

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

Do Not Mark In this Box

FILED

1992 FEB 27 AM 11:17

OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

CITE AUTHORITY: WV Code 16-9A-1 through 16-9A-4

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE X  
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW  
\_\_\_\_\_

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_, NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 66 (Policy 2422.5A)

TITLE OF RULE BEING ADOPTED: Tobacco Control

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS March 30, 1992

NOTE: This rule was filed as  
an emergency rule on 1/9/92 to  
become effective 1/9/92.

*Barbara L. Estep*  
February 26, 1992

2.70

HD NO \_\_\_\_\_ DRAFT NO \_\_\_\_\_ BILL NO \_\_\_\_\_ RESOLUTION NO \_\_\_\_\_

SUBJECT Tobacco Control Policy - 2422.5A FUND \_\_\_\_\_

SOURCE OF REVENUE:  GENERAL  SPECIAL  OTHER (SPECIFY) \_\_\_\_\_

COST ESTIMATE BASED ON:  AN ORIGINAL ESTIMATE  BUDGET BILL  OTHER (SPECIFY) \_\_\_\_\_

INCOME ESTIMATE BASED ON:  AN ORIGINAL ESTIMATE  BUDGET BILL  OTHER (SPECIFY) \_\_\_\_\_

SHOW OVER-ALL EFFECT IN ITEMS 1 AND 2 AND ITEM 3 GIVE EXPLANATION OF BREAKDOWN BY FISCAL YEAR INCLUDING LONG-RANGE EFFECT

EFFECT OF PROPOSAL	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
1. ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	\$	\$	\$	\$	\$
CURRENT EXPENSES					
REPAIRS AND ALTERATIONS					
EQUIPMENT					
OTHER					
2. ESTIMATED TOTAL REVENUES	\$	\$	\$	\$	\$

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

IMPACTS  
FISCAL: None

STATE STAFF: Lenore Zedosky

DATE \_\_\_\_\_ AGENCY \_\_\_\_\_ AUTHORIZED REPRESENTATIVE \_\_\_\_\_  
 September 12, 1991 West Virginia Department of Education

## EXECUTIVE SUMMARY

### Tobacco Control Policy

#### Purpose:

The purpose of this policy is to protect the health of students and school personnel by prohibiting the use of tobacco products on school property.

#### Background:

West Virginia Code 16-9A-1 through 16-9A-4 prohibits the possession or use of any tobacco products by children under the age of 18. In addition, it prohibits the use of tobacco products in any portion of school buildings that are used for instructional purposes. The law does allow for the use of tobacco products in faculty lounges or offices not used for instructional purposes.

Since the passage of WV Code 16-9A-1 - 16-9A-4, many school personnel have called the state department of education to request a more restrictive tobacco policy. These individuals are exposed to second hand tobacco smoke in lounges and offices. In addition, students complain about smoke in hallways and offices.

The health hazards of tobacco use are well documented.

- Cigarette smoking is the number one preventable cause of death in this country.
- Two-thirds of all smokers begin before the age of 18. Eighty-five percent of smokers would like to quit.
- Smokeless tobacco use is now linked to oral cancer and other mouth diseases. Second hand smoke can trigger asthma attacks and causes lungs to be more sensitive for days.
- Children exposed to second hand smoke have significantly higher incidences of upper respiratory infections than children in smoke free environments.
- School personnel are seen as role models by school children.
- Policies that emphasize the importance of good health practices send a positive message to students.

For the above stated reasons, a strong no tobacco use policy needs to be established by the State Board.

WEST VIRGINIA LEGISLATIVE RULE  
DEPARTMENT OF EDUCATION  
CHAPTER 16  
Policy 2422.5A  
Series 66.

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OFFICE OF THE SECRETARY OF STATE  
WEST VIRGINIA

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1992 JAN -9 PM 4:16

SECRETARY OF STATE  
WEST VIRGINIA

Title: Tobacco Control

Section 1. GENERAL

- 1.1 Scope. This policy sets the requirement for schools in West Virginia to be tobacco free.
- 1.2 Authority. West Virginia Code 16-9A-1 through 16-9A-4.
- 1.3 Filing Date. January 9, 1992
- 1.4 Effective Date. January 1, 1992.
- 1.5 Replaces Policy. None.

Section 2. PURPOSE

The purpose of these regulations is to prohibit the use of tobacco products in school buildings and on school grounds in order to improve the health of West Virginia students and school personnel by preventing them from being exposed to second hand smoke and by prohibiting the use of tobacco products that have a direct linkage to numerous health problems. In addition, educators should provide a positive role model for students by refraining from the use of tobacco products which have been proven to be hazardous to one's health.

Section 3. APPLICATION

- 3.1 This policy shall apply to any building or other property including automobiles or other vehicles owned or operated by a county board of education, Regional Education Service Agency or the State Board of Education. This policy shall apply to any private building, or other property including automobiles or other vehicles used for school activities when students are present.
- 3.2 No tobacco product shall be used at any time by any person in any area defined in Section 3.1 of this policy.
- 3.3 School personnel supervising students off the school grounds are prohibited from using any tobacco products while in the presence of students or any time while engaged in any activities directly involving students.

Section 4. ENFORCEMENT

School personnel who violate this policy will be subject to penalties based on county personnel policies.

Students who violate WV Code 16-9A-1-4, and/or this policy, will be subject to disciplinary procedures outlined by Policy 4373, Student Code of Conduct, as well as possible referral to law enforcement authorities for appropriate action.

Section 5. COUNTY IMPLEMENTATION

County boards of education shall have in place a Tobacco Control Policy by January 1, 1992. County policies shall contain, at a minimum, the restrictions in this policy. County policies may impose additional restrictions in this area.

DISCRIMINATION PROHIBITED: The West Virginia Department of Education does not discriminate on the basis of sex, race, color, religion, handicapping condition, age and national origin in employment and in the administration of any of its education programs and activities. Inquiries may be directed to the elimination of Sex Discrimination Program Coordinator, 348-7864; to the Section 504 Coordinator, 348-2696, WV Department of Education, Charleston, West Virginia, 25305; or to the U. S. Department of Education's Director of the Office for Civil Rights, 215-596-6795.

WEST VIRGINIA STATE BOARD OF EDUCATION POLICY

POLICY 2422.5A

Title: Tobacco Control Policy

Policy 2422.5A

The West Virginia Board of Education is concerned about the health of the students in our schools and the staff working with these students. The purpose of this policy is to assist in the protection of the health of students and staff of West Virginia public schools by preventing them from being exposed to second hand smoke and by prohibiting the use of tobacco products that have a direct linkage to numerous health problems. The policy will also reduce the negative role models students see and frequently imitate.

The West Virginia Board of Education has therefore established regulations to improve the health of students and staff in our public schools. These regulations apply to any building or other property owned or operated by a county board of education, RESA or State Board of Education, the surrounding grounds of the agencies, and the personnel and students of those agencies.

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## IMPACT STATEMENTS

### Instructional

The health education program of study includes learning objectives related to the hazards of tobacco use. In addition, the federally funded Drug Free Schools and Communities Act clearly includes the requirement to teach about the harmful effects of tobacco. Students will recognize the importance of these lessons when their schools become tobacco free.

### Leadership

The West Virginia Task Force on School Health recommended that all public schools become tobacco free. Modeling of health behaviors by adults is critical in helping students to understand the importance of their own behaviors. Since West Virginia is setting a national precedent related to comprehensive school health programs, this policy will be viewed as an example of the commitment toward better health.

According to statistics from William Weiss of Seattle University, it costs an employer \$4,611 more annually to employ a smoker than a non-smoker. Cost savings could be substantial in reduced absenteeism, insurance rates and cleaning costs.

### Staff Development

Assistance with smoking cessation programs is available in the state from the American Lung Association of West Virginia, the American Cancer Society and the Mary Babb Randolph Cancer Center. Funds from the Drug Free Schools and Communities Act have already been used to support tobacco education for coaches and other county personnel.

### Administration

County administrators will be responsible for enforcing this policy with students and staff. Drug Free Schools coordinators, school nurses, health teachers and counselors can offer assistance related to tobacco education and cessation programs.

The Public Employees Insurance Agency is exploring the possibility of reimbursing the cost of smoking cessation programs for employees who have remained tobacco free for at least six months.

WEST VIRGINIA STATE BOARD OF EDUCATION POLICY

POLICY 2422.5A

TOBACCO CONTROL POLICY

The West Virginia Board of Education is concerned about the health of the students in our schools and the staff working with these students. The purpose of this policy is to assist in the protection of the health of students and staff of West Virginia public schools by preventing them from being exposed to second hand smoke and by prohibiting the use of tobacco products that have a direct linkage to numerous health problems. The policy will also reduce the negative role models students see and frequently imitate.

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The Public Employees Insurance Agency is exploring the possibility of reimbursing the cost of smoking cessation programs for employees who have remained tobacco free for at least six (6) months.

EXECUTIVE SUMMARY

Tobacco Control Policy

Purpose:

The purpose of this policy is to protect the health of students and school personnel by prohibiting the use of tobacco products on school property.

Background:

W. Va. Code §16-9A-1 through 4 prohibits the possession or use of any tobacco products by children under the age of 18. In addition, it prohibits the use of tobacco products in any portion of school buildings that are used for instructional purposes. The law does allow for the use of tobacco products in faculty lounges or offices not used for instructional purposes.

Since the passage of W. Va. Code §16-9A-1 through 4, many school personnel have called the state department of education to request a more restrictive tobacco policy. These individuals are exposed to second hand tobacco smoke in lounges and offices. In addition, students complain about smoke in hallways and offices.

The health hazards of tobacco use are well documented.

- \* Cigarette smoking is the number one preventable cause of death in this country.
- \* Two-thirds of all smokers begin before the age of 18. Eighty-five percent (85%) of smokers would like to quit.
- \* Smokeless tobacco use is now linked to oral cancer and other mouth diseases. Second hand smoke can trigger asthma attacks and causes lungs to be more sensitive for days.
- \* Children exposed to second hand smoke have significantly higher incidences of upper respiratory infections than children in smoke free environments.
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TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION

SERIES 66  
TOBACCO CONTROL (2422.5A)

**§126-66-1. General.**

1.1. Scope. -- This policy sets the requirement for schools in West Virginia to be tobacco free.

1.2. Authority. -- W. Va. Code §§16-9A-1 through 16-9A-4.

1.3. Filing Date. -- February, 27, 1992

1.4. Effective Date. -- March 30, 1992

**§126-66-2. Purpose.**

The purpose of these regulations is to prohibit the use of tobacco products in school buildings and on school grounds in order to improve the health of West Virginia students and school personnel by preventing them from being exposed to second hand smoke and by prohibiting the use of tobacco products that have a direct linkage to numerous health problems. In addition, educators should provide a positive role model for students by refraining from the use of tobacco products which have been proven to be hazardous to one's health.

**§126-66-3. Application.**

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3.3. School personnel supervising students off the school grounds are prohibited from using any tobacco products while in the presence of students or any time while engaged in any activities directly involving students.

**§126-66-4. Enforcement.**

School personnel who violate this policy will be subject to penalties based on county personnel policies.

Students who violate W. Va. Code §16-9A-1 through 4, and/or this policy, will be subject to disciplinary procedures outlined by Policy 4373, Student Code of Conduct, as well as possible referral to law enforcement authorities for appropriate action.

**§126-66-5. County Implementation.**

County board of education shall have in place a Tobacco Control Policy by January 1, 1992. County policies shall contain, at a minimum, the restrictions in this policy. County policies may impose additional restriction in this area.

WEST VIRGINIA STATE BOARD OF EDUCATION POLICY

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KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
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WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

**STATE OF WEST VIRGINIA**  
**SECRETARY OF STATE**  
Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

TO: Barbara Fox

AGENCY: Education

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: December 11, 1992

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 66 TITLE: 126 Education

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Barbara L. Estep Fox

TITLE OF PERSON SIGNING: Exec Sec. WV Board of Edu.

DATE: Jan 3, 1993

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.