



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

AGENCY: Education TITLE-SERIES: 126-174

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

RULE NAME: Investigating Indoor Air Quality Complaints (6202)

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)

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

October 12, 2021

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

Yes

Michele L Blatt -- 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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**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

**SERIES 174
INVESTIGATING INDOOR AIR QUALITY COMPLAINTS (6202)**

§126-174-1. General.

1.1. Scope. -- This legislative rule sets forth the procedure for the investigation and response to indoor air quality (IAQ) complaints in existing and subsequently constructed schools.

1.2. Authority. -- W. Va. Constitution, Article XII, §2; and W. Va. Code §18-2-5 and §18-9E-3.

1.3. Filing Date. -- September 9, 2021.

1.4. Effective Date. -- October 12, 2021.

1.5. Repeal of Former Rule. -- This legislative rule repeals and replaces W. Va. §126CSR174, Policy 6202, Investigating Indoor Air Quality Complaints, filed October 13, 1999, and effective November 12, 1999.

§126-174-2. Investigation of IAQ Complaints.

2.1. Each county shall designate an official who shall be responsible for addressing IAQ complaints.

2.2. Individuals wishing to file an IAQ complaint shall complete an IAQ Complaint Form found on the West Virginia Department of Education's (WVDE) website. The form must be filed with the principal of the affected school and the county's designated official.

2.2.a. The complainant may check on the status of the complaint at any time throughout the investigation.

2.3. Upon receipt of an IAQ Complaint Form the school principal and the county's designated official shall:

2.3.a. investigate the complaint within one working day of the initial filing and respond to the complainant within five working days of the initial filing through completion of the IAQ Investigation and Response Form found on the WVDE's website; or

2.3.b. investigate the complaint within one working day of the initial filing and, dependent upon the severity of the finding(s), immediately convene the school's IAQ Investigation Advisory Committee (IAQ Committee) and notify the complainant in writing that an IAQ Committee has been convened to investigate the complaint.

2.4. If the complainant is not satisfied with the principal or designated official's response under section 2.3.a, the complainant may, within five working days, ask the principal or designated official to follow section 2.3.b, requiring the complaint to be reviewed by the IAQ Committee.

2.5. IAQ Committee members shall consist of seven members, with no more than two members being of the same roles identified below:

2.5.a. principal of the school named in the complaint,

2.5.b. county superintendent or designee,

2.5.c. county facilities/maintenance director (may serve as the county superintendent's designee),

2.5.d. member(s) of faculty senate of the school named in the complaint,

2.5.e. school custodian(s) of the school named in the complaint, and

2.5.f. member(s) of the local school improvement council of the school named in the complaint.

2.6. Once convened, the IAQ Committee has five working days to review and respond to the complainant by way of the principal or designated official as to the status and corrective action plan through completion of the IAQ Investigation and Response Form found on the WVDE's website.

2.6.a. The response may be marked preliminary in situations where the IAQ Committee is waiting to base its corrective action plan on sample results from a testing company. During this waiting period of not more than five additional working days, the principal and designated official shall ensure the safety of all building occupants. Upon receipt of the requisite test results, the IAQ Committee shall prepare and issue a written follow-up communication to the complainant that either confirms or adjusts the preliminary response or provides the county's revised corrective action plan.

2.7. Counties that receive IAQ complaints are encouraged to seek assistance from local, state, and federal agencies in both investigating the complaint and in forming the corrective action plan. Upon request, WVDE heating, ventilation, and air conditioning technicians are available to provide technical assistance in resolving IAQ complaints. It is recommended that technical assistance in resolving an IAQ complaint be requested as soon as possible upon receipt of an IAQ complaint.

2.8. The appeal process is completed upon issuance of the IAQ Committee's final response.

§126-174-3. Reporting of IAQ Complaints.

3.1. The county shall:

3.1.a. assign a county derived log number for each complaint filed with the principal and designated official;

3.1.b. provide a corrective action plan and estimated cost for each valid complaint;

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3.1.c. send to the WVDE School Facilities Services unit a report on the number of IAQ complaints and the total estimated cost of correction for all IAQ complaints registered during each quarter;

3.1.c.1. the report on the number of IAQ complaints is due within 15 calendar days of the end of each quarter; and

3.1.d. review all corrective action plans against the county's ten-year CEEP and make any necessary amendment(s) to the CEEP.

§126-174-4. Severability.

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