></p> <p><b>File: T.6. Child Nutrition and Food Services Management</b></p>	<p><b>Adopted: August 20, 2003</b></p> <p><b>Last Review: August, 2014</b></p>
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**(P) T.6.6. Temporary Suspension of Nutrition Standards in Public Schools#**

This suspension of rules is operative only during the existence of a state of emergency or state of Preparedness proclaimed by the Governor or by concurrent resolution of the Legislature.

During a state of emergency or state of preparedness, the Governor or the Legislature may, to facilitate uninterrupted days of instruction, temporarily suspend legislative rules establishing nutrition standards for foods and beverages distributed to students in public schools during the school day.

The school system must assure that safe alternative foods and beverages are available for distribution to students and that the temporary suspension of nutrition standards permitted by §15-5-6a is limited to the geographic area affected by the state of emergency or state of preparedness and a report of any such action be made to the Joint Committee on Government and Finance.

**(WVC §15-5-6a)**

## GROUP II

### INFORMATIONAL DISCUSSION OF NEW LEGISLATION

**This group of legislative changes will not appear in your policy manual; however, I thought it might be useful to you and the Board to be aware of Howard Seufer's comments on them**

#### **Senate Bill 361**

#### **Eliminating Prevailing Hourly Wage Requirement for Construction of Public Improvements In effect April 13, 2015**

The "Prevailing Wage Bill" changes how West Virginia's prevailing wage rate is calculated and to which projects the rate applies. "Prevailing wages" must be paid to all workers who, on behalf of a public authority, are engaged in the construction of public improvement projects whose cost at the time the contract is awarded is greater than \$500,000 and is to be paid with public money (which excludes money obtained by private donation, contribution, fundraising or insurance proceeds). Projects costing \$500,000 or less in public money are now exempt from using the prevailing wage. The bill applies only to contracts for construction on public improvements let after the effective date. W. Va. Code § 21-5A-1(7); W. Va. Code § 21-5A-3; W. Va. Code § 21-5A-6; W. Va. Code § 21-5A-10.

The prevailing wage rates were previously calculated by the Department of Labor and were based primarily on union wages. Senate Bill 361 requires WorkForce West Virginia to calculate the prevailing wage, in coordination with economists at West Virginia University's Bureau of Business and Economic Research and Marshall University's Center for Business and Economic Research. These entities have until June 1 of this year to determine the methodology for annually calculating the prevailing wage, and they have until July 1 of this year to determine the prevailing wage that shall be in effect for the remainder of 2015. Each year, these entities shall determine the following year's prevailing hourly wage by September 30. The methodology for computing the hourly wage will be re-evaluated every three years. W. Va. Code § 21-5A-5.

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#### **Senate Bill 447**

#### **Allowing Issuance of Diploma by Public, Private or Home School Administrator In effect June 12, 2015**

A new section of the West Virginia Code empowers an individual who administers a program of secondary education at a public, private or home school to issue a diploma or other appropriate credential to a person who has completed the program of secondary education. When issued, the diploma or credential is legally sufficient to demonstrate that the person to whom it was issued meets the definition of having a high school diploma or its equivalent. No West Virginia state agency or institution of higher learning may reject or otherwise treat a person differently solely because of the source of the diploma or credential. However, a state agency or institution of higher learning is not prohibited by the statute from inquiring into the substance or content of the program in order to determine whether a person meets other specific requirements. W. Va. Code § 18-8-12.

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#### **House Bill 2005**

#### **Relating to Alternative Programs for the Education of Teachers In effect June 12, 2015**

At 31 pages, House Bill 2005 is perhaps the longest of the public education bills enacted by the Legislature earlier this year. Many of its provisions are beyond the scope of this summary. These are some of its significant features.

Existing law entitled a teacher from another state to a teaching certificate for a comparable grade level and subject area valid in West Virginia if he or she met a number of requirements, one of which was that the teacher graduated from an educator preparation program at a regionally accredited institution of higher education. The bill establishes, as an alternative, that the teacher graduated from “another educator preparation program.” W. Va. Code § 18A-3-1(b)(2)(B).

The laws regulating alternative programs for the education of teachers are extensively rewritten. Alternative program partnerships are authorized between one or more schools or school districts and other enumerated entities. A partnership must adopt an agreement governing how the partnership will conduct its program and including, at a minimum, nine elements enumerated in the statute. Among the elements is the requirement that a partnership may consider enrolling a person in the alternative program only after a vacancy has been advertised for ten days and no qualified applicant applies. W. Va. Code § 18A-3-1b(a),(b)(c).

Another element of the required agreement is that any school or school district that hires an alternative program teacher will, with one exception, renew the person’s contract from year to year as long as he or she makes satisfactory progress in the alternative program or until he or she completes the program. The exception is that if the school or school district reduces its overall number of teachers, the alternative program teacher is subject to the same force reduction rules and procedures as any other employee, “except those that relate to seniority,” and in no event will an alternative program teacher displace a professional educator (defined as “a teacher, supervisor, principal, superintendent, public school librarian or any other person regularly employed for instructional purposes in a public school in this state”). W. Va. Code § 18A-3-1b(c)(9).

New sections of the West Virginia Code address the standards that alternative program instruction must meet, the permissible methods of instruction, the use of professional support teams, and the tuition that may be charged. The State Board of Education, which must approve or disapprove a partnership’s application to operate an alternative program, is required to adopt a policy governing the approval and operation of alternative education programs, to include, at a minimum, a number of standards, procedures and guidelines spelled out in the bill. W. Va. Code § 18A-3-1c; W. Va. Code § 18A-3-1d; W. Va. Code § 18A-3-1e.

Another new statute prohibits a person from participating in an alternative program unless he or she holds an alternative program teacher certificate issued by the State Superintendent for the alternative program position in which the individual will be teaching. Eligibility for the certificate is based upon criteria spelled out in the statute, one of which is that the individual receive a formal offer of employment from a county superintendent in an area of critical need or shortage and by “a school or school district that is a member of an approved educational provider.” An alternative program teacher certificate is the same as a professional teaching certificate for the purpose of issuing a continuing contract. W. Va. Code § 18A-3-1f.

Alternative programs for highly qualified special education teachers are separate from other programs and apply only to teachers who have at least a bachelor’s degree in a program for the preparation of teachers from an accredited institution of higher education. These programs may be an alternative to the standard college and university programs for the education of special education teachers and also may address the content area preparation of certified special education teachers. W. Va. Code § 18A-3-1g; W. Va. Code § 18A-3-1h.

House Bill 2005 amends in a number of respects, the law under which the State Superintendent of Schools is empowered to issue certificates. A professional teaching certificate may now be issued to a person who has completed an alternative program approved by another state. Alternative program teacher certificates that were previously valid for one year and renewable for each of the next two consecutive years are now valid while the candidate is enrolled in the alternative program, up to a maximum of three

years. “Citizen coach” certificates for persons to serve the public schools as athletic coaches or coaches of other extracurricular activities may now be issued even if a currently employed certified professional educator has applied for the position. W. Va. Code § 18A-3-2a(a)(1)(A)(v); W. Va. Code § 18A-3-2a(b)(2); W. Va. Code § 18A-3-2a(e)(3).

**These changes will eventually show up in SBP 5202 - Licensure of Professional/Paraprofessional Personnel and because you have adopted the current State Board policy as your official policy we do not have to make any changes in the policy manual. However, you do have a separate policy for hiring “Citizen Coaches”, and that policy will be changed to reflect the change in §18A-3-2a.**

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#### **House Bill 2099**

#### **Extending the Time of Meetings of Local Levying Bodies When Meetings are Delayed**

**In effect May 29, 2015**

School boards are already required to meet as local levying bodies between March 7 and March 28 or, when a levy is on the primary ballot, before June 1. Recognizing that occasionally a school board cannot or does not meet these deadlines, the State Auditor is directed by House Bill 2099 to propose rules for the Legislature’s approval. The rules will establish a process under which a school board can apply for permission to extend the meeting deadline to a date set by the State Auditor. W. Va. Code § 11-8-9(c). The State Auditor must also require school boards to file, no later than April 1, a report of their meetings as local levying bodies. W. Va. Code § 11-8-9(c).

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#### **House Bill 24i78**

#### **Relating to Public School Finance**

**In effect July 1, 2015**

Under the public school support program’s foundation allowance for public education transportation cost, propane is now one of the fuels eligible for the 10 percent additional percentage allowance for school bus systems using alternative fuels. Additionally, the amount to be used for the replacement of buses for school years beginning July 1, 2015, and July 1, 2016, is fixed at \$15 million and \$18 million, respectively. W. Va. Code § 18-9A-7(a)(1)(F); W. Va. Code § 18-9A-7(a)(3).

**GROUP III**

**POLICIES REQUESTED SINCE THE LAST MAJOR REVIEW**

**THIS IS AN ENTIRELY NEW SET OF POLICIES**

<p><b>PENDLETON COUNTY BOARD OF EDUCATION</b>  <b>F. FINANCIAL MANAGEMENT</b>  <b>File: F.13. Promoting Professional Ethics and Responsible Financial Procedures</b></p>	<p><b>Adopted:</b>  <b>Last Review:</b></p>
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The West Virginia Governmental Ethics Act established a code of conduct to guide public officials and public employees and help them avoid conflicts between their personal interests and their public responsibilities. The Ethics Act tells public servants what is expected of them and gives official approval to their conduct if it complies with the standards of the Act. (See West Virginia Code 6B-1-1, et seq. See also Legislative Rules Title 158, Series 6-12)

The code of conduct established by the Act applies to all public servants [public employees, elected public officials, and appointed public officials] whether full-time or part-time, who serve in the legislative, judicial, and executive branches of state, county, and municipal governments and the boards, commissions and the agencies of each of those levels.  
**(WVC §6b-1-1, et seq.)**

A guide to the standards established by the West Virginia Governmental Ethics Act may be accessed by clicking on the following link: [A Guide to the West Virginia Ethics Act](#)

<b>Contents of the Guide</b>	<b>Page</b>
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Private Interests in Public Contracts .....	12
Licensing and Rate-Making .....	13
Employment, Moonlighting or Changing Jobs .....	13
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**(P) F.13.1. Training to Avoid Employee Financial Fraud or Unethical Behavior in fulfilling Job Responsibilities**

The Pendleton County Board of Education recognizes that appropriate employee training is necessary to assure competent job performance at all levels throughout the school system. The Board also recognizes that the laws and regulation concerning financial matters and ethical conduct related to financial matters are complex and may not be known to all county employees. Therefore, the Business Manager/Treasurer shall annually provide full training or refresher training to all employees entrusted with the administration of various programs within the school system and the management of funds and grants received for operation of those programs (i.e. Special Education, Title I, Title II, etc).

Such training shall include but is not limited to the following:

- ❖ Overview of the county budget and where each funded program fits;
- ❖ Review of spending guidelines for federal programs;
- ❖ Review of county purchasing procedures;
- ❖ Review of ethical standards mentioned above;
- ❖ Discuss annual audit reports;
- ❖ Discuss record keeping and submission of records and reports required to meet program standards;
- ❖ Program directors shall train subordinates on the above topics as appropriate;
- ❖ Other topics deemed appropriate; and
- ❖ Records of all training sessions shall be maintained.

**(P) F.13.2. Reporting Incidents of Fraud, Suspected Fraud, or Risks of Fraud**

Employees who are aware of violations of compliance with provisions of laws, regulations, contracts, grant agreements or fraud risk related to any program within the school system should share that information with his/her immediate supervisor who will report the incident to the Business Manager/Treasurer. If the employee committing the inappropriate act is the immediate supervisor, such information should be reported directly to the Business Manager/Treasurer.

It shall be the Business Manager/Treasurer’s responsibility to investigate all reported incidents of mismanagement of local, state or federal funds.

**(P) F.13.3. Communicating the Importance of Ethical Behavior and Good Business Practices to Employees**

This policy and all policies dealing with ethical behavior and proper utilization of the financial resources available to the Pendleton County Board of Education are published in the Pendleton County Policy Manual which is available to the public and all employees on-line. Information is also disseminated through in-service sessions, handbooks, staff meetings, principals’ meetings and faculty meetings. Additional information regarding the financial structure of Pendleton County Schools may be In File: 7 Financial Management of the Pendleton County Policy Manual.

**(P) F.13.4. Penalties**

Employees who are found to have committed unethical or fraudulent acts shall be subject to disciplinary action by the Board which may include termination. Such acts may also be subject to criminal prosecution.

**(P) P.14.1. Personal Leave Regulations**

**Summary of Personal Leave Benefits:**

- ❖ One and one-half days of personal leave is granted per month.
- ❖ Employees may accumulate an unlimited number of personal leave days.
- ❖ Reasons for which personal leave days may be used include: Personal illness, illness th in the immediate family, bereavement/death in the immediate family, accidents, doctor's appointment, child birth/adoption and other reasons approved by the Board.
- ❖ The immediate family is defined to include spouse, son, daughter, son-in-law, daughter-in-law, mother, mother-in-law, father, father-in-law, brother-in-law, sister-in-law, brother, sister, grandparent or grandchild. The foregoing list includes Step Relatives created through second marriages. Additionally, any other person or persons living in the household of the claimant shall be considered as immediate family.
- ❖ Each employee is permitted three days of personal leave annually which may be taken without regard to the cause for the absence under the following conditions:
  - In non-emergencies 24-hour notice must be given to the supervisor.
  - No more than 15% of the staff or three employees whichever is greater may take the same day.
  - Employees may not take consecutive days unless approved by the supervisor.
  - Such leave cannot be used in connection with a strike or work stoppage.
- ❖ Upon retirement, unused personal leave may be used for additional service time. Persons employed prior to July 1, 2001 may also choose to apply unused personal leave days toward the premiums for extended insurance coverage under PEIA

Personal leave claims for a personal illness of the employee which is in excess of three days for any one illness shall bear the certification of a physician. . In addition, the Superintendent or his/her designee may request a physician's statement explaining the personal leave owing to illness or accident at any time. The statement signed by the physician shall specify that the employee was unable to perform his/her regularly prescribed duties.

Also, the Pendleton County Board of Education reserves the right to have the employee examined by a physician or physicians of the Board's own choosing should a controversy arise as to the validity of the personal leave request per this policy. Such examination will be at the Board's expense.

Personal leave for illness or death in the immediate family shall be allowed as follows:

- ❖ Bereavement/death in the immediate family – Up to a maximum of five days per occurrence;
- ❖ Illness in the immediate family – Up to a maximum of three days in any one illness;
- ❖ Employees may utilize their three days of personal leave without cause as defined in File: *(P) P.14.1. Personal Leave Regulations;*

The Pendleton County Board of Education recognizes two levels of illnesses/injuries of employees and family members which are covered by these regulations:

- ❖ A short-term illness of or an injury to a family member for which the employee may be absent up to a maximum of three days.



- ❖ Long-term illnesses of or injuries to an employee or immediate family member, as diagnosed by a physician, which require medical attention over an extended period of time which exceeds the three day limit.
  - Treatment for a family member with cancer and other serious illnesses and injuries shall be considered one event regardless of the fact that medical treatment may be intermittent, and would require only one certification by a physician per fiscal year.

Employees faced with the serious, long-term illness of an immediate family member may qualify for benefits under *File: P.16. Family Medical Leave Benefits*

Employees claiming personal leave pay shall file the appropriate form with their monthly report or within five days after returning to work. The school principal or the employee's supervisor shall sign this report before it is submitted to the finance office.

Federal and state laws require that personal leave payments be counted as part of the total salary paid to the employee, and as such, are subject to social security, income tax and retirement fund deduction.

In any school year, the aggregate of regular salary received and personal leave pay shall not exceed the amount due for the employment period. Personal leave shall be paid at full salary during the period of absence but shall not exceed the total amount of leave to which the employee is entitled.

The federal Family and Medical Leave Act of 1993, the West Virginia Parental Leave Act, and West Virginia case law regulate family and Medical Leave benefits for Pendleton County employees. The full details of these benefits may be found in P. 16. Family Medical Leave Benefits

Full-time employees may be granted up to 120 hours of paid leave in a calendar year to use for the employee's donation of any portion of an adult liver or adult kidney. They may also be granted up to 56 hours of paid leave to use for the employee's donation of adult bone marrow.

Any abuse of the personal leave privileges will result in a loss of pay to the offender and any other action the Pendleton County Board of Education may deem necessary.  
**(WVC §18A-4-10, §18A-4-10a, §18A-4-10c and §18A-4-10d)**

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**(P) P.14.2. Vacations**

All 12 month employees shall receive paid vacation for service in Pendleton County School District as follows:

During the first year service of service	-	1 week vacation
Second year of service	-	2 weeks' vacation
Tenth year of service	-	3 weeks' vacation
Twentieth year of service	-	4 weeks' vacation

All employees must submit their vacation schedule to the Superintendent's Office for approval for leave in excess of three consecutive days at least three weeks in advance. Twelve-month employees are those with 252 and 261-day contracts. In order to minimize the interruption of normal operations, no employee may take more than 20 days of vacation within any six-week period unless justification is presented and approval is received from the Superintendent.

Employees are encouraged to used earned vacation ~~time~~ days during the fiscal year which runs from July 1 to June 30. Employees hired before July 1, 1992 will be allowed to ~~carry over~~ accumulate a maximum of 40 vacation days. Workers hired after July 1, 1992 will be ~~limited~~ allowed to accumulate a

maximum of 20 days of vacation, ~~carry over~~. ~~The Board recognizes that some employees may have accumulated vacation days beyond the defined limits; therefore, these employees shall have until June 30, 2008 to come into compliance with the newly established limits on vacation carry over days.~~

Other days not used shall be transferred to an accumulated annual leave account to be used for retirement purposes.

Upon termination of employment (including retirement), accumulated vacation days will be transferred to an accumulated leave account to be used for retirement purposes.

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**PENDLETON COUNTY BOARD OF EDUCATION**  
**P. PERSONNEL – PROFESSIONAL AND SERVICE**  
**File: P.17. Working Conditions**

**Adopted: August 20, 2003**  
**Last Review:**  
**August, 2014**

The Pendleton County Board of Education recognizes that providing positive working conditions for its employees is an important part of building a strong working relationship with them. The Board is committed to applying the many state laws and policies that regulate working conditions for school employees in a reasonable and fair manner. The purpose of the procedures that follow is to spell out the specific working conditions for the employees of Pendleton County.

**(P) P.17.1. Professional Workload and Time Schedules**

The length of the school day for students and teachers will be recommended by the Superintendent and set by the Board, and will be in keeping with state requirements. The particular opening and closing hours for schools will also be subject to Superintendent approval. The school principal is authorized to make minor changes in opening and closing times to facilitate scheduling; however, major changes in schedules will be subject to Superintendent and/or Board approval.

Schools will generally observe a regular daily schedule of 7:45 a.m. until 3:30 p.m., with instruction scheduled between 8:00 a.m. and 3:00 p.m. It is recognized that this will vary from school to school in order to accommodate transportation times and the different lengths of the instructional day.

Professional staff shall be expected to work a standard workday of seven and three-quarters hours which includes a 30 consecutive minute lunch period. The expectation for professional staff to work a seven and three-quarter hour workday rather than the eight hour work day allowed is in lieu of time spent by teachers in faculty meetings, PTA meetings, or other times spent in job-related activities. During the workday the professional staff shall be expected to be at their assigned work site unless prior approval has been obtained from the principal or their immediate supervisor. This is to ensure that the administration is knowledgeable of a person's whereabouts in case of need or emergency, and it protects the teacher against possible criticism.

Professional personnel are expected to observe assigned work hours. Failure to report for work or provide proper notification of absence may be considered willful neglect of duty and a pattern of such behavior could be grounds for suspension and/or dismissal.

Employees who find it necessary to utilize their personal leave days shall follow the guidelines established in File: (P) P.14.1. *Personal Leave Regulations.*

Employees wishing to redeem compensatory hours earned through an agreement with their immediate supervisor shall do so in accordance with the guidelines established in *File: (P) P.3.11. Compensatory Time.*

“Dock Days” (days without pay) are not established by state code or state policy; therefore, they are not a right granted to employees. Such days are disruptive to the instructional process and shall only be granted by Pendleton County Schools for extenuating circumstances and only after prior approval by the immediate supervisor and the appropriate Central Office personnel.

Attempts shall be made to keep each teacher's total student and teaching load at a reasonable level. In all cases, West Virginia codes and State Board policies shall be observed and Board approval is required prior to exceeding state maximum numbers.

Each full-time, secondary teacher shall have an assignment equivalent to that of other full-time teachers. This shall be considered an administrative function and actual assignments shall be left to the best judgment of the principal and Superintendent. Personnel assigned through the Central Office will observe a uniform working day approved by the Superintendent unless special arrangements for different hours have been approved.

(WVC §18-5-15; §18A-4-14; 2510 and 5210)

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<b>PENDLETON COUNTY BOARD OF EDUCATION</b> <b>P. PERSONNEL – PROFESSIONAL AND SERVICE</b> <b>File: P.3. Employment of Service Personnel</b>	<b>Adopted: August 20, 2003</b> <b>Last Review:</b> <b>August, 2014</b>
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### **(P) P.3.8. Service Personnel Time Schedules**

The Pendleton County Board of Education has adopted the policy that the normal workday for all service personnel shall be eight hours which includes a 30 consecutive minute lunch period. Service personnel are expected to observe assigned work hours. Failure to report for work or provide proper notification of absence may be considered willful neglect of duty and a pattern of such behavior could be grounds for suspension and/or dismissal.

Employees who find it necessary to utilize their personal leave days shall follow the guidelines established in File: (P) P.14.1. *Personal Leave Regulations*.

Employees wishing to redeem compensatory hours earned through an agreement with their immediate supervisor shall do so in accordance with the guidelines established in File: (P) P. 3.11. *Compensatory Time*.

“Dock Days” (days without pay) are not established by state code or state policy; therefore, they are not a right granted to employees. Such days are disruptive to the instructional process and shall only be granted by Pendleton County Schools for extenuating circumstances and only after prior approval by the immediate supervisor and the appropriate Central Office personnel.

### **Bus Operators:**

Bus operators will be expected to devote the time necessary to perform their daily scheduled activities that include trips during the normal workday on a rotating basis (*Extra Duty Assignments*). The Superintendent or his/her designee may assign extra trips.

Generally speaking, a bus operator’s work day will consist of the time necessary for their morning and afternoon runs to transport students to and from school, the extra time necessary for cleaning, gassing, pre-service inspections and inclement weather. Bus operators shall also be responsible for scheduling their buses for regular preventative maintenance at the bus garage.

The board recognizes that the time required for most bus operators to achieve their normal daily responsibilities will be less than the mandated eight-hour workday; however, it must be clearly understood that they remain obligated to be Board to complete other appropriately assigned duties during that time frame.

Each day, bus operators shall accurately record the actual hours worked in the following manner:

- ❖ **AM Run**  
*Start Time* - Begins when your bus starts moving plus 15 minutes pre-trip.  
*End Time* - Stops when the bus is shut down at the bus garage or designated location.
- ❖ **PM Run**  
*Start Time* - Begins 15 minutes prior to school dismissal plus time needed to reach pick-up location.  
*End Time* - Stops when the bus is shut down at the bus garage or designated location.
- ❖ **Extra-Curricular** (Assignments that are scheduled on a regular basis)  
*Start Time* - Begins when the bus starts moving plus 15 minutes pre-trip.  
*End Time* - Stops when the bus is shut down at the bus garage or designated location.
- ❖ **Extra-Duty** (Irregular assignments such as field trips, athletic, and band events)  
*Start Time* - Begins 15 minutes prior to departure plus time to reach pick-up location.  
*End Time* - Stops when you return to the pick-up location plus travel time to reach bus garage (or designated location) and 30 minutes for shut-down and cleaning.

Any person accepting employment as a school bus operator shall accept such position with the understanding that the responsibilities involved are his/her primary employment, and that such employment shall not be limited or interfered with by any commitment as a result of any other employment.

Bus operators who accept Extra-Curricular assignments which cut across the normal lunch time shall be granted a 30 minute paid lunch period.

### **General Guidelines:**

Special attention shall be given to the following service personnel work schedule issues:

- ❖ Service personnel who work three and one-half hours or less per day shall be paid one-half the amount indicated in the state minimum pay scale. Those who work more than three and one-half hours per day shall be paid the full amount required by state minimum pay scale if the employee's supervisor pre-approved the work.
- ❖ Service employees whose daily shift is from 6:00 p.m. to 5:00 a.m. shall be paid at least an additional ten dollars per month and one-half of that sum shall be paid with local funds.
- ❖ Custodians, aides, maintenance, office and school lunch employees required to work an interrupted work schedule shall be paid an additional amount equal to one-eighth of their salary as provided by their state minimum salary and any county supplement. Such additional salary shall be paid entirely from county funds. However, service employees who normally work a split-shift and who agree to work for another employee who does not have a split-shift will not receive the split-shift differential pay for those days worked.
- ❖ A service employee's schedule is considered to be interrupted if he/she does not work a continuous period in one day. Aides are not regarded as working an interrupted schedule when engaged exclusively in the duties of transporting students.
- ❖ Service employees required to work on a legal holiday shall be paid at the time and one-half rate.
- ❖ Service employees who work in excess of 40 hours in any week that contains a paid holiday shall be paid time and one-half for the additional time, and such extra pay shall come from county funds.
- ❖ Regular service employees who agree to extend their work week by working on a Saturday or Sunday shall be paid for at least one-half day of work and if the employee works more than three and one-half hours, he/she shall be paid for a full day if the work was preapproved by the employee's supervisor.
- ❖ No service personnel may have his/her daily work schedule changed during the school year without the employee's written consent. Likewise, the employee's daily work hours may not be changed to avoid the payment of time and one-half wages or the employment of an additional employee.

- ❖ A daily lunch recess of not less than 30 consecutive minutes shall be included in the normal eight-hour workday for all service employees.
- ❖ Service personnel who are requested by a supervisor to work beyond the 40-hour workweek may choose to perform the work for paid overtime and/or compensatory time.

The Board may not establish the beginning work station for a bus operator or transportation aide at any site other than a county board-owned facility with available parking without the written consent of the service person. The workday of the bus operator or transportation aide commences at the bus at the designated beginning work station and ends when the employee is able to leave the bus at the designated beginning work station, unless he or she agrees otherwise in writing. The application for or acceptance of a posted position may not be construed as the written consent referred to above.

**(WVC §18A-4-8 and §18A-4-8a)**

Because of the rural nature of Pendleton County, certain bus operators (who volunteer to do so) may be granted permission to take their buses home with them at the end of their assigned routes. In such instances, it is understood by both the Pendleton County Board of Education and the employee that the Board of Risk and Insurance Management liability coverage on the bus shall remain intact during the time it is parked at the employee's residence in the same manner it would be on Board property.

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J.P.

<b>PENDLETON COUNTY BOARD OF EDUCATION</b> <b>P. PERSONNEL – PROFESSIONAL AND SERVICE</b> <b>File: P.22. Substitute Employees</b>	<b>Adopted: August 20, 2003</b> <b>Last Review:</b> <b>August, 2014</b>
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**(P) P.22.5. Long-term Substitute**

Long-term substitute" means a substitute employee who fills a posted vacant position that the Superintendent expects to extend for at least 30 consecutive days and is either:

- ❖ Listed in the job posting as a long-term substitute position of over 30 consecutive days; or
- ❖ Listed in a job posting as a regular, full-time position and:
  - Is not filled by a regular, full-time employee; and
  - Is filled by a substitute employee.

Long-term substitutes shall be eligible to receive PEIA benefits. Substitutes who are assigned to fill “long term” absences shall, after 30 days of employment in the position, receive the following additional benefits:

- ❖ They shall be paid according to the Advanced Salary Scale which means their pay will be based upon the county’s actual salary schedule for a regular teacher, which includes state basic, state equity, and the county supplement. Substitutes who teach in excess of 30 day in the same position are to be paid the same daily rate as a regular teacher with the same salary classification and years of experience.
- ❖ They will receive pay for holidays, snow days, and O.S. Days.

However, for purposes of PEIA coverage, a retired employee who is hired as a substitute to fill a vacant position is not considered to be a long term substitute entitled to coverage.

**Pay Procedures for Long-Term Professional and Service Substitutes when Instructional Days are Cancelled**

According to WVC §18A-5-2, a school employee's pay per pay period may not change as a result of a school closing not being counted as a day of employment, and the employee shall be paid the same amount during any pay period in which a school closing occurs that the employee would have been paid during the pay period if a school closing had not occurred. Long-term substitutes (both professional and service) are entitled to be paid essentially for the same types of employment days that regular employees are to be paid.

Employee pay for cancelled instructional days depends upon the type of day that is being used as a make-up day according to the following categories.

**The Canceled Instructional Day is Being Made Up Using a Non-Instructional Day:**

Long-term substitutes (both professional and service) are entitled to be paid essentially for the same types of employment days that regular employees are to be paid. Therefore, they are entitled to be paid for instructional days canceled due to inclement weather (snow days) in the situations where a non-instructional day is being used to reschedule a canceled instructional day. The minimum 200 day employment term is not being extended, so neither regular employees or long-term substitutes are entitled to additional days of pay.

In addition, both regular and substitute teachers are entitled to the extra-student pay for the canceled day. The pay is to be determined based on the class enrollment as of the date of the canceled instructional day.

**The Canceled Instructional Day is Being Made Up Using an Out-of-Calendar Day:**

- In the situations where the canceled instructional day is being rescheduled using an out-of-calendar (non-paid) day, the canceled instructional day becomes the out-of-calendar day and the rescheduled day becomes the instructional (paid) day. In this manner, the minimum 200-day employment term is also not being extended, so neither regular employees or long-term substitute employees are entitled to additional days of pay.

- Regarding extra-student pay, neither regular or substitute teachers are entitled to the extra-student pay for the canceled instructional day, since it is now considered an out-of-calendar (non-paid) day, but they are entitled to the pay on the day that is used as the rescheduled day. In this case, the extra-student pay should be based on the class enrollment as of the day the rescheduled instructional day is provided, should the class enrollment differ between the two dates.

Note also that, according to to WVC §18A-5-2, an employee's pay is not to be adjusted due to the cancelation and rescheduling of an instructional day. For the instructional days that are canceled and being made up by an out-of-calendar day, the employees, both regular and long-term substitutes, are being paid for the day in advance.

- Of course the service personnel with 200-day employment terms who are required to report to work on both the canceled instructional day and the rescheduled day, such as custodians who are required to report to work to clear snow, are entitled to compensation for both days, since they have had to report to work for more than the minimum 200-day employment term. But according to the Fair Labor Standards Act (FLSA), the compensation can be in the form of compensatory time off rather than actual pay, as long as the employee agrees to such an arrangement in advance.

**[WVC § 5-16-2-(3); §18a-1-1(1); §18A-5-2]**

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