



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR
A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

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)**

RULE IS LEGISLATIVE EXEMPT

Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

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)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE, THE
EFFECTIVE DATE OF THIS RULE IS

Monday, September 14, 2015

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

Yes

Jill M Newman -- 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: 9756



Document: 27078

126CSR51

TITLE 126
LEGISLATIVE RULE BOARD OF EDUCATION

SERIES 51
HEALTH PROMOTION AND DISEASE PREVENTION (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.

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

1.3. Filing Date. – August 13, 2015.

1.4. Effective Date. – September 14, 2015.

1.5. Repeal of Former Rules. - This rule amends W. Va. 126CSR51 “Health Promotion and Disease Prevention (2423),” filed May 15, 2014 and effective July 1, 2014.

§126-51-2. Purpose.

2.1. Good health and safety are essential to student learning. This policy establishes the standards that must be placed in county policy ensuring student health, preventing disease and 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 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 in the school setting and of student/staff wellbeing. 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. The school nurse is qualified to lead the development and implementation of the county level policy.

3.4. The county school system will work cooperatively 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 eleven major operating divisions of the United States 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.

4.9. Commissioner is defined as the Bureau 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 μm 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 μm 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 or other comprehensive health screening comparable to the HealthCheck protocol. The HealthCheck screening form is the preferred documentation method of licensed health care providers to record screenings but forms and electronic documentation may vary.

4.15. 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, 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 FERPA: Final Regulations Part II, 34 CFR Part 99.

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

4.17. 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.

4.18. 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.

4.20. 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.

4.21. 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.

4.22. 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.

4.23. 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 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. The school nurse is the school health expert who is qualified to lead the coordination and monitoring of health promotion through school screenings and examinations.

5.2. HealthCheck: New enterers in West Virginia public school at first entry of either prekindergarten (Pre-K) or Kindergarten and all students progressing to grades 2, 7 and 12 should have on file within 45 days of enrollment/entry 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. The following transition plan will require each new enterer in Pre-K and Kindergarten and all students entering grades 2, 7 and 12 to show proof of a HealthCheck screening: 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 screening forms shall be signed and dated by the child's licensed health care provider and completed within the prior 12 calendar months. If the student does not have proof of a HealthCheck the classroom teacher shall be informed to ensure any potential learning deficits (vision, hearing, speech and language, developmental, etc.) will be referred to the appropriate school personnel for screening as individually indicated. 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 at first entry of either Pre-K or Kindergarten and all students progressing to grades 2, 7 and 12 should have on file within 45 days of enrollment/entry or prior to the first day of school attendance a record of an oral health examination. The following transition plan will request each new enterer in Pre-K and Kindergarten and all students entering 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 during the grade of requirement, the student may be enrolled into the WVDHHR-Oral Health Program's (OHP) Oral Disease Prevention Project. The Oral Health Prevention Project will provide an oral health assessment from a dental provider regardless of the ability to pay if the parent/guardian provides approval/consent for the student to participate.

5.4. Tuberculin Skin Test: West Virginia continues to be a state with low incidence rates of tuberculosis hence the removal of tuberculosis skin testing for out-of-state student transfers and new school employees, including volunteers in W. Va. Code §16-3D-3 (2015). In order to ensure tuberculosis rates remain low, W. Va. Code §16-3D-3 requires 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. Also, 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.

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

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 Immunization Officer shall make determinations on request for a medical exemption to the compulsory immunization requirements set forth by the Bureau. A medical exemption request must be made by a licensed physician and state that the physical condition of the child is such that immunization is contraindicated or there exists a specific precaution to a particular vaccine. The Immunization Officer's decision on a request for an exemption to the compulsory immunization requirements of this section may be appealed to the State Health Officer. The final determination of the State Health Officer is subject to a right of appeal pursuant to the provisions of W. Va. Code §29A-5-1 et. seq. The immunization record shall be a public health record to be entered and reviewed annually into the WVSIIS.

6.2. All children entering Pre-K, kindergarten or any 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-K students shall also meet requirements found in 126CSR28, WVBE Policy 2525, West Virginia's Universal Access to a Quality Early Education System.

6.3. Beginning in the school year 2012-2013, two additional vaccine requirements shall be added for students entering the 7th and the 12th grades, in accordance with the guidance from the Advisory Committee on Immunization Practices (ACIP) and the revised rule of the Bureau, (W. Va. 64CSR95). Proof of Tdap and Meningococcal vaccinations shall be presented upon entry to 7th and 12th grade as indicated in and W. Va. Code §16-3-4, W. Va. 64CSR95, Interpretive Rule, Immunization Requirements and Recommendations for New School Enterers. Immunization records for each student entering grades 7 and 12 shall be examined for the age appropriate doses of these two vaccines. The information shall be entered into WVSIIS 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.

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 7th grade.

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 12th grade.

6.3.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 7th grade. Proof of the second dose of MCV shall be presented upon entry to the 12th grade for all children who received the 1st 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 12th grade entry.

6.4. County boards of education should consider providing one credit hour of community service to students in high school for obtaining and showing proof of their annual influenza (flu) vaccination as a great way to support attendance rates, academic success, well workforce and overall wellness.

§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. The terms regular and ongoing services as referenced refer to community services that are provided within the school in an agreed upon manner between the school and community partner(s) which work toward promoting both the academic, health and social service needs of students.

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, or comparable comprehensive well child exam, shall incorporate the protocols set forth by AAP-Bright Futures and WVDHHR-HealthCheck Program.

7.1.c. Oral Health services shall incorporate the protocols set forth by the WVDHHR-OHP.

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.

8.2. 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.

8.3. An educational in-service on the prevention, transmission and treatment of current communicable diseases shall include, but not limited to, 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.

§126-51-9. Disease Control Measures.

9.1. 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.

9.2. 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 §18-5-22).

9.3. 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 AAP, CDC and 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.dhhr.wv.gov/oeps/disease/Pages/default.aspx>.

9.4. 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.

9.5. 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.

9.6. 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/>.

§126-51-10. Confidentiality.

10.1. All school personnel 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 FERPA. The only exception is immunizations as referenced in section 6.1.

10.2. Health information provided to or from the school, 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.

§126-51-11. 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.