



**WEST VIRGINIA  
SECRETARY OF STATE**

**NATALIE E. TENNANT**

**ADMINISTRATIVE LAW DIVISION**

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3/13/2014 11:40:32 AM

OFFICE OF  
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 1)**

AGENCY **Education**  
RULE TYPE **Legislative Exempt AMENDMENT TO EXISTING RULE Yes** TITLE-SERIES **126-**  
RULE NAME **Health Promotion and Disease Prevention (2423)** **051**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

COMMENTS LIMITED TO  
**Written**

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS  
**Monday, April 14, 2014 4:00 PM**

WRITTEN COMMENTS MAY BE MAILED TO  
**Paula Fields  
WVDE Office of Special Programs  
Capitol Building 6, Room 304  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0330**

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

**Yes**  
**Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 126-051



Rule Id: 9358



Document: 25606



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**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE  
(Page 2)**

AGENCY	Education		
RULE TYPE	Legislative Exempt	AMENDMENT TO EXISTING RULE	Yes
RULE NAME	Health Promotion and Disease Prevention (2423)		TITLE-SERIES 126-051

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

**PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL**

The proposed revisions support and assist students in being healthy learners though promoting health promotion and disease prevention. The revisions will also allow county boards of education to have a central policy for the health requirements and disease control measures. The oral health examination requirement is on a phase-in transition plan over the next five years to allow districts time to integrate this requirement while developing the private-public partnership through WVDHHR-Oral Health Program to provide onsite free oral health assessments for any student without a dental examination. The comprehensive physical and dental examination will not prevent any student from being fully enrolled and participating in a WV public school. These changes have the possibility to positively impact students health which in turn will support identifying possible educational and health deficits, improve attendance through early identification and disease prevention, enhance overall student wellness to provide a greater potential to be a successful student.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)**

**AGENCY Education**

**RULE TYPE Legislative Exempt AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 126-**

**RULE NAME Health Promotion and Disease Prevention (2423) 051**

**CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

**SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.**

**No state cost or revenues will be impacted by the proposed amendment of Policy 2423.**

**Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

AGENCY Education  
 RULE TYPE Legislative Exempt AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 126-  
 RULE NAME Health Promotion and Disease Prevention (2423) 051

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-051



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)**

AGENCY **Education**

RULE TYPE **Legislative Exempt AMENDMENT TO EXISTING RULE Yes TITLE-SERIES 126-**

RULE NAME **Health Promotion and Disease Prevention (2423) 051**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

**3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.**

**No state cost or revenues will be impacted by the proposed amendment of Policy 2423.**

**Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 126-051



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**FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)**

AGENCY	Education		
RULE TYPE	Legislative Exempt	AMENDMENT TO EXISTING RULE	Yes
RULE NAME	Health Promotion and Disease Prevention (2423)		TITLE-SERIES 126-051

CITE AUTHORITY W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

Staff for collection of school entry information is currently available in the schools. The proposed revision can potentially save cost for schools, as it has the potential to decrease the number of student absences from disease and need for remediation.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-051



Rule Id: 9358



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**FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)**

AGENCY **Education**  
RULE TYPE **Legislative Exempt AMENDMENT TO EXISTING RULE Yes** TITLE-SERIES **126-051**  
RULE NAME **Health Promotion and Disease Prevention (2423)**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

**SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.**

The proposed provisions support and assist students in being healthy learners though promoting health promotion and disease prevention. The revisions will also allow county boards of education to have a central policy for the health requirements and disease control measures. The oral health examination requirement is on a phase-in transition plan over the next five years to allow districts time to integrate this requirement while developing the private-public partnership through WVDHHR-Oral Health Program to provide onsite free oral health assessments for any student without a dental examination. The comprehensive physical and dental examination will not prevent any student from being fully enrolled and participating in a WV public school. These changes have the possibility to positively impact students health which in turn will support identifying possible educational and health deficits, improve attendance through early identification and disease prevention, enhance overall student wellness to provide a greater potential to be a successful student.

Rule promulgated per West Virginia Constitution, Article XII, §2, W. Va. Code §§16-3-4, 16-3-4a, 16-3-5, 16-3C-1 through 16-3C-9, 18-2-5, 18-5-9, 18-5-17, 18-5-22, 18-5-34 and 18A-5-1.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.**

**Yes**

**Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



Title-Series: 126-051



Rule Id: 9358



Document: 25606

# **EXECUTIVE SUMMARY**

## **WEST VIRGINIA DEPARTMENT OF EDUCATION**

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WVBE Policy 2423: Communicable Disease Control to be renamed  
“Health Promotion and Disease Prevention”

### **Background:**

The original objective of Policy 2423 was to allow for procedures to be in place for detection of potential communicable diseases, inclusion and exclusion, precautions and enhancement of knowledge to ensure preventative measures occur for students and school personnel. The revisions to this policy have occurred to allow one central policy location for all health requirements for school entry and progression to subsequent grades (comprehensive physical, dental examination and immunizations). At this time no policy includes all the requirements for grades PreK-12. In the United States, tooth decay is the most common chronic disease affecting 26% of preschoolers, 44% of kindergarteners and 50% of teens (WVDHHR- Oral Health Plan, 2010). So it is understandable why oral health disease is the leading cause of missed school hours at 51, 679,100 million hours or 117 hours per 100 students are missed annually in the US (American Academy of Pediatric Dentistry 2013). The Centers for Disease Control and Prevention report that dental caries are perhaps the most prevalent of infectious diseases in our nation’s children. Dental caries are five times more common than asthma and seven times more common than hay fever. In order to assist students and their families in connecting to a dental home with supporting WVDHHR-Oral Health Coordinators and partners to assist with managing current oral health disease and preventing future disease, this policy is requiring a dental examination for new enterers in PreK and Kindergarten and grades 2, 7 and 12 through a five year transition plan. No student will be denied entry without proof of a dental examination but will be enrolled into the WVDHHR-Oral Health Disease Prevention Project to receive a free oral health assessment. The WVBE Board Policy 2525: West Virginia's Universal Access to Early Education System (W.Va. 126CSR28) will be affected by the oral health requirement. Policy 2525 is slated for revisions in April 2014.

### **Proposals:**

The purpose is related to health promotion and disease prevention.

The major recommended changes include:

- Policy name change from “Communicable Disease Control” to “Health Promotion and Disease Prevention” to reflect health and safety as essential to student learning;
- Sections 2 and 3 were revised to include health promotion through school screening/examinations to reflect changes to the policy.
- Section 4.14 was added to recommend students have an annual comprehensive physical exam. This is in alignment with national best practice recommendations from American Academy of Pediatrics and our state Medicaid program.
- Section 4.15 was revised to clarify common outbreak diseases such as chickenpox,



whooping cough, herpes gladiatorum and flu.

- Section 4.19 was added to define an oral health examination
- Section 5, Health Promotion through School Screenings/Examinations, was added to support the current comprehensive physical for new enterers in PreK and Kindergarten and the new recommendations for dental examination/assessment for PreK and Kindergarten (SY 2015/16), grade 2 (2016/17), grade 7 (2017/18) and grade 12 (2018/19).
- Section 5.1 was added to support healthy learners through promoting screening and examinations through public/private partnership
- Section 5.2 was added to reflect the existing HealthCheck requirement for new enters in WV public school PreK and Kindergarten screening as noted in (W.Va. §18-5-17, W.Va. 126CSR28, Policy 2525: West Virginia's Universal Access to Early Education System, Governor's KidsFirst Initiative (2006) and Superintendent's Interpretation of June 29, 2007).;
- Section 5.3 Oral Health was added to reflect a new oral health examination requirement for new enterers in WV public school PreK and Kindergarten and students progressing to grades 2, 7 and 12. It provides for an implementation plan starting with PreK and Kindergarten during the school year 2015/16 and progressing chronologically per new school year until 2018/19;
- Section 7.1, Quality Assurance for School-Based Services, was added to set forth the expectations that any screenings, examinations, disease prevention measures and community services provided in the school will be delivered in accordance to appropriate standards of practice and care, laws and regulations to ensure the safety of the students served in schools; and
- Section 8.1 was moved to the new *Disease Prevention Measures Through Practice* and Education section.

### **Impact:**

The proposed provisions support and assist students in being healthy learners through promoting health promotion and disease prevention. The revisions will also allow County Boards of Education to have a central policy for the health requirements and disease control measures. The oral health examination requirement is on a phase-in transition plan over the next five years to allow districts time to integrate this requirement while developing the private-public partnership through WVDHHR-Oral Health Program to provide onsite free oral health assessments for any student without a dental examination. The comprehensive physical and dental examination will not prevent any student from being fully enrolled and participating in a WV public school. These changes have the possibility to positively impact student's health which in turn will support identifying possible educational and health deficits, improve attendance through early identification and disease prevention, enhance overall student wellness to provide a greater potential to be a successful student.

# Communicable Disease Control Policy Stakeholders

(WVDHHR-Oral Health Advisory Board Members List)

<b>First Name</b>	<b>Last Name</b>	<b>Organization/Agency</b>
Sharon	Carte	WV CHIP
Ted	Cheatham	Public Employee Insurance Association
Cynthia	Drennan	Sisters of Saint Joseph Charitable Fund
David	Felton, Dr.	West Virginia University School of Dentistry
Sister Mary Rebecca	Fidler	Susan Dew Hoff Clinic
Paula	Fields	WV Department of Education
Teri	Harlan	West Virginia Primary Care Association
James	Jeffries	Division of Infant, Child and Adolescent Health
Rebecca	King	WV Department of Education
Teresa	Mace	WVDHHR
Christina	Mullins	Office of Maternal, Child and Family Health
Bobbi	Muto	Marshall University
Nell	Phillips	Office of Community Health Systems
Jason	Roush, Dr.	WVDHHR
Gina	Sharps	Marshall University
Dana	Singer	Mid-Ohio Valley Health Department/Oral Health Coalition
Richard	Stevens	West Virginia Dental Association
Kim	Tieman	Benedum Foundation
Kimberly	Vickers	WV Dental Hygiene Association
Deonna	Williams	Oral Health Program
Pat	Woods	WV BMS
Jessica	Wright	Division of Health Promotion and Chronic Disease
Gayle	Manchin	President, WV Board of Education

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

SERIES 51  
HEALTH PROMOTION AND DISEASE PREVENTION COMMUNICABLE DISEASE  
CONTROL (2423)

**§126-51-1. General.**

1.1. Scope. - The legislative rule requires establishment of county policies related to health promotion and prevention of communicable diseases ~~control~~.

1.2. Authority. – West Virginia Constitution, Article XII, §2, W. Va. Code §§16-3-4, 16-3-4a, 16-3-5, 16-3C-1 through 16-3C-9, 18-2-5, 18-5-9, 18-5-17, 18-5-22, 18-5-34 and 18A-5-1.

1.3. Filing Date. - ~~June 15, 2012~~.

1.4. Effective Date. - ~~July 16, 2012~~.

1.5. Repeal of Former Rules. - This rule amends W. Va. 126CSR51 “Communicable Disease Control (2423),” ~~September 4, 2007~~ filed June 15, 2012 and effective ~~October 15, 2007~~ July 16, 2012.

**§126-51-2. Purpose.**

2.1. Good health and safety are essential to student learning. ~~The education and monitoring of communicable diseases during the school year is necessary to keep students healthy and learning.~~ This policy establishes the standards that must be placed in county policy ensuring student health, preventing disease and for addressing issues and educating students and school personnel on communicable diseases. The knowledge of health promotion and disease prevention along with standard/universal precautions, transmission, prevention and treatment of communicable diseases will ~~enhance health education, prevention and equality for all~~ support student success.

2.2. The objective of this policy is to allow for procedures to be in place for detection of potential health barriers to learning and communicable diseases, inclusion and exclusion, standard/universal precautions and enhancement of knowledge to ensure preventative measures occur for students and school personnel. This policy will assist in developing a working relationship with school personnel, parents/guardians, the students’ medical and dental home and the local health department while decreasing duplication of health services offered by the school and the medical and dental home and/or the community serving the students.

**§126-51-3. Application.**

3.1. County boards of education shall develop or amend communicable disease policies, hereinafter referred to as health promotion and disease prevention policies, to reflect understanding of health promotion and disease prevention transmission in the school setting and ~~to reflect understanding~~ of student/staff wellbeing rights to attend school or remain employed. The goal of the policy is to protect

individual students, staff members and the school population in general and foster a healthy environment conducive to learning.

3.2. The potential for inability to learn, loss of school time for preventable diseases or unmanaged care and unnecessary exclusion from the school setting is cause for concern. This problem makes it necessary for counties to develop a policy that is proactive and protective of the educational process and the health and safety rights of students and staff.

3.3. Each county should seek the assistance of school nurses, school personnel, parents and guardians, public health, medical personnel and community leaders in developing the health promotion and disease prevention communicable disease policy. ~~Technical assistance will be provided by the West Virginia Department of Education to any county upon request.~~

3.4. The county school system will work cooperatively ~~with~~ through public and private partnerships, including the local health department to enforce and adhere to the W. Va. Code §§18A-5-1, 16-3-4, 16-3D-1, 16-3-5, 16-3C-1 through 16-3C-9, 18-2-5, 18-5-9, 18-5-17, 18-5-22, and 18-5-34 for health promotion, disease prevention, control and containment of communicable disease in schools.

#### §126-51-4. Definitions.

4.1. ACIP is defined as the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention in the U.S. Department of Health and Human Services, which is the principal agency in the United States government for protecting the health and safety of all Americans and for providing essential human services, especially for those people who are least able to help themselves. CDC remains at the forefront of public health efforts to prevent and control infectious and chronic diseases, injuries, workplace hazards, disabilities and environmental health threats.

4.2. Airborne Pathogens are defined as the transmission of infectious agents through either airborne droplet nuclei (small-particle residue [five µm or smaller in size] of evaporated droplets that may remain suspended in the air for long periods of time) or dust particles containing infectious agents. These pathogens include but are not limited to tuberculosis (TB), rubella (measles) and varicella (chickenpox).

4.3. Airborne Precautions are not normally utilized in the school setting. It is defined as the isolation of an airborne pathogen to reduce the risk of airborne transmission of infectious agents. Airborne precautions entail wearing a respiratory protection mask (N95 respirator) when entering the room of a student receiving home/hospital instruction with known or suspected disease transmitted via airborne droplet nuclei, student placement in private hospital room with negative air pressure and placing a mask on the student for hospital transporting.

4.4. American Academy of Pediatrics also known as the AAP, is defined as a national organization of pediatricians, founded in 1930, committed to the attainment of optimal physical, mental, and social health and well-being for all infants, children, adolescents, and young adults.

4.5. Blood Borne Pathogens means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), hepatitis B virus (HBV) and hepatitis C virus (HCV).

4.6. Bureau is defined as the Bureau for Public Health in the West Virginia Department of Health and Human Resources and is the State Agency responsible for establishing vaccine requirements for students and best practices for health and wellness.

4.7. Casual Contact means day-to-day interaction between individuals and others in the home, at school or in the work place. It does not include intimate contact, such as sexual or drug use interactions, and it implies closer contact than chance passing in the hallway or sharing a lunch table.

4.8. Centers for Disease Control and Prevention also known as CDC, is defined as one of the ~~thirteen~~ eleven major operating ~~components~~ divisions of the United States Department of Health and Human Services (USDHHS), which is the principal agency in the United States government for protecting the health and safety of all Americans and for providing essential human services, especially for those people who are least able to help themselves. CDC remains at the forefront of public health efforts to prevent and control infectious and chronic diseases, injuries, workplace hazards, disabilities and environmental health threats.

4.9. Commissioner is defined as the Bureau ~~for Public Health~~ official who serves as State Health Officer as defined in W. Va. Code §16-1-2, or his or her designee.

4.10. Communicable Disease means a disease that may be transmitted directly or indirectly from one individual to another.

4.11. Direct Contact means a disease that is spread through the exposure of blood and/or body fluids to mucus membranes, open skin wounds, semen or intravenous transfusion. HIV/AIDS is spread by direct blood transmission into the blood stream of another and by semen or vaginal fluid contact. Hepatitis A can be spread by direct or indirect contact with feces while Hepatitis B and C can be spread by direct contact with semen and blood. These diseases do not pose a risk in school if body fluids such as blood and feces are handled using standard/universal precautions.

4.12. "Droplet Contact means contact of the conjunctivae or the mucous membranes of the nose or mouth of a susceptible person with large-particle droplets (larger than five  $\mu\text{m}$  in size) containing microorganisms generated from a person who has a clinical disease or who is a carrier of the microorganism. Droplets are generated from the source person primarily during coughing, sneezing, or talking and during the performance of certain procedures such as suctioning. Transmission via large-particle droplets requires close contact between source and recipient persons, because droplets do not remain suspended in the air and generally travel only short distances, usually three feet or less, through the air. These pathogens include, but are not limited to, bacterial infections, such as Pertussis (whooping cough), streptococcal (group A) pharyngitis, pneumonia or scarlet fever, Diphtheria (pharyngeal), Haemophilus influenzae type b and Neisseria meningitis disease, including meningitis, pneumonia and sepsis. Serious viral infections spread by droplet contact include but are not limited to adenovirus, influenza (flu), mumps and rubella (German measles).

4.13. Droplet Precautions is defined as droplet pathogen isolation utilized around individuals known or suspected to be infected with microorganisms transmitted by droplets (large-particle droplets [larger than five  $\mu\text{m}$  in size] that can be generated by the person during coughing, sneezing, talking, or the performance of procedures). Droplet precautions entail being in the a private environment, like the student's home, wearing a mask while within three feet of the individual infected and utilizing standard/universal precautions. Because droplets do not remain suspended in the air, special air handling and ventilation are not required to prevent droplet transmission. Masks may be worn to protect the health of a student who is immunocompromised.

4.14. HealthCheck is the name for West Virginia's Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. The EPSDT Program is a child preventive health component of Medicaid for children under 21 years of age. An annual comprehensive exam is recommended for all children ages 3-20 and more frequently if less than three. HealthCheck meets the requirements for vision, hearing, developmental, including speech and language, and oral health. The HealthCheck screening form is the preferred documentation method of licensed health care providers to record screenings.

4.145. Health or Safety Emergency Situation is determined on a case-by-case basis, and is defined as a specific situation that presents imminent danger or threat to students or other members of the community, or requires an immediate need for information in order to avert or diffuse serious threats to the safety or health of a student or other individuals. Any release of confidential medical information must be narrowly tailored considering the immediacy and magnitude of the emergency and must be made only to parties who can address the specific emergency in question. This exception is temporally limited to the period of the emergency and generally does not allow a blanket release of personally identifiable information from a student's education records to comply with general requirements under state law. Certainly an outbreak of diseases, but not limited to, ~~measles, rubella, mumps, and polio,~~ chickenpox, whooping cough, herpes gladiatorum and flu, that not only pose threat of permanent disability or death for the individual, but have historically presented themselves as epidemic in nature. Thus, disclosure of personally identifiable information from students' education records to state health officials for an outbreak of a communicable disease is permitted under health or safety emergency provisions of the Family Educational Rights and Privacy Act of 1988 (FERPA) and ~~Family Educational Rights and Privacy~~ FERPA: Final Regulations Part II, 34 CFR Part 99.

4.156. Immunocompromised is defined as reduced immune response due to immunosuppressive drugs, radiation, disease or malnutrition.

4.167. Legitimate Educational Reason is defined as school officials who have been determined to have genuine concern related to the student's educational achievement and performance allowing access and review pertinent educational records including medical and health information. A record of disclosure must be maintained and include: 1) the parties who have requested the information from the education records, and 2) the legitimate interests the parties had in requesting or obtaining the information.

4.178. Occupational Safety and Health Administration (OSHA) is defined as a division of the United States Department of Labor that provides standards and guidelines for the health and safety of America's workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health.

4.19. Oral Health Examination (referred to as an evaluation and coded to three main types Periodic, Comprehensive or Limited) means an evaluation performed on a student to determine the oral health of a student, the collection and recording of specific data intraoral and extra-oral hard and soft tissues, for diagnosis and treatment planning. This may include diagnostic services and must be completed by a dentist.

~~4.18~~20. School Nurse is defined as a registered professional nurse, licensed by the West Virginia Board of Examiners for Registered Professional Nurses (W. Va. Code §30-7-1, et seq.), who has completed a West Virginia Department of Education (WVDE) approved program as defined in 126CSR114 West Virginia Board of Education (WVBE) Policy 5100, Approval of Educational Personnel Preparation Programs and meets the requirements for certification contained in 126CSR136 WVBE Policy 5202, Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and

Advanced Salary Classification. The school nurse must be employed by the county board of education or as specified in W. Va. Code §18-5-22.

4.19.21. Standard/Universal Precautions is a body substance isolation approach to infection control. Standard Universal Precautions apply to 1) blood; 2) all body fluids, secretions, and excretions, except sweat, regardless of whether or not they contain visible blood; 3) non-intact skin; and 4) mucous membranes. According to the concept of standard/universal precautions, all human blood and all other human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens. There are three types of transmission: contact, airborne and droplet.

4.20.2. West Virginia Department of Health and Human Resources (WVDHHR) is the lead public health agency in West Virginia working to help shape the environments within which people and communities can be safe and healthy.

4.24.3. West Virginia Statewide Immunization Information System (WVSIIS) is a statewide electronic data system for reporting and tracking administrations of vaccines for use by health care practitioners. This system was created to consolidate individuals' immunization records, forecast recommended vaccinations, generate reminder notices due to overdue immunizations, identify improper vaccine administrations, conduct inventory management and systematic accountability, and provide general immunization practice management functions. Health care providers are required to report all administrations of vaccines as defined in W. Va. Code §16-3-4 and Bureau for Public Health Rules, 64CSR7 and 64CSR95.

#### **§126-51-5. Health Promotion through School Screenings/Examinations.**

5.1. All schools support and assist students in being healthy learners through promoting annual well child examinations, biannual dental examinations by a licensed dentist, up-to-date immunizations, emergency information, preventive health care and enrollment for children and families into health care insurance. A public/private partnership is easily accomplished through school nursing services, local WVDHHR/Bureau services, school-based services (including medical, mental and oral health), non-profit services, private sector services, businesses, etc.

5.2. HealthCheck: New enterers in West Virginia public school prekindergarten (Pre-K) and Kindergarten should have on file within 45 days of enrollment or prior to the first day of school attendance a record of a HealthCheck screening, or other comprehensive health screening comparable to the HealthCheck protocol. All screening forms shall be signed and dated by the child's licensed health care provider and completed within the prior 12 calendar months. Counties can retain the right to conduct follow-up screening (W. Va. Code §18-5-17, W. Va. 126CSR28, WVBE Policy 2525, West Virginia's Universal Access to Early Education System, Governor's KidsFirst Initiative and Superintendent's Interpretation of June 29, 2007).

5.3. Oral Health: New enterers in West Virginia public school Pre-K and Kindergarten and students progressing to grades 2, 7 and 12 should have on file within 45 days of entry or prior to the first day of school attendance a record of an oral health examination. The following transition plan will require each new enterer in Pre-K and Kindergarten and grades 2, 7 and 12 to show proof of an oral health examination beginning the school year (SY) 2015/16 all new enterers in Pre-K and Kindergarten; beginning SY 2016/17 all students entering grade 2; beginning SY 2017/18 all students entering grade 7; and beginning SY 2018/19 all students entering grade 12. All examination forms shall be signed and dated by the student's dentist and completed within the prior 12 calendar months. If the student does not have proof of an oral health examination, the student will automatically be enrolled into the WVDHHR-

Oral Health Program (OHP) Oral Disease Prevention Project to receive an oral health assessment regardless of their ability to pay.

~~5.54.~~ Tuberculin Skin Test: West Virginia continues to be a state with low incidence rates of tuberculosis. In order to ensure tuberculosis rates remain low, W. Va. Code §16-3D-3 requires tuberculosis screening test for students transferring from an out-of-state school or enrolling for the first time from outside the state and new school personnel starting employment in a West Virginia school, including new school volunteers and student teachers. The completion of the tuberculin skin test must be furnished as a certification from a licensed physician and completed within four months prior to the beginning of the students or new employees first day at a West Virginia school. Should the student(s) move in and out of the West Virginia public school system to other states, they shall be provided with a four month grace period to return without the requirement of a tuberculin skin test. After the four month timeframe, a tuberculin skin test would be required to reenter into the West Virginia school system. Anytime spent in another country or students and staff visiting from another country constitutes the requirement of a completed tuberculin skin test through certification from a licensed physician upon return or entry into the West Virginia school system.

**§126-51-5-6. Disease Prevention Measures through Immunizations.**

~~5.1.~~ All county boards of education must incorporate hand washing, as defined and outlined in The Basic and Specialized Health Care Procedures Manual for West Virginia Public Schools that accompanies 126CSR25A, WVBE Policy 2422.7, Standards For Basic and Specialized Health Care Procedures, into the county board of education communicable disease policy. It is best practice to wash the hands with soap and clean running water for twenty seconds. However, if soap and clean water are not available, use an alcohol based product to clean the hands. Alcohol based hand rubs significantly reduce the number of germs on skin and are fast acting. Good hand hygiene is the single most effective procedure to prevent the spread of communicable disease in the school setting. An allowance for hand washing should be incorporated into the daily routine of all students in West Virginia public schools, especially before eating, after blowing the nose, coughing, or sneezing, after going to the bathroom and as deemed necessary by the school.

~~5.2.6.1.~~ Students must be in compliance with the required immunization schedule as set forth by the Bureau Commissioner. The Commissioner, or his/her designee (local health officer) shall make the final determination in cases in which an authorized medical practitioner's written medical exemption is challenged by school personnel as inappropriate or invalid, as defined in ~~West Virginia Bureau for Public Health~~ Interpretive Rule, §64CSR95, section-10. The immunization record shall be a public health record and provided to the local health department and/or the Bureau to be entered and reviewed annually into the ~~West Virginia Statewide Immunization Information System (WVSIIS).~~

~~5.2.1.6.2.~~ All children entering ~~prekindergarten (Pre-KK)~~, kindergarten and a West Virginia public school for the first time must have immunizations and show proof upon enrollment as defined by W. Va. Code §16-3-4 and W. Va. 64CSR95. All ~~Pre-KK~~ students shall also meet requirements found in W. Va. 126CSR28 WVBE Policy 2525, West Virginia's Universal Access to a Quality Early Education System.

~~5.2.2.6.3.~~ 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~~, (W. Va. 64CSR95). Proof of Tdap and Meningococcal vaccinations shall be presented upon entry to ~~seventh~~ 7<sup>th</sup> and ~~twelfth~~ 12<sup>th</sup> grade as indicated in W. Va. 64CSR95, Interpretive Rule, Immunization Requirements and Recommendations for New School Enterers, ~~64CSR95~~. Immunization records for each student entering grades ~~seven-7~~ and ~~twelve~~ 12 shall be examined for the age appropriate



doses of these two vaccines. The information shall be entered into WVSIS in order to ensure that updated immunization information is readily available to health officials in the event of a communicable disease outbreak that presents an imminent danger to students or other members of the community.

~~5.2.2.~~ 6.3.a. Tdap vaccine is recommended for children age 11-12 years who have completed the recommended childhood DTP/DTaP vaccine series and have not already received a tetanus and diphtheria (Td) booster dose at middle school entry. Proof of Tdap vaccination is required to be presented upon entry to the 7<sup>th</sup> grade.

~~5.2.2.~~ 6.3.b. Adolescents age 13-18 who missed the 11-12 year old Tdap/Td dose and who have completed the primary DTP/DTaP series shall be required to get a dose of Tdap vaccine prior to entry to the 12<sup>th</sup> grade.

~~5.2.2.~~ 6.4.c. Meningococcal Vaccination shall be required in accordance with ACIP guidance. Current ACIP guidance for Meningococcal vaccine is to administer a first dose to children at 11 or 12 years old and a booster dose at 16-18 years of age. All children who receive a first dose of MCV vaccine before the age of 16 are recommended to receive a booster dose at 16-18 years of age. Proof of age appropriate MCV vaccination shall be presented upon entry to the 7<sup>th</sup> grade. Proof of the second dose of MCV shall be presented upon entry to the 12<sup>th</sup> grade for all children who received the 1<sup>st</sup> dose before 16 years of age. Only one dose of MCV is required if the first dose was administered after 16 years of age for 12<sup>th</sup> grade entry.

#### **§126-51.7. Quality Assurance for School-Based Services.**

7.1. All community services performed in the school setting should be regular and ongoing services that are evidence-based or a promising practice and follow best practices and guidelines.

7.1.a. Immunizations shall incorporate the protocols set forth by CDC-Advisory Committee on Immunization Practices (ACIP) and WVDHHR/Bureau-Immunization Services.

7.1.b. HealthCheck exam shall incorporate the protocols set forth by AAP-Bright Futures and WVDHHR-HealthCheck Program.

7.1.d. Tuberculin Skin Test shall incorporate the protocols of WVDHHR/Bureau-Tuberculosis Control Program.

7.1.e. Other services shall incorporate the protocols set forth by appropriate laws and regulations.

#### **§126-51-8. Disease Prevention Measure Through Practice and Education.**

8.1. All county boards of education must incorporate hand washing into the county board of education policy, as defined in W. Va. 126CSR25A, WVBE Policy 2422.7, Standards For Basic and Specialized Health Care Procedures, and as outlined in The Basic and Specialized Health Care Procedures Manual for West Virginia Public Schools. It is best practice to wash the hands with soap and clean running water for twenty seconds. However, if soap and clean water are not available, use an alcohol-based product to clean the hands is acceptable practice. Alcohol-based hand rubs significantly reduce the number of germs on skin and are fast acting. Good hand hygiene is the single most effective procedure to prevent the spread of communicable disease in the school setting. An allowance for hand washing should be incorporated into the daily routine of all students in West Virginia public schools, especially before eating, after blowing the nose, coughing, or sneezing, after going to the bathroom and as deemed necessary by school.

~~5.38.2.~~ Instruction on the principle modes by which communicable diseases, including, but not limited to, human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS) are prevented, spread and transmitted shall be taught to students as outlined in W. Va. 126CSR44E, WVBE Policy 2520.5, Next Generation Health Education Content Standards and Objectives. An opportunity shall be afforded to the parent or guardian of a child subject to instruction in the prevention, transmission and spread of HIV/AIDS and other sexually transmitted diseases to examine the course curriculum requirements and materials to be used in such instruction. The parent or guardian may exempt such child from participation in such instruction by giving notice to that effect in writing to the school principal as set forth in W. Va. Code §18-2-9.

~~5.48.3.~~ An educational in-service on the prevention, transmission and treatment of current communicable diseases shall include, but not limited to, ~~human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS)~~, shall be provided to all school personnel every two years by the county boards of education, as specified in W. Va. Code §18-2-9 and §18-5-15d.

### ~~§126-51-69.~~ Disease Control Measures.

~~69.1.~~ Distinctions will be made related to diseases that are communicable in the school setting versus those known not to be spread by casual contact e.g. AIDS, Hepatitis B, Hepatitis C and other like diseases.

~~69.2.~~ Each reported case of disease known not to be spread by casual contact will be validated by a designated individual such as a school nurse (W. Va. Code §18A-5-1 and ~~W. Va.~~ §18-5-22).

~~69.3.~~ The administrator or school nurse shall exclude from the school any pupil or pupils known to have or suspected of having any infectious disease known to be spread by casual contact and is considered to be a health threat to the school population. The superintendent has the authority to exclude a staff member from school when reliable evidence or information from a qualified source confirms him/her of having a potential communicable disease that is known to be spread by any form of casual contact and is considered a health threat to the school population. Such a student or staff member shall be excluded in accordance with guidelines of ~~American Academy of Pediatrics AAP, Centers for Disease Control (CDC) and West Virginia Department of Health and Human Resources (WVDHHR)~~ unless his/her physician approves school attendance and the condition is no longer considered contagious. All reportable communicable diseases will be referred to the local health department, as set forth in West Virginia Bureau for Public Health Legislative Rule 64CSR7, Reportable Diseases, Events and Conditions. In the event of a suspected communicable disease outbreak as defined by the Commissioner, public schools and/or county boards of education shall release student personally identifiable information to appropriate public health officials as allowable by FERPA's Health and Safety Emergency Disclosure and W. Va. 126CSR94, WVBE Policy 4350, Procedures for the Collection, Maintenance and Disclosure of Student Data. The local health department is able to provide reportable communicable disease guidance or go to <http://www.wvdhhr.org/idep/#Disease%20%20Reporting> <http://www.dhhr.wv.gov/oeps/disease/Pages/default.aspx>.

~~69.4.~~ The West Virginia Bureau for Public Health Legislative Rule, Reportable Diseases, Events and Conditions, 64CSR7, establishes procedures governing the reporting of certain diseases and conditions, unusual health events and clusters or outbreaks of disease to the Bureau. It establishes the responsibility of school administrators, school nurses and other health care providers working in schools to report, assist with or manage the outbreak and any necessary contact investigation and management including implementation of control methods to limit the spread of communicable disease. This process frequently occurs as a simple surveillance report of possible communicable disease cases within the school facility

without personal identifiable information as requested by the local public health department or regional Epidemiologist. After review of the information, in some cases (e.g. foodborne outbreak, respiratory outbreak, case or outbreak of a reportable condition such as vaccine preventable disease, hepatitis, meningitis and encephalitis) the state, regional and/or local public health department, along with the BPH Commissioner and staff, may request student or staff personal identifiable information (name, address, and phone number) for cases and contacts of cases based on surveillance data to fully investigate a case or outbreak of communicable disease, including the complete and accurate tracing of contacts for the purpose of recommending and/or providing appropriate post-exposure prophylaxis in an effort to prevent additional cases. The investigation of any communicable disease outbreak is based on scientific grounds and utilizes follow-up information to verify line list data and information on risk factors to protect the health and safety of the public including those currently experiencing the disease. Risk factors might include classroom, participation in school activities and transportation, behaviors and exposures to environmental sources or other persons. This release of personal identifiable information to public health officials is classified as a Health and Safety Emergency in the FERPA rule allowing schools to release the information needed for protection of public health.

69.5. Mandatory screening for communicable diseases that are known not to be spread by casual contact is not warranted as a condition for school entry or for employment or continued employment, nor is it legal based on W. Va. Code §16-3C-1. All screenings performed in the public school setting should be age appropriate deemed effective and necessary through evidence-based and scientific researched-based practice utilizing standard procedures and with the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. §1232h. W. Va. Code §18-5-22 allows county boards to provide proper medical and dental inspections for all students attending school and gives authority to take any other necessary actions to protect students from infectious diseases.

69.6. Irrespective of the disease presence, standard/universal precautions shall be used and adequate sanitation facilities will be available for handling blood or body fluids within the school setting or school buses. Blood and body fluids from any person in the school setting shall be treated with standard/universal precautions; no exception shall be made when handling blood and body fluids. School personnel will be trained in standard/universal precautions as set forth by the Occupational Safety and Health Administration recommendations and guidelines at <http://www.osha.gov/>.

#### **§126-51-710. Confidentiality.**

710.1. All persons privileged with any medical information that pertains to students or staff members shall be required to treat all proceedings, discussions and documents as confidential information. Before any medical information is shared with anyone in the school setting a “legitimate educational reason” or “health or safety emergency situation” must exist, all other releases of confidential medical and health information shall be released only with the consent of the parent/guardian, student if over 18, employee or their representative as outlined in W. Va. 126CSR94, WVBE Policy 4350, Procedures for the Collection, Maintenance and Disclosure of Student Data and, ~~Family Educational Rights and Privacy Act of 1988 and Family Educational Rights and Privacy: Final Regulations. Part II, 34 CFR Part 99 FERPA.~~

710.2. Information from health records is part of the educational record and should be shared with the child’s parents/guardians and pass freely among the school and medical home/health care provider to enhance student health and prevent duplication of services, only after permission is obtained from the student’s parent/guardian.

#### **§126-51-811. Severability.**

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

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POLICY (2423): Health Promotion and Disease Prevention

COMMENT PERIOD ENDS: April 14, 2014

COMMENT RESPONSE FORM

NOTICE: Comments, as submitted, shall be filed with the West Virginia Secretary of State's Office and open for public inspection and copying for a period of not less than five years.

The following form is provided to assist those who choose to comment on Policy 2423: Health Promotion and Disease Prevention. Additional sheets may be attached, if necessary.

Name: \_\_\_\_\_ Organization: \_\_\_\_\_

Title: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

Please check the box below that best describes your role.

- School System Superintendent
- School System Staff
- Parent/Family
- Principal
- Teacher
- Business/Industry
- Professional Support Staff
- Service Personnel
- Community Member

COMMENTS/SUGGESTIONS
§126-51-1. General.
§126-51-2. Purpose.
§126-51-3. Application.
§126-51-4. Definitions.

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<p>§126-51-5. Health Promotion through School Screenings/Examinations.</p>
<p>§126-51-6. Disease Prevention Measures through Immunizations.</p>
<p>§126-51-7. Quality Assurance for School-Based Services.</p>
<p>§126-51-8. Disease Prevention Measures Through Practice and Education.</p>
<p>§126-51-9. Disease Control Measures.</p>
<p>§126-51-10. Confidentiality.</p>
<p>§126-51-11. Severability.</p>

Please direct all comments to:

Paula Fields  
Office of Special Programs  
West Virginia Department of Education  
Capitol Building 6, Room 304  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0330  
E-Mail Address: [prfields@access.k12.wv.us](mailto:prfields@access.k12.wv.us)  
Fax No.: (304) 558-3787