



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

11/15/2019 11:39:27 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Education TITLE-SERIES: 126-118

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Athletic and Limited Football Trainers in the Public Schools of West Virginia (5112)

CITE STATUTORY 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); and, W. Va. Bd. of Educ. V. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 12/16/2019 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Brad A. Fittro, Coordinator

ADDRESS: WVDE Office of Certification, Capitol Bldg. 6, Suite 700  
1900 Kanawha Blvd., E, Charleston, WV 25305

EMAIL: bfitfro@k12.wv.us

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This policy outlines the minimum requirements licensure approved by the WVBE, and issued by the State Superintendent of Schools, to qualified individuals who wish to work in West Virginias public schools as an Athletic Trainer. Important terminology is defined, governing principles are identified, and the criteria for issuance of each license are established.

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

Policy 5112 is being revised to establish requirements regarding the licensure of athletic and limited football trainers to work in the public schools of West Virginia and is critical to the success and safety of all student athletes. As changes occur in education, certification and licensure policy must be revised.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

No costs or revenue will be impacted by the proposed amendment of 126CSR118, Policy 5112.

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

No costs or revenue will be impacted by the proposed amendment of 126CSR118, Policy 5112.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	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
<b>2. Estimated Total Revenues</b>	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No costs or revenue will be impacted by the proposed amendment of 126CSR118, Policy 5112.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**William C Burch -- 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.**

# Policy 5112, Athletic and Limited Football Trainers in the Public Schools of West Virginia

## Executive Summary

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### West Virginia Department of Education Division of Support and Accountability, Office of Certification

**Policy Cycle:**     \_\_30\_\_ day Comment Period                       Adoption of Policy

**Policy Process:**     Revision             Repeal and Replace             New

**Introduction:** This revision to West Virginia Board of Education Policy 5112 establishes requirements regarding licensure of Athletic Trainers to work in the public schools of West Virginia and is critical to the success and safety of all student athletes. As changes occur in education, certification and licensure policy must be revised.

**Background:** This policy outlines the minimum requirements licensure approved by the WVBE, and issued by the State Superintendent of Schools, to qualified individuals who wish to work in West Virginia's public schools as an Athletic Trainer. Important terminology is defined, governing principles are identified, and the criteria for issuance of each license are established.

**Proposed Changes:** The author identifies in detail the changes made the policy. If changes are extensive, use a bullet list.

- **126.118-1. General.**
  - Revised the Scope of the policy to be uniform with other policy language and formatting.
- **126-118.2. Purpose.**
  - Added the purpose of the Athletic Trainer Policy as per current policy format.
- **126-118-3. General Rules Requirements.**
  - Included language that a county may not employ an applicant in good faith on the anticipation that he/she is eligible for a certificate to match Policy 5202 language for trainers and coaches.
- **126-118-4. Licensure Governing Athletic Trainers (Policy 5202).**
  - Removed repetitive language, grammar, and typographical errors.
  - Changed the name to universal WVDE as office names have changed and does not limit to a specific office name.
  - Added the requirements to obtain a Limited Football Trainer Authorization as outlined in WVBE Policy 5202.
  - Removed dates for flexibility to allow county school systems to post and hire an Athletic Trainer or Limited Football Trainer.
  - Changed language to allow flexibility in completing the WVSSAC Trainer Workshop as per WVSSAC guidelines.
  - Removed language that allowed a First-Class/Full-Time Permit and its renewal for Athletic Trainer Student Support as Athletic Training is no longer issued as a Professional

## Policy 5112, Athletic and Limited Football Trainers in the Public Schools of West Virginia

### Executive Summary

Student Support Certificate, but rather a Temporary Authorization valid for one year only.

- **126-118-5 General Role Description.**
  - Added language from Policy 5202 that allows for a county to employ a Temporary Athletic Trainer or Coach for no more than three consecutive days one time per season in the event the assigned Coach or Athletic Trainer is not available to be present.
- **126-118-6. Governing Principles.**
  - Section was re-numbered due to the addition of a section earlier in the policy.
- **126-118-7. Reporting of Misconduct.**
  - Added language that states any county employee that knows of any acts on the part of any licensed athletic trainer or limited football trainer for which a certificate may be revoked to report the all facts and evidence to the State Superintendent and any further acts of misconduct must be reported to the West Virginia Board of Physical Therapy.
- **§126-118-8. Severability.**
  - Section was re-numbered due to the addition of a section earlier in the policy.

**Impact:** These revisions to Policy 5112 assure appropriate certification of individuals for licensure to work in the public schools of West Virginia as Athletic Trainers in order to meet the needs of all student athletes, as part of the cycle of continuous improvement. The flexibility afforded to districts in attracting and retaining Athletic Trainers is evidenced in policy revisions.

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**Action:**

- Release for \_\_30\_\_ day public comment
  - Approved by WVBE with effective date of \_\_\_\_/\_\_\_\_/20\_\_
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**Response to Comments:**

# Policy 5112, Athletic and Limited Football Trainers in the Public Schools of West Virginia

## List of Stakeholders

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### West Virginia Department of Education

#### External Stakeholders

- Doug Clemons, Associate Superintendent, Greenbrier County Schools
- Dr. Cindy Daniel, Assistant Executive Director, WVSSAC
- Bernie Dolan, Executive Director, WVSSAC
- Margaret Pennington, Assistant Superintendent, Fayette County Schools
- Christopher Ritchie, Community Member
- Deborah L. Smith, Manager Professional Personnel, Cabell County Schools

#### Internal Stakeholders

- Michele Blatt, Assistant Superintendent, Support and Accountability
- Clayton Burch, Associate Superintendent, Superintendent's Office
- Brad A. Fittro, Coordinator, Office of Certification
- Joshua Grant, Coordinator, Office of Middle & Secondary Learning
- Dr. Robert Hagerman, Executive Director, Office of Certification

TITLE 126  
**PROCEDURAL LEGISLATIVE RULE**  
BOARD OF EDUCATION

SERIES 118  
**ATHLETIC AND LIMITED FOOTBALL TRAINERS IN THE PUBLIC SCHOOLS OF WEST VIRGINIA (5112)**

**§126-118-1. General.**

1.1. Scope. -- ~~The purpose of this athletic trainer policy is to improve the health care of student athletes in the public schools of West Virginia.~~ This legislative rule describes the role of athletic trainers and individuals with limited football trainer authorization in the public schools of West Virginia and provides for their licensure and professional development.

1.2. Authority. -- W. Va. Constitution, Article XII, §2 and W. Va. Code §18-2-5 and §18-2-25.

1.3. Filing Date. -- ~~October 7, 2011.~~

1.4. Effective Date. -- ~~November 7, 2011.~~

1.5. Repeal of Former Rule. -- This ~~procedural~~ legislative rule amends W. Va. 126CSR118, Athletic Trainers in the Public Schools of West Virginia," filed ~~April 19, 2004~~ October 7, 2011, and effective ~~May 20, 2004~~ November 7, 2011.

**§126-118-2. Purpose.**

2.1. The purpose of this policy is to ensure that appropriate health oversight is provided for student athletes in football programs in West Virginia public schools.

**§126-118-~~23~~. General ~~Rules~~ Requirements.**

~~23.1.~~ Each county board of education (county/counties) shall employ a registered athletic trainer(s) or an individual(s) with limited football trainer authorization defined under section ~~45.1~~ to serve during ~~senior high school~~ football practices and games for grades 9, 10, 11, and 12. ~~High Schools containing grades 9, 10, 11, and 12~~ that do not have an athletic trainer or an individual with limited athletic trainer authorization may not participate in football practices and games.

~~23.2.~~ Each county ~~board of education~~ is encouraged to employ an athletic trainer for ~~middle and junior high school~~ football practices and games for grades 5, 6, 7, and 8.

~~23.3.~~ County superintendents are encouraged to assign an athletic trainer to work with other school athletic programs.

~~23.4.~~ Athletic ~~T~~trainers employed to serve in any public school capacity must adhere to the licensure requirements set forth in this policy and W. Va. 126CSR136, Policy 5202, Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications (~~126CSR136~~) (Policy

5202).

3.5. A county may not employ an applicant in good faith on the anticipation that he/she is eligible for a certificate.

**§126-118-34. Licensure Governing Athletic and Limited Football Trainers Authorizations (Policy 5202).**

~~3.4.1.~~ Athletic Trainer Authorization. A ~~Temporary A~~ authorization endorsed for athletic trainer may be issued to an individual who holds valid certification through the National Athletic Trainers Association Board of Certification (NATABOC); and who has registered with the West Virginia Board of Physical Therapy, ~~as provided in West Virginia §30-20A-2;~~ and who provides a copy of the valid registration from the West Virginia Board of Physical Therapy; and who receives the recommendation of the superintendent of the employing county.

~~3.4.2.~~ The Athletic Trainer Authorization may be reissued annually upon application to the WVDE Office of Professional Preparation with documentation of current registration with the West Virginia Board of Physical Therapy and the recommendation of the superintendent of the employing county.

~~3.4.3.~~ Limited Football Trainer Authorization. If an athletic trainer cannot be obtained, ~~county~~ boards of education shall employ a licensed health care provider which ~~shall may~~ include one of the following: physician, registered nurse, licensed practical nurse, nurse practitioner, chiropractor, physical therapist, occupational therapist, physician's assistant, paramedic, or emergency medical technician as a limited football trainer. To qualify for limited football trainer authorization, ~~county~~ boards of education must:

~~3.4.3.a.~~ Post the position of athletic trainer or individual to receive limited football trainer authorization with a closing date on or before May 1 prior to the West Virginia Secondary School Activities Commission (WVSSAC) season start date for fall sports. If no authorized or authorization-eligible athletic trainer can be employed, the county may employ an individual who shall apply for a limited football trainer authorization from the list of health care professionals in section 4.3; and

~~3.4.3.b.~~ Employ an athletic trainer. If a registered athletic trainer cannot be employed, county boards of education shall select a licensed health care provider to apply for limited football trainer authorization. complete the appropriate WVDE application for licensure; and

4.3.c. submit a copy of a high school diploma or state-approved high school equivalency; and

4.3.d. submit documentation of a valid health care provider license; and

~~3.3.e.4.3.e.~~ Require the individual(s) seeking limited football trainer authorization to attend provide documentation of having completed an athletic trainer workshop/clinic sanctioned by the WVSSAC or provide assurance that the individual being hired will complete the WVSSAC athletic trainer workshop as per WVSSAC guidelines; and

4.3.f. submit the recommendation from the superintendent of the employing county.

~~3.3.e.4.4.~~ Renewal of the Limited Football Trainer Authorization. The Limited Football Trainer



Authorization may be reissued annually upon application to the WVDE ~~Office of Professional Preparation~~ with documentation of a valid health care provider license and the recommendation of the superintendent of the employing county.

~~3.4.5.~~ Student Support Certificate for Athletic Trainer. Student Support Certificates for Athletic Trainer that were issued prior to July 1, 2011, may be renewed in accordance with renewal requirements for professional student support certificates, as described in Policy 5202, ~~§10.3.6(c)~~. No Initial Professional Student Support Certificates for Athletic Trainer will be issued after July 1, 2011.

~~3.5. First Class/Full Time Permit for Athletic Trainer Student Support Personnel.~~

~~3.5.a. Initial First Class/Full Time Permits for Athletic Trainer Student Support Personnel will not be issued after July 1, 2011, as stipulated in W. Va. Code §30-20A-2.~~

~~3.5.b. Renewal of First Class/Full Time Permits for Athletic Trainer Student Support Personnel. The First Class/Full Time Permit for Athletic Trainer may be renewed in accordance with renewal requirements described in Policy 5202, §11.1. Only those Permits that were in effect as of July 1, 2010, may be renewed.~~

**§126-118-45. General Role Description.**

~~45.1. Role of the~~ Authorized Athletic Trainer. The athletic trainer possesses the essential knowledge, skills, attitudes, and credentials necessary to carry out the practices of prevention, evaluation, initial care, and physical rehabilitation of injuries sustained by students engaged in public school athletics. The athletic trainer has responsibility for the development, implementation, and management of the athletic training program.

~~45.2. Role of the~~ Authorized Limited Football Trainer. The duties of individuals with limited football trainer authorization are limited to evaluation, initial care, and referral of injuries sustained by students engaged in public school athletics.

5.3. Temporary Athletic Trainer. In the event the assigned athletic coach or athletic trainer is not able to be present, the county may assign one time only during the coaching/athletic trainer assignment season for that sport/activity, an individual with a medical background that shall include one of the following: physician, registered nurse, licensed practical nurse, nurse practitioner, chiropractor, physical therapist, occupational therapist, physician's assistant, paramedic, or emergency medical technician to fulfill the duties of the athletic coach or athletic trainer for no more than three consecutive days.

**§126-118-56. Governing Principles.**

~~56.1.~~ An individual serving as an athletic trainer or individuals with limited football trainer authorization may not have simultaneous coaching responsibilities in the same sport.

~~56.2.~~ An athletic trainer or an individual with limited football trainer authorization must be in attendance at all senior high school football practices and games.

~~56.2.a.~~ County superintendents may grant excuses from this requirement for an individual practices or games based on illness, accident, or unforeseen events.

56.2.b. When an athletic trainer or an individual with limited football trainer authorization is not in attendance because of an illness, accident, or other unforeseen event, the county superintendent must secure the attendance of other persons with specialized health related training as per section 5.3 of this policy.

56.3. It is the responsibility of the athletic trainer or individual with limited football trainer authorization to determine whether or not an injured student athlete participates in a game or practice.

**§126-118-7. Reporting of Misconduct.**

7.1. It shall be the duty of any county employee who knows of any act(s) on the part of any licensed athletic trainer or limited football trainer for which a certificate may be revoked to report the same together with all facts and evidence, to the State Superintendent of Schools. Acts of misconduct committed by licensed athletic trainers also must be reported to the West Virginia Board of Physical Therapy and other licensing entities as appropriate.

**§126-118-68. Severability.**

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

**Policy 5112, Athletic and Limited Football Trainers in the Public Schools of West Virginia  
Comment Response Form**

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**Comment Period Ends: December 16, 2019**

**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 5112, Athletic and Limited Football Trainers in the Public Schools of West Virginia.**

Additional sheets may be attached, if necessary.

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

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

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

Please check the box below that best describes your role.

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Superintendent             | <input type="checkbox"/> Higher Educator   | <input type="checkbox"/> Parent/Family    |
| <input type="checkbox"/> Principal                  | <input type="checkbox"/> Teacher           | <input type="checkbox"/> Community Member |
| <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Other            |

COMMENTS/SUGGESTIONS
§126.118-1. General.
§126-118.2. Purpose.
§126-118-3. General Rules Requirements.
§126-118-4. Licensure Governing Athletic Trainers (Policy 5202).
§126-118-5 General Role Description.
§126-118-6. Governing Principles.

**Policy 5112, Athletic and Limited Football Trainers in the Public Schools of West Virginia  
Comment Response Form**

**§126-118-7. Reporting of Misconduct.**

**§126-118-8. Severability.**

Please direct all comments to:

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West Virginia Department of Education  
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