



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

1/13/2022 11:32:13 AM

Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Education TITLE-SERIES: 126-141

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

RULE NAME: County Board of Education Relations with County Staff and School Employees (5300)

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: 02/14/2022 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Charlene Coburn, Accountability Officer

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

EMAIL: ccoburn@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:

Policy 5300 clarifies the principles of the relationship between county boards of education, county staff, and school employees.

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

Policy 5300 is being revised to clarify the principles established to support relationships among county board of education members, county staff, and school employees and to clarify the expectation that all employees participate in an annual evaluation process.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There will be no economic impact on revenues of state government as a result of the proposed amendment of 126CSR141, Policy 5300.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

There will be no economic impact on special revenue accounts as a result of the proposed amendment of 126CSR141, Policy 5300.

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

There will be no economic impact on the state or its residents as a result of the proposed amendment of 126CSR141, Policy 5300.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. 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
2. Estimated Total Revenues	0	0	0

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

There will be no economic impact on revenues of state government, special revenue accounts, or the state or its residents as a result of the proposed amendment of 126CSR141, Policy 5300.

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.

**Policy 5300, County Board of Education Relations with County Staff and School Employees
List of Stakeholders**

West Virginia Department of Education

External Stakeholders

- Scott Cochran, Superintendent, Webster County Schools
- John Hudson, Superintendent, Putnam County Schools
- Trent Sherman, Principal, Martinsburg Highs School, Berkeley County Schools
- Kristin Teeter, Pre-K Lead Teacher, Harmen Elementary/High School, Randolph County Schools
- Lisa Smith, Teacher, Blennerhassett Elementary School, Wood County Schools
- Wade Armentrout, Principal, Morefield Elementary School, Hardy County Schools
- Rosemarie Kelly, Principal, Ridgeview Elementary, Raleigh County Schools
- Melissa Ruddle, Assistant Superintendent, Kanawha County Schools.
- Howard O’Cull, Executive Director, West Virginia School Board Association
- Fred Albert, President, American Federation of Teachers-West Virginia
- Dale Lee, President, West Virginia Education Association

Internal Stakeholders

- Matthew Hicks, Director, Accountability Services
- Monica DellaMea, Director, Elementary and Early Learning Services
- Charlene Coburn, Senior Officer, Office of Support and Accountability
- Carla Warren, Director, Educator Development and Support Services
- Tim Conzett, Senior Officer, Office of Data Management and Information Systems
- Margaret Williamson, Director, School Improvement Services

126CSR141

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 141

COUNTY BOARD OF EDUCATION RELATIONS WITH COUNTY STAFF AND SCHOOL EMPLOYEES (5300)

§126-141-1. General.

1.1. Scope. -- This ~~policy reinstates longstanding principles that described~~ rule clarifies the principles of the relationship between county boards of education, and county staff, and school personnel employees.

1.2. Authority. -- West Virginia Constitution, Article XII, Section 2; and W. Va. Code §§18-2-5, 18-5-45a, 18A-2-8, and 18A-2-12.

1.3. Filing Date. -- ~~July 1, 1993.~~

1.4. Effective Date. -- ~~August 1, 1993.~~

1.5. Repeal of Former Rule. -- This rule amends W. Va. 126CSR141, Policy 5300, Board of Education Relations with School Employees, filed July 1, 1993, and effective August 1, 1993.

§126-141-2. Purpose.

2.1. To minimize possible disagreements ~~and or misunderstandings among county board of education members (CBEM), county staff, and school employees,~~ the West Virginia Board of Education (WVBE) ~~adopts~~ provides the following statement of policy and procedure principles.

§126-141-3. Purpose Principles.

23.1. County boards of education, subject to the provisions of W. Va. Code Chapter §18 and §18A of the Code of West Virginia and the rules and regulations of the State Board of Education WVBE, are responsible for the management of the schools within each county. Their powers and responsibilities in setting policy and in providing for such management are broad but not absolute.

23.2. County staff and school employees of boards of education (employees) share the responsibility for putting into effect the policies and practices approved by boards of education CBEM and such employees have certain rights and responsibilities as provided in statute, and in contract ~~or in accepted practices.~~

23.3. ~~School employees~~ are entitled to meet ~~together,~~ form associations and work in concert in order to improve their circumstances or the circumstances of the schools. However, the right to strike does not exist for any public employee in the State of West Virginia, including school employees (see W. Va. Code §18-5-45a).

23.4. ~~Boards of education CBEM and school~~ their employees can most effectively discharge carry out their ~~total~~ responsibilities to the public and to each other by establishing clear and open lines of communication. Employees should be encouraged to make suggestions, proposals, and recommendations through appropriate channels to the county board of education. Decisions of county boards of education

concerning such suggestions, proposals, and recommendations should be communicated to their employees clearly and openly.

23.5. Official meetings of county boards of education are public meetings and are subject to open meeting laws. Employees are free should be encouraged to attend such meetings without fear of reprisal; indeed, they should be encouraged to attend.

23.6. Every Employees is are entitled to know how well he/she they is are performing at his/her their jobs, and should shall be offered the opportunity to participate in an of-open and honest evaluation of his/her their performance on a regular basis, or at minimum, annually. Any decision concerning promotion, demotion, transfer, or termination of employment should be is based upon objective factors such as an evaluation, relevant provisions of W. Va. Code, and not upon factors extraneous thereto WVBE policies, county policies, and county need. Every employee is Employees are entitled to the opportunity of to improve his/her their job performance, prior to the terminating or transferring of his/her services, and can only do so with the assistance of regular evaluation, unless the employee has conducted acts identified in section 3.6.a.

3.6.a. Notwithstanding any other provisions of law, a county board of education may suspend or dismiss any person in its employment at any time for: immorality, incompetence, cruelty, insubordination, intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the West Virginia Department of Health and Human Resources in accordance with W. Va. Code §49-1-1 et seq., the conviction of a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor charge that has a rational nexus between the conduct and performance of the employee's job, or the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge pursuant to W. Va. Code §18A-2-8.

3.6.a.1. A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation pursuant to W. Va. Code §18A-2-12. The charges shall be stated in writing served upon the employee within two days of presentation of the charges to the county board of education.

23.7. Every All employees is are entitled to "due process" in matters affecting his/her their employment, transfer, demotion, or promotion.

23.8. All official and enforceable personnel policies must be written and made available to every employee of each county board of education.

§126-141-4. 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.

W. Va. 126CSR141, Policy 5300, County Board of Education Relations with
County Staff and School Employees

Comment Response Form

Comment Period Ends: February 14, 2022

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 5300, County Board of Education Relations with County Staff and School Employees**. 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"/> County Board Member | <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Higher Education |
| <input type="checkbox"/> Superintendent | <input type="checkbox"/> Principal | <input type="checkbox"/> Parent/Family | <input type="checkbox"/> Legislator |
| <input type="checkbox"/> Central Office Staff | <input type="checkbox"/> Teacher | <input type="checkbox"/> Community Member | <input type="checkbox"/> Other |

COMMENTS/SUGGESTIONS
§126-141-1. General.
§126-141-2. Purpose.
§126-141-3. Principles.
§126-141-4. Severability.

Please direct all comments to:

Charlene Coburn, Senior Officer
Office of Support and Accountability
West Virginia Department of Education
Capitol Building 6, Suite 700
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330
E-Mail Address: ccoburn@k12.wv.us
Telephone No.: 304-558-3199