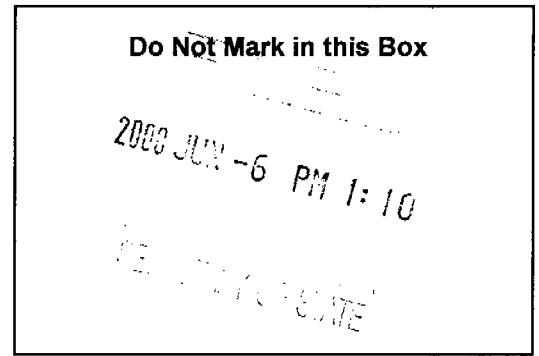


**WEST VIRGINIA
SECRETARY OF STATE**

BETTY IRELAND

ADMINISTRATIVE LAW DIVISION

Form #2



NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

RULE TYPE: Legislative; CITE AUTHORITY: W. Va. Constitution, Article XII, §2, W.Va. Code §§17C-12-3, 17C-14-12, 18-2-5, 18-5-13, 18-8-1 and Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.)

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 92

TITLE OF RULE BEING AMENDED: West Virginia School Bus Transportation Policy and Procedures Manual (4336)

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 7, 2008 AT 4:00 p.m.. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Ben Shew, Executive Director

Office of School Transportation

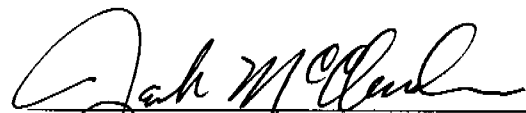
West Virginia Department of Education

Capitol Building 6, Room 318

1900 Kanawha Boulevard, East

Charleston, West Virginia 25305-0330

THE ISSUES TO BE HEARD ARE LIMITED TO THIS PROPOSED RULE EXCLUDING RULES/POLICIES FOUND IN THE APPENDICES.



Jack McClanahan
Deputy State Superintendent of Schools

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

EXECUTIVE SUMMARY

WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number and Title: *4336, West Virginia School Bus Transportation Policy and Procedures Manual*

Background: The West Virginia Legislature amended West Virginia Code §18A-2-4 that addresses intra state waivers for bus operators diagnosed with diabetes mellitus requiring insulin and West Virginia Code §18-2E-5d, that addresses standards for the duration of school bus transportation times for students to and from school. The revision of this policy also includes the prohibition of cellular phones and other electronic device usage, the usage of county transportation systems for public and private non-profit organization transportation to educational and cultural events, guidelines and requirements for school bus routing, updated certification requirements, increased training requirements, requirements for counties when leasing charter bus transportation and an update of the loading and unloading of student passenger requirements.

Proposals: The purpose of this policy is to provide regulations for the employees of local boards of education, students, and staff pertaining to the transportation of students to and from school and school related events. It sets standards for training, physical examinations, physical performance and administrative requirements.

Impact: The structure of the new policy will provide a parent, school bus operator or interested county school official with better access to the guidelines which govern school bus transportation in the State of West Virginia.

126CSR92
TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

FILED
2009 JUN -6 PM 1:10
CLERK OF COURTS

SERIES 92
WEST VIRGINIA SCHOOL BUS TRANSPORTATION POLICY AND
PROCEDURES MANUAL (4336)

§126-92-1. General.

- 1.1. Scope. - This legislative rule provides regulations for school transportation.
- 1.2. Authority. W. Va. Const., Art. XII, §2, W.Va. Code §§17C-12-3, 17C-14-12, 18-2-5, 18-5-13, 18-8-1, and Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act (42 U. S. C. 11431 et seq.).
- 1.3. Filing Date. -
- 1.4. Effective Date. -
- 1.5. Repeal of former rule - This legislative rule repeals and replaces W. Va. §126CSR92 "West Virginia Transportation Policy and Procedures Manual (4336)" filed April 19, 2004 and effective May 20, 2004, with the exception of appendices that consist of other legislative rules.

§126-92-2. Incorporation by Reference.

- 2.1. A copy of the West Virginia School Bus Transportation Policy and Procedures Manual is attached. Copies may be obtained in the Office of the Secretary of State and in the West Virginia Department of Education, Division of Student Support Services.
- 2.2. These regulations shall be read in conjunction with §126CSR99, West Virginia Board of Education Policy 4373, Student Code of Conduct (Appendix J) and W. Va. §126CSR162, Policy 5902, Employee Code of Conduct, (Appendix D)

§126-92-3. Severability.

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

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WEST VIRGINIA SCHOOL BUS TRANSPORTATION POLICY AND PROCEDURES MANUAL

1. Introduction

1.1 West Virginia Motor Vehicle Code, §17C-14-12 (a), School Bus Regulations, provides that, "The West Virginia Board of Education by and with the advice of the motor vehicle commissioner shall adopt and enforce rules.....to govern the design and operation of all school buses...."

1.2 The Executive Director of the Office of School Transportation (hereinafter, "State Director"), West Virginia Department of Education (hereinafter, "State Department") serves as the liaison with county school systems in the implementation of this policy.

1.3 The object of this manual is to provide guidelines to county school bus transportation systems to insure safe, high quality programs for the students transported to the public schools in West Virginia.

2. Inspection and Maintenance of School Buses

2.1 Pursuant to W.Va. Code §16C-16-2, "Inspection of Vehicles," a member of the West Virginia State Police may stop and inspect a school bus at any time.

2.2 Qualified bus inspectors employed by the State Department may also inspect a school bus at any time.

2.3 All school buses transporting students to school and/or school related events shall be inspected two (2) times annually by a qualified inspector employed by the State Department.

2.4 The State Director shall supervise the scheduling of the school bus inspections.

2.5 Vehicle Inspection

2.5.1 School bus operators shall present to the inspector a valid commercial drivers license, a first aid certificate and a State of West Virginia certification card when requested.

2.5.2 All school buses transporting students shall be inspected and display the inspection certificate.

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2.5.3 The State Director may require additional inspections of school buses.

2.5.4 All school buses used to transport students shall be inspected by West Virginia Department of Education bus inspectors and approved for use after a major repair or accident which would include damage to any steering component, front axle, or frame.

2.5.5 Any school bus used to transport students which is declared unsafe is to be marked with the appropriate rejection sticker.

2.6 New Vehicle Inspection

2.6.1 All new school buses shall be inspected to validate that they meet all state and federal requirements.

2.6.2 A West Virginia Division of Motor Vehicles (hereinafter, "DMV") inspection sticker shall be displayed on all vehicles.

2.7 County School Bus Maintenance

2.7.1 The county school system shall establish a school bus maintenance program. It may be delivered by the county school system or through a private contractor.

2.7.2 The maintenance program shall employ mechanics and service employees skilled in bus maintenance.

2.7.3 The county school system shall insure that the maintenance staff members are annually trained to ensure quality maintenance.

2.7.4 An inventory of the bus vehicle parts shall be completed annually and made available at the county maintenance center.

2.7.5 Maintenance records for buses shall be current and made available at the center.

2.7.6 Monthly preventative maintenance shall be performed on all school buses during the school year, and a maintenance schedule for each school bus shall be posted in the service center.

3. School Bus Passenger Regulations

3.1 The school bus operator shall be in charge of any passengers riding the bus. The school bus operator shall follow the W. Va. §126CSR99, West Virginia Board of Education Policy 4373, "Student Code of Conduct" (hereinafter, "Policy 4373") to provide discipline on school buses.

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3.2 County boards of education will provide training on Policy 4373 to bus operators.

3.3 Enrolling or enrolled students, employees or persons approved previously by a county board of education are the only passengers to be transported by the county school transportation system.

3.4 All students living greater than two miles from their assigned school or nearest bus route will be eligible for school transportation services.

3.5 Twice annually, students will participate in emergency evacuation drills. The first drill is to be completed by October 31 and the second by April 30 of each year.

4. Regulations for Students Transported on School Buses

4.1 Responsibilities of parents. Parents shall:

4.1.1 Provide written guidance regarding any special care a student may need while riding the bus.

4.1.2 Provide supervision at all bus stops until the bus arrives for both pickup and delivery.

4.2 Responsibilities of students. Students shall:

4.2.1 Walk on the left side of the road facing traffic.

4.2.2 Wait on the bus at the designed stop in an orderly manner.

4.2.3 Board the bus in an orderly manner.

4.2.4 Follow the school bus operator's/aide's instructions at all times.

4.2.5 Comply with Policy 4373 (Appendix J)

4.2.6 Be responsible for vandalism that occurs on a seat in which they ride.

4.2.7 Not eat, drink, or place objects in their mouth that may cause a choking hazard while on the bus except for medically necessary foods or medications according to W. Va. §126CSR27 WVBE Policy 2422.8 – "Medication Administration" (Appendix L).

4.2.8 Change seats only with permission of the school bus operator when the bus is not in motion.

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4.2.9 Avoid unnecessary conversation with the school bus operator.

4.2.10 Keep heads and arms inside bus windows at all times.

4.2.11 Report any open exit or released hatch to the school bus operator immediately.

4.2.12 Provide enrollment information to the school bus operator.

Students shall not:

4.2.13 Ride in stepwell or forward of front row seats.

4.2.14 Stand while bus is in motion, at any time a seat is available.

4.2.15 Throw, or pass, any object of any nature into or from the bus through a door or window.

4.2.16 Use profane or obscene language.

4.2.17 Open emergency exits, except during emergencies, unless directed by the school bus operator.

5. Regulations for Transporting Students with Disabilities Requiring Special Transportation

5.1 Students with disabilities' Individualized Education Plan (hereinafter, "IEP"), individualized health care plans, and 504 Plans shall specify the bus modifications and support required for transporting the student when appropriate.

5.2 When transportation of a student with disabilities necessitates a transfer while en route, appropriate supervision at the point of transfer remains the responsibility of the county school system.

5.3 Vehicle requirements for use in transporting students with disabilities shall be guided by W.Va. §126CSR89, WVBE Policy 4334, "Minimum Requirements for Design and Equipment of School Buses for West Virginia."

5.4 The county school system may terminate bus transportation service if the parent persistently fails to meet the bus at a designated stop. For these situations, due process procedures shall be made available to the parents and students.

5.5 The school bus operator and/or the bus aide, when appropriate, shall:

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5.5.1 Assist and supervise students with disabilities.

5.5.2 Complete first aid and Cardio Pulmonary Resuscitation (hereinafter, "CPR") training. School bus operators and school bus aides transporting students with disabilities shall be trained on Section 1 of the "West Virginia School Bus Operators Training Manual."

5.5.3 All school bus operators shall receive six (6) hours initial and one (1) hour of refresher training annually for the transportation of students with special health care needs including the requirements of W. Va. §126CSR25A WVBE Policy 2422.7 – "Standards for Basic Health Care Procedures" (Appendix K).

5.6 The special education director designee and/or school nurse shall provide the following information to the transportation director or designee as specified in Policy 2422.7 – "Standards for Basic Health Care Procedures" (Appendix K).

5.6.1 Student's name and address.

5.6.2 Parent's name, address, home and work telephone numbers.

5.6.3 Emergency health care plan information and/or individualized health care plan.

5.7 When the IEP, individualized health care plan or 504 Plan requires that medicine is to be provided to a student with disabilities while being transported, the procedures shall be in accordance with the Administration of Medication Policy.

5.7.1 Aides shall be delegated to and receive training by the school nurse in medication administration or in the delivery of medication and other basic or specialized health care procedures as specified in Policy 2422.7.

5.8 Parents/guardians of students with disabilities shall assist in the transportation of their child by:

5.8.1 Providing documentation on the special care needed.

5.8.2 Bringing the student to the bus stop and providing the necessary supervision.

5.8.3 Picking up the student at the designated time at the designated bus stop.

5.8.4 Contacting the school bus operator if the child is to be absent.

5.9 The school transportation system shall implement Policy 4373 in conjunction

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with W.Va. 126CSR16, WVBE Policy 2419, "Regulations for the Education of Students with Exceptionalities."

6. Regulations for Transporting Homeless Students

6.1 County boards of education shall ensure compliance with Subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act when addressing the needs of homeless children. If a homeless child or youth continues to live in the area served by the local education agency (hereinafter, "LEA") in which the school of origin is located, that LEA shall provide or arrange for the child's or youth's transportation to and from the school of origin.

6.2 If the homeless child or youth continues his or her education in the school of origin but begins living in an area served by another LEA, the LEA of origin and the LEA in which the homeless child is living shall agree upon the method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the LEAs cannot agree upon a method, the responsibility and costs for transportation are to be shared equally.

7. Procedures for Disciplining Students Transported by School Buses

7.1 The school bus operator shall immediately notify the school principal when any transported student has violated Policy 4373. Written notification shall be completed by the school bus operator as soon as possible.

7.1.1 The student to be excluded from the bus shall be notified by the school bus operator. The parents/guardians of the student shall be notified by the school principal/designee.

7.1.2 All students shall be transported until the parent/guardian has been properly notified about the exclusion.

7.1.3 An excluded student shall be readmitted to the bus only after the principal/ designee notifies the school bus operator that the student may be readmitted. Parents/guardians will also be notified by the school principal/designee when their son/daughter may resume riding the bus.

7.1.4 If a student has been disciplined three times in one year by the school bus operator, a conference to discuss the student's disruptive behavior patterns shall be conducted. During the conference, the parent/guardian shall be present with the school bus operator and the principal/designee. If the inappropriate behavior persists, the student may have his/her rights to transportation services suspended for the remainder of the year, to the extent feasible.

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8. Student Conduct on School Buses

8.1 The school bus operator shall display the following major concepts of Policy 4373 in his/her school bus.

8.1.1 All students enrolled in West Virginia public schools shall behave in a manner that promotes a school environment that is nurturing, orderly, safe and conducive to learning and personal-social development.

8.1.2 Students shall help create an atmosphere free from bullying, intimidation, harassment or any other inappropriate behavior.

8.1.3 Students shall demonstrate honesty and trustworthiness.

8.1.4 Students shall treat others with respect, deal peacefully with anger, use good manners and be considerate of the feelings of others.

8.1.5 Students shall demonstrate responsibility, use self-control and be self-disciplined.

8.1.6 Students shall demonstrate fairness, play by the rules, and will not take advantage of others.

8.1.7 Students shall demonstrate compassion and caring.

8.1.8 Students shall demonstrate good citizenship by obeying laws and rules, respecting authority, and by cooperating with others.

8.1.9 Students shall have proper approval to exit the school bus other than their regularly assigned bus stop.

9. Medical Exclusion of Students from a School Bus

9.1 The school nurse or administrator, as per W. Va. §126CSR51, WVBE Policy 2423—"Communicable Disease Control" (Appendix N) and W. Va. Code §18A-5-1 and §18-5-22) shall notify the bus operator when a student shall be excluded from the school bus due to an infectious disease.

9.2 The student will be returned to the bus transportation program when the appropriate medical official has given the student a written statement signifying that the student may again be transported with other students.

10. School Bus Stop Locations

10.1 Ideally, bus stops should be located out of the traffic stream at least .20 miles

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apart.

10.2 For bus stop locations near a railroad crossing, consideration should be given to the traffic flow in the area and to assure that adequate distance is allowed for traffic to clear the railroad tracks. The safety of the general motorists should be taken in consideration.

10.3 With irregular terrain, the highest priority in establishing a bus location should be the safety of the students. Every effort should be made by county school officials to select a safe bus stop with ample waiting areas for students.

10.4 The minimum sight distance should be related to the approved speed of traffic. The approved speed is the posted speed limit, advisory speed limit or a value judged to most accurately represent the prevailing speed at a specific location.

10.5 Sight distance needed on a level grade for essential speeds is as follows:

Speed (mph)	Recommended Sight Distance	Minimum Sight Distance
25	300 feet	139 feet
30	360 feet	176 feet
35	420 feet	219 feet
40	480 feet	263 feet
45	540 feet	314 feet
50	600 feet	369 feet
55	660 feet	432 feet

10.6 The West Virginia Division of Transportation (hereinafter, "DOT") and District Traffic Engineers will provide assistance in the selection and the use of school bus STOP signs which warn motorists of the presence of students at a bus stop. The county shall request the DOT for assistance if needed.

10.7 Bus stops should be located to minimize students walking along unsafe highways.

10.8 A school bus operator shall contact the county transportation director when a bus stop is determined to be unsafe. The county transportation director shall evaluate and take action to relocate the stop to a safer place, if necessary.

10.9 School bus operators are to pick up and discharge students only at the designated locations.

10.10 When possible, a bus stop shall be 200 feet from the crest of a hill or a curve, if the view of approaching traffic is obstructed.

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11. Loading and Unloading of Student Passengers

11.1 Approaching the Stop

11.1.1 Do not change the location of a bus stop without written approval from the appropriate school district official.

11.1.2 When approaching the stop, you should:

11.1.2.a Approach cautiously at a slow rate of speed. Look for pedestrians, traffic, or other objects before, during, and after coming to a stop. Continuously check all mirrors.

11.1.2.b Activate alternating flashing amber warning lights at least 200 feet or approximately 5-10 seconds before the school bus stop or in accordance with state law.

11.1.2.c Turn on right turn signal indicator about 100-300 feet or approximately 3-5 seconds before pulling over.

11.1.2.d Continuously check mirrors to monitor the danger zones for students, traffic, and other objects.

11.1.2.e Move as far as possible to the right on the traveled portion of the roadway.

11.1.2.f Bring school bus to a full stop with the front bumper at least 10 feet away from students at the designated stop. This forces the students to walk to the bus so you have a better view of their movements.

11.1.2.g Place transmission in Park, or if there is no Park shift point, in Neutral and set the parking brake at each stop.

11.1.2.h Open service door, if possible, enough to activate alternating red lights when traffic is a safe distance from the school bus.

11.1.2.i Make a final check to see that all traffic has stopped before completely opening the door and signaling students to approach.

11.2 Loading Procedures

11.2.1 Perform a safe stop as described in subsection. Students should wait in a designated location for the school bus, facing the bus as it approaches.

11.2.2 Students should board the bus only when signaled by the

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driver. Monitor all mirrors continuously.

11.2.3. Count the number of students at the bus stop and be sure all students board the bus. If possible, know names of students at each stop.

11.2.4. If there is a student missing, ask the other students where the student is.

11.2.5. Have the students board the school bus slowly, in single file and use the handrail.

11.2.6. The dome light should be on while loading in the dark.

11.2.7. Wait until students are seated and facing forward before moving the bus.

11.2.8. Check all mirrors. Make certain no one is running to catch the bus. If you cannot account for a student outside, secure the bus, take the key, and check around and underneath the bus.

11.2.9. When all students are accounted for, prepare to leave by:

11.2.9.a. Closing the door.

11.2.9.b. Engaging the transmission.

11.2.9.c. Releasing the parking brake.

11.2.9.d. Turning off alternating flashing red lights.

11.2.9.e. Turning on left turn signal.

11.2.9.f. Checking all mirrors again.

11.2.9.g. Allowing congested traffic to disperse.

11.2.10. When it is safe, move the bus to enter traffic flow and continue the route.

11.2.11. The loading procedure is essentially the same wherever you load students, but there are slight differences. When students are loading at the school campus, you should:

11.2.11.a. Turn off the ignition switch.

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11.2.11.b. Remove key if leaving driver's compartment.

11.2.11.c. Position yourself to supervise loading as required or recommended by your state or local regulations.

11.3 Unloading Procedures on the Route

11.3.1 Perform a safe stop at designated unloading areas as described in subsection

11.3.2. Have the students remain seated until told to exit.

11.3.3. Check all mirrors.

11.3.4. Count the number of students while unloading to confirm the location of all students before pulling away from the stop.

11.3.5. Assure that all exiting students are at his/her authorized stop. Tell students to exit the bus and walk at least 10 feet away from the side of the bus to a position where the driver can plainly see all students.

11.3.6. Check all mirrors again. Make sure no students are around or returning to the bus.

11.3.7. If you cannot account for a student outside the bus, secure the bus and check around and underneath the bus.

11.3.8. When all students are accounted for, prepare to leave by:

11.3.8.a Closing the door.

11.3.8.b. Engaging transmission.

11.3.8.c. Releasing parking brake.

11.3.8.d. Turning off alternating flashing red lights.

11.3.8.e Turning on left turn signal.

11.3.8.f. Checking all mirrors again.

11.3.8.g. Allowing congested traffic to disperse.

11.3.9. When it is safe, move the bus, enter the traffic flow and continue the route.

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11.3.9.a. If you have missed a student's unloading stop, do not back up. Be sure to follow local procedures.

11.4 Additional Procedures for Students That Must Cross the Roadway.

11.4.1 If a student or students must cross the roadway, they should follow these procedures:

11.4.1.a. Students should walk approximately 10 feet away from the side of the school bus to a position where you can see them.

11.4.1.b. Walk to a location at least 10 feet in front of the right corner of the bumper, but still remaining away from the front of the school bus.

11.4.1.c. Stop at the right edge of the roadway. The school bus operator should be able to see the student's feet.

11.4.1.d. When students reach the edge of the roadway, they should:

11.4.1.d.1 Stop and look in all directions, making sure the roadway is clear and is safe.

11.4.1.d.2 Check to see if the red flashing lights on the bus are still flashing.

11.4.1.d.3. Wait for your signal before crossing the roadway.

11.4.1.d.4. Upon your signal, the students should: Cross far enough in front of the school bus to be in your view.

11.4.1.d.5. Stop at the left edge of the school bus, stop, and look again for your signal to continue to cross the roadway.

11.4.1.d.6. Look for traffic in both directions, making sure roadway is clear.

11.4.1.d.7. Proceed across the roadway, continuing to look in all directions.

11.5 Unloading Procedures at School

11.5.a. When unloading at the school you should follow these procedures:

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11.5.a.1. Perform a safe stop at designated unloading areas as described in subsection 10.2.1.

11.5.a.2. Secure the bus by:

11.5.a.2.A. Turning off the ignition switch.

11.5.a.2.B. Removing key if leaving driver's compartment.

11.5.a.2.C. Have the students remain seated until told to exit.

11.5.a.2.D. Position yourself to supervise unloading as required or recommended by your state or local regulations.

11.5.a.2.E. Have students exit in orderly fashion.

11.5.a.2.F. Observe students as they step from bus to see that all move promptly away from the unloading area.

11.5.a.2.G. Walk through the bus and check for hiding/sleeping students and items left by students.

11.5.a.2.H. Check all mirrors.

11.5.a.2.I. Make certain no students are returning to the bus.

11.5.a.2.J. If you cannot account for a student outside the bus and the bus is secure, check around and underneath the bus.

11.5.a.3. When all students are accounted for, prepare to leave by:

11.5.a.3.A. Closing the door.

11.5.a.3.B. Fastening safety belt.

11.5.a.3.C. Starting engine.

11.5.a.3.D. Engaging the transmission.

11.5.a.3.E. Releasing the parking brake.

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11.5.a.3.F. Turning off alternating flashing red lights.

11.5.a.3.G. Turning on left turn signal.

11.5.a.3.H. Checking all mirrors again.

11.5.a.3.I. Allowing congested traffic to disperse.

11.5.a.4. When it is safe, pull away from the unloading area.

11.6 Special Dangers of Loading and Unloading

11.6.1 Dropped or Forgotten Objects

Always focus on students as they approach the bus and watch for any who disappear from sight.

11.6.2 Handrail Hang-ups

Clothing, accessories or even parts of students' bodies can get caught in the handrail or door as they exit the bus. Closely observe all students exiting the bus to confirm that they do not and that they are in a safe location prior to moving the bus.

11.7 Railroad-highway Crossing Procedures

11.7.1. Approaching the Crossing:

11.7.1.a. Slow down, including shifting to a lower gear in a manual transmission bus, and test your brakes.

11.7.1.b. Activate hazard lights approximately 200 feet before the crossing. Make sure your intentions are known.

11.7.1.c. Scan your surroundings and check for traffic behind you.

11.7.1.d. Stay to the right of the roadway if possible.

11.7.1.e. Choose an escape route in the event of a brake failure or problems behind you.

11.7.2. At the Crossing:

11.7.2.a. Stop no closer than 15 feet and no farther than 50 feet from the nearest rail, where you have the best view of the tracks.

11.7.2.b. Place the transmission in Park, or if there is no Park shift point, in Neutral and press down on the service brake or set the parking brakes.

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11.7.2.c. Turn off all radios and noisy equipment and silence the passengers.

11.7.2.d. Open the service door and driver's window. Look and listen for an approaching train.

11.7.3. Crossing the Track:

11.7.3.a. Check the crossing signals again before proceeding.

11.7.3.b. At a multiple-track crossing, stop only before the first set of tracks. When you are sure no train is approaching on any track, proceed across all of the tracks until you have completely cleared them.

11.7.3.c. Cross the tracks in a low gear. Do not change gears while crossing.

11.7.3.d. If the gate comes down after you have started across, drive through it even if it means you will break the gate.

11.7.4 Special Situations

11.7.4.a Bus Stalls or Trapped on Tracks. If your bus stalls or is trapped on the tracks, get everyone out and off the tracks immediately. Move everyone far from the bus at an angle, which is both away from the tracks and toward the train.

11.7.4.b. Police Officer at the Crossing. If a police officer is at the crossing, obey directions. If there is no police officer and you believe the signal is malfunctioning, call your dispatcher to report the situation and ask for instructions on how to proceed.

11.7.4.c Obstructed View of Tracks.
Do not attempt to cross the tracks unless you can see far enough down the track to know for certain that no trains are approaching. Passive crossings are those that do not have any type of traffic control device. Be especially careful at "passive" crossings. Even if there are active railroad signals that indicate the tracks are clear, you must look and listen to be sure it is safe to proceed.

11.7.4.d. Containment or Storage Areas.
If it won't fit, don't commit! Know the length of your bus and the size of the containment area at highway-rail crossings on the school bus route, as well as any crossing you encounter in the course of a school activity trip. When approaching a crossing with a signal or stop sign on the opposite side, pay attention to the amount of room there. Be certain the bus has enough containment or storage area to completely clear the railroad

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tracks on the other side if there is a need to stop. Add 15 feet to the length of the school bus to determine an acceptable amount of containment or storage area.

11.8 In accordance with W.Va. Code §17C-12-7 and §17C-12-9, the school bus operator may report to the appropriate law enforcement official any motorist who violates the state law regarding the stopping of motor vehicles when a school bus is loading and unloading.

11.9 Counties shall formulate a policy to assure that a young child's guardian be at the bus stop for pickup and delivery of his/her child.

12. Idling of School Buses

12.1 In normal weather, a school bus operator shall not idle the bus while waiting for or loading students.

12.2 Buses will be allowed to idle when the temperature is 40 degrees Fahrenheit or colder, when the driving windows need to be defrosted, when the safety and comfort of the students is in question, or when emergency dictates.

12.3 School bus operators are prohibited from idling the buses for more than 10 minutes unless defrosting of windows is needed: in this case idling shall be limited to thirty minutes.

13. General Operating Procedures

13.1 The school bus operator shall wear a seat belt as specified.

13.2 The school bus operator shall not knowingly operate an unsafe bus.

13.3 The school bus operator shall possess, in the operator's compartment, a copy of this manual developed by the State Director and a current school bus schedule (by the end of the first month).

13.4 The school bus operator shall not permit any unauthorized person to occupy the driver's seat or tamper with the bus.

13.5 The school bus operator shall observe all speed limits. Truck speed limits apply to school buses. Adverse weather conditions require reduced speeds.

13.6 School bus operators shall use proper signals as required by law when operating a school bus.

13.7 The school bus operator shall not leave the bus when it is running unless the bus is equipped with a lift and with safety interlocks for FMVSS 403 and 404 lift equipment

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and the driver is assisting the loading or unloading of a student with the lift.

13.8 When the school bus operator leaves the bus, the keys shall be in possession of the operator and the emergency brake engaged with the exception referred to in 13.7.

13.9 The school bus operator shall not drive the bus in reverse while at the school or while loading or unloading students except in an emergency. The school bus operator shall use the assistance of a school official or another adult when the situation requires such a movement.

13.10 The school bus operator shall use the route as specified by the County Director/Supervisor of Transportation, unless an emergency authorized by county administrators necessitates a change. The County Director/Supervisor shall conduct a "Potential Hazard Audit" annually prior to the first day of school. (See appendix L)

13.11 All bus schedule changes, made by the County Director/Supervisor of Transportation, shall be communicated to the parents and students as quickly as possible.

13.12 In case of an accident or a mechanical failure while students are being transported, the school bus operator shall provide for the safety of the students and request assistance as soon as possible.

13.13 The school bus operator should only disengage the clutch while making a complete stop or shifting gears.

13.14 The school bus operator shall conduct and supervise emergency exit drills at least twice a year (Federal Highway Safety Standard No. 17). Copies of these standards are available through the Office of the State Director. The procedures are as follows:

13.14.1 Drills are to be conducted in a safe place.

13.14.2 School officials shall assist in the drills as the need arises.

13.14.3 The drills shall include exiting through the front and rear door, the use of exist windows, roof hatches and other instruments used to assist with emergencies.

13.14.4 Upon completion, the date of the drills shall be reported to the County Director/Supervisor of Transportation.

13.15 Signage including but not limited to advertisements, banners, photos, stickers, posters, are not permitted to be displayed in or on the school buses except those approved by the State Department's Division of Student Support Services, Office of School Transportation.

13.16 Students transported with baggage, freight or merchandise shall use the

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following procedures.

13.16.1 Animals are not permitted on a school bus unless it is a certified service animal.

13.16.2 Only property of students, county property or school property may be transported.

13.16.3 Items too large to be stored on a student's lap or between his/her feet shall be secured in a safe location on the bus. All aisles shall be free of any objects.

13.16.4 Highly flammable materials, firearms, explosives and all deadly or dangerous weapons including aerosol cans are prohibited. Aerosol cans such as windshield de-icer shall be stored in an outside storage box on the school bus.

13.17 Bus Safety Equipment

13.17.1 Approved bus directional triangles shall be carried on each bus and used as a warning device during emergencies. (W.Va. Code §17C-15-39 and §17C-15-40.)

13.17.2 Bus flashing lights (4-way) should also be used in emergencies.

13.17.3 Link-type bus tire chains shall be used when emergency weather conditions dictate or when directed by the County Director / Supervisor of Transportation. School bus operators shall be trained in the installation and use of chains. Automatic chains cannot take the place of regular chains as per manufacturer's specifications.

13.17.4 Fire extinguishers shall be charged and available for use in all school buses.

13.17.5 First aid/body fluid cleanup kits and web cutters shall be readily available in the school bus.

13.18 General Reports

13.18.1 Drivers shall be monitored annually for driver performance by a "state certified" trainer or the county director/supervisor.

13.18.2 School bus operators are to compile monthly reports and submit them to the County Director/Supervisor of Transportation.

13.18.3 The County Director/Supervisor of Transportation shall submit, state reports through the West Virginia Education Information System (hereinafter, "WEIS") no later than 10 working days following the last day of the school month.

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13.18.4 The Bus Fleet Report shall be submitted through WVEIS by June 30 of each year.

13.18.5 All students transported to and from school shall have their transit times entered into WVEIS by the end of the second month of school and updated as necessary.

13.18.6 Road hazards are to be reported immediately to the County Director/Supervisor of Transportation.

13.19 Accident Reports

13.19.1 A school bus accident is to be reported when the bus bumps or touches another vehicle, person or object and causes damage. (For the federal regulations for drug and alcohol testing of the bus operator see Appendix M).

13.19.2 A verbal report is to be given as soon as possible and a written report provided on the next business day to the County Director/Supervisor of Transportation. Bodily injuries should be reported as per county procedure or policy.

13.19.3 All bus accidents involving bodily injury, a fatality, extensive property damage or structural damage to a school bus shall be reported immediately via phone to the State Director. A written report is to follow to the State Director within one week. All other accidents shall be reported monthly to the State Director.

13.20 Cellular Phones

13.20.1 The use of cellular phones or other portable electronic devices – even those equipped with hands-free devices – while driving is prohibited

13.20.2 The use of cellular phones while supervising the loading and unloading of students is prohibited.

13.20.3 If communication with the Transportation Department is necessary, the bus must be stopped.

14. School Bus Operator Assignments

14.1 Any person accepting employment as a school bus operator shall accept such position with the understanding that the responsibilities involved are his/her primary employment, and that such employment shall not be limited, or interfered with, by any commitment as a result of any other employment.

14.2 Any person who performs responsibilities as a school bus operator shall not

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be eligible to operate a school bus without a minimum of six (6) consecutive hours of off duty time, for proper rest between the conclusion of the previous day's regularly scheduled afternoon run and immediately prior to the beginning of the next day's regularly scheduled morning run. Also:

14.2.a. More than 10 hours following 8 consecutive hours off duty; or

14.2.b. For any period after having been on duty 15 hours following 8 consecutive hours off duty.

14.2.c. No school bus operator shall drive a passenger-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver's services, for any period after:

14.2.c.1. Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or

14.2.c.2. Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

15. Criteria for the Certification of School Bus Operators

15.1 All school bus operator candidates shall be initially certified by the State Superintendent of Schools (hereinafter "State Superintendent") at the request of the county or the public institution seeking to regularly employ them. All school bus operators' certification shall be renewed on an annual basis at the request of their current or intended employer for the upcoming school year.

15.1.a. Professional personnel hired to drive board owned, rented or leased vehicles with less than 10 passenger capacity shall have a valid driver's license and need not be certified by the State Superintendent.

15.2 The school bus operator candidate shall meet the following criteria to be certified:

15.2.1 The candidate shall be at least 21 years of age.

15.2.2 The candidate shall have a high school diploma or a General Equivalent Diploma (hereinafter, "GED").

15.2.3 The candidate shall have at least three years of driving experience as a licensed operator of any vehicle and be eligible to obtain a valid commercial driver's license permit. A permit will allow the candidate to take the required on-road training.

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15.2.3.a. The candidate shall complete a form granting the employing county permission to obtain his or her driving record from the West Virginia Department of Motor Vehicles (hereinafter, "DMV") of the appropriate state(s). Appendix E contains a sample permission form to be used for the West Virginia DMV and a sample cover letter to accompany the executed form.

15.2.4 The candidate shall submit to the county or institution seeking to employ him or her a certification application completed on the State Department form, attached as Appendix J in addition to a set of fingerprints for analysis as set forth in Section 15.2.10 below. The county shall forward the application form and fingerprint card(s) to the State Department.

15.2.5 All candidates for initial school bus operator certification shall be fingerprinted by the West Virginia State Police or its designee. The fingerprints shall be analyzed by the state police for a state criminal history record check through the central abuse registry record and then forwarded to the Federal Bureau of Investigation for a national criminal history record check.

15.2.5.a. Information contained in either the central abuse registry record or the Federal Bureau of Investigation record may form the basis for the denial of a certificate for cause in accordance with W.Va. Code §18A-3-2a and §18A-3-10.

15.2.5.b. State Analysis for Employment within Ninety Days. - Upon written consent to the State Department by the candidate and within ninety days of the state fingerprint analysis, the results of a state analysis may be provided to a county board or institution with which the candidate is applying for employment without further cost to the candidate.

15.2.5.c. Disclosure Provisions. - Information maintained by the State Department or a county board which was obtained for the purposes of W.Va. Code §18A-3-10 is exempt from disclosure as provided by W.Va. Code §29B-1-4. Disclosure or publication of information in a statistical or other form that does not identify the individuals involved or provide personal information is not prohibited.

15.2.6. The candidate shall successfully complete a minimum of 40 hours of non-driving instruction provided by the county or institution seeking to employ the candidate from the West Virginia School Bus Operators Instruction Manual, including Policy 5902, Policy 4373 and Policy 2421.

15.2.7 The candidate shall successfully complete a minimum of twelve hours on-the-road training including 2 hours of night driving by the county or institution in the operation of school bus with a certified school bus operator on board and no student passengers.

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15.2.8 The candidate shall receive appropriate training by the county or institution in the transportation of special education students. (See Section 5 of this manual.)

15.2.9 The candidate shall have first aid and CPR certification from a program approved by the State Director.

15.2.10. The candidate shall pass a physical examination from a Medical Examiner, defined by the Federal Motor Carrier Safety Administration (hereinafter "FMCSA") regulations to be doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses and doctors of chiropractic (hereinafter "Medical Examiner").

15.2.10.a. The examination shall be conducted not earlier than six months prior to taking the State Department certification tests.

15.2.10.b Physical examinations shall be recorded on the State Department Medical Examination Report form by the Medical Examiner as found in Appendix G.

15.2.10.c. The examination required by the Department of Transportation for a commercial driving license may be used if within the six month time frame.

15.2.10.d. The physical examination shall cover all health issues set forth in section 17 below. Prior to employment, the examination must also demonstrate that the applicant is free of tuberculosis by a tuberculin skin test, chest x-ray or physician's certification.

15.2.11. The candidate shall be subject to pre-employment drug testing for the use of certain controlled substances and alcohol as per all regulations of the U. S. Department of Transportation, the Omnibus Transportation Employment Testing Act (hereinafter, "OTETA").

15.2.12. Prior to the candidate taking any examination or test provided by or administered by the State Department, the candidate shall obtain a commercial driver's license (hereinafter, "CDL") with appropriate endorsements.

15.2.13. The candidate shall pass a written examination provided by the State Department online and administered by the county seeking to employ him or her.

15.2.13.a. The candidate who fails the online examination may retake it three times if necessary during a twelve month period at the discretion of the county or institution seeking to employ him or her.

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15.2.14. Upon successful completion of the online examination, the candidate shall pass additional tests on skills and performance administered at the request of the county or institution seeking to employ the candidate by a qualified bus inspector employed by the State Department using vehicles owned or leased by the county.

15.2.14.a. Should a candidate fail any portion of the skills or performance tests, the remainder of the test(s) shall not be administered.

15.2.14.b. The skills and performance tests shall be administered to a candidate no more than two times annually or three after consultation with the test examiner. Retesting will be done only at the request of the county or institution seeking to employ the candidate.

15.3 The State Superintendent may refuse to certify a candidate for school bus operator who is not of good moral character and physically, mentally and emotionally qualified to perform the duties of school bus operator safely and efficiently. Conduct supporting a refusal to certify includes the following reasons.

15.3.1 Failure to complete and pass any of the following:

15.3.1.a. Physical examination

15.3.1.b. Training provided by the county or public institution

15.3.1.c. Online examination developed by the West Virginia Department of Education

15.3.1.d. Skills and performance tests administered by The West Virginia State Department of Education

15.3.1.e. Drug and alcohol screen

15.3.1.f. Accumulation of six or more points on the candidate's driving record from any state DMV. Points that have been removed by the operation of law shall not be considered.

15.3.1.g. Conviction of one drug/alcohol related driving offense within the last two years. Conviction of two or more drug/alcohol related driving offenses shall permanently bar a candidate from receiving certification.

15.3.1.h. Use or possession of any illegal controlled substance or any controlled substance that is a prescribed medication without a valid prescription, within the last five years as demonstrated by a preponderance of evidence.

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15.3.1.i. Pattern of abuse of alcohol within the last five years regardless of the candidate's driving record, as demonstrated by a preponderance of evidence.

15.3.1.j. A criminal background history that otherwise demonstrates a lack of good moral character.

15.3.1.k. Conduct constituting sexual abuse or assault of a minor whether or not criminally charged, as demonstrated by a preponderance of evidence.

15.4 When the State Director recommends to the State Superintendent that a candidate be denied certification for any reasons set forth in Sections 15.3.1.g through 15.3.1.k, the candidate will receive notice of the recommended denial and afford him or her the opportunity for a hearing in accordance with W.Va. §126CSR94, WVBE Policy 1340, Rules of Procedure for Administrative Hearings and Appeals.

16. Physical Qualifications for School Bus Operators

16.1 The school bus operator shall have no mental, nervous, organic or functional disease or psychiatric disorder and take no medication likely to interfere with his or her ability to operate the bus safely. See Appendix I (Prescription and Over the Counter Medication) as examples of drugs that may interfere with that ability. Any questions regarding this matter will be decided by the school transportation certification advisory board as set forth in paragraph 17.4 below.

16.2 The duties to be performed by a school bus operator include the following:

16.2.1 Walk from the operator's seat to the rear of the bus.

16.2.2 Open all emergency exits.

16.2.3 Install snow chains on a bus.

16.2.4 Raise the hood of a conventional school bus and check oil levels and antifreeze levels.

16.2.5 Remove obstructions from wind shield and under wiper blades.

16.2.6 Adjust all outside mirrors.

16.2.7 Secure a wheelchair.

17. Physical Examination for School Bus Operators

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17.1 The school bus operator shall pass a physical examination from a Medical Examiner. This examination shall be conducted no earlier than April 1 to receive certification for the following school term.

17.2 The County Superintendent of Schools (hereinafter "County Superintendent") shall maintain the original of the physical examination of each school bus operator.

17.2.1 The original of the physical examination of designated Head Start school bus operators is to be sent to the State Director. A copy shall also be filed in the Head Start personnel office.

17.2.2 Physical examinations shall be recorded on the State Department Medical Examination Report form by a Medical Examiner as found in Appendix G.

17.3 The physical examination for all school bus operators shall insure that:

17.3.1 There is no past or present history of convulsive seizures.

17.3.2 There is no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control unless the West Virginia Department of Transportation provides an interstate waiver.

17.3.3 There is no loss of use of joints of either hand that interferes with prehension or power grasping such that the applicant cannot receive or would not be able to renew a CDL with the appropriate endorsements.

17.3.4 Hearing loss in the better ear of the school bus operator shall not be greater than 40 decibels at 500 Hz, 1000 Hz, and 2000 Hz. When needed, an approved hearing aid with back up batteries shall be used by the school bus operator.

17.3.5 There is no current clinical diagnosis of:

17.3.5.a Myocardial infarction

17.3.5.b Angina pectoris

17.3.5.c Coronary insufficiency

17.3.5.d Thrombosis.

17.3.6 There is no cardiovascular disease of a variety that is accompanied by:

17.3.6.a Syncope

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17.3.6.b Dyspnea

17.3.6.c Collapse

17.3.6.d Congestive cardiac failure.

17.3.7 Blood pressure is less than 140 systolic and 90 diastolic or current CDL requirements. If blood pressure equals or exceeds 140/90, the bus operator/applicant shall meet the requirements outlined in FMCSA regulation 49 CFR 391.41 Physical Qualifications for Drivers. If the employee fails the initial blood pressure test, the employee shall provide medical evidence of three separate blood pressure readings below the above levels on three different days within a seven day period prior to certification. These readings shall be certified by a Medical Examiner. When a school bus operator is required to use a pacemaker, his/her return to work shall be approved by a panel of three cardiologists.

17.3.8 While performing school bus operator duties, the school bus operator shall wear a truss for any small hernia. Large hernias shall be surgically repaired.

17.3.9 There is no medical history or clinical diagnosis of the following which interferes with the ability to operate a bus safely:

17.3.9.a Rheumatic disease

17.3.9.b Arthritic disease

17.3.9.c Muscular disease

17.3.9.d Neuromuscular disease

17.3.9.e Vascular disease.

17.3.10 Both eyes are functional and the school bus operator:

17.3.10.a Has distant visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses.

17.3.10.b Does not have monocular vision.

17.3.10.c Has a field of vision no less than 70 degrees in the horizontal meridian of each eye.

17.3.10.d Is able to identify the colors red, green, amber, and blue.

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17.3.10.e Wears corrective lenses, if necessary, while operating a bus.

17.3.11 The school bus operator shall have no mental, nervous, organic or functional disease or psychiatric disorder and take no medication likely to interfere with his or her ability to operate the bus safely. See Appendix I (Prescription and Over the Counter Medication) as examples of drugs that may interfere with that ability. Any questions regarding this matter will be decided by the school transportation certification advisory board as set forth in paragraph 17.4 below.

17.3.12 All school bus operators shall be subject to pre-employment, random, post accident, and reasonable suspicion drug testing for the use of certain controlled substances and alcohol as per all regulations of OTETA. County boards of education shall provide the State Department, by certified mail, the name and Social Security number of employees who hold safety sensitive positions as described by the OTETA, and who test positive for the tested substances. The State Department shall maintain the positive test records for two years.

17.3.13 The "Medical Examiner" has PRINTED his/her name in the designated area as well as providing his/her signature on the physical form.

17.4 A school transportation certification advisory board shall be convened by the State Superintendent to advise on medical criteria relevant to the certification of school bus drivers.

17.4.1 The school transportation advisory board will consist of health care professionals.

17.4.2 If the school transportation certification advisory board determines a bus driver to have a condition described in paragraph 17.3.10 above, the bus driver may be required to furnish the advisory board with a complete medical report. After receiving the medical report, the advisory board considers the information and advises the State Superintendent as to whether the bus driver should be certified. The final decision will rest with the State Superintendent.

18. Responsibilities of Certified School Bus Operators and Renewal of Certification.

18.1 The school bus operator shall notify the county transportation supervisor and Medical Examiner of any illness or the use of any controlled and/or over-the-counter substance that may interfere with the safe operation of a school bus. See Appendix I (Prescription and Over the Counter Medication) as examples of drugs that may interfere with that ability.

18.2 The County Superintendent has the right to require a physical and/or

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psychological examination from a designated physician and/or psychologist when he or she has any reasonable questions regarding the ability of a school bus operator and the safety of students or the sufficiency of an annual physical examination.

18.3 All school bus operators shall be subject to random, post accident, and reasonable suspicion drug testing for the use of certain controlled substances and alcohol as per all regulations of the OTETA.

18.3.1 County boards of education or institutions shall provide the State Department, by certified mail, the name and Social Security number of any school bus operator who tests positive for the tested substances or who engages in conduct warranting action being taken against certification as set forth in Section 19.

18.4 All school bus operators shall receive at least twelve hours of professional development in transportation related subjects annually as part of the staff development program for job related training for service personnel as set forth in W. Va. §126 CSR 150A, WVBE Policy 5500.02, "County Service Personnel Staff Development Councils."

18.5 All school bus operators shall annually pass an online examination developed by the State Department and administered by the county or public institution on line.

18.5.1 The school bus operator who fails the online examination may retake it.

18.6 The county or public institution currently employing the school bus operator shall submit a request for renewal of certification for the following school term to the State Director showing:

- 18.6.a Results of the physical examination;
- 18.6.b Passage of the online examination;
- 18.6.c Completion of 12 hours of transportation related professional development;
- 18.6.d Results of an annual report of the operator's DMV record;
- 18.6.e Current first-aid and CPR certification; and
- 18.6.f Current CDL and appropriate endorsements.

19. Reasons for Suspension, Revocation or Non-renewal of Certification of School Bus Operators

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19.1 The State Superintendent may suspend, revoke or refuse to renew the certification or impose any condition upon the certification of any school bus operator upon evidence that the school bus operator is not otherwise qualified to perform the duties of school bus operator as set forth below. For purposes of this section, a conviction includes any plea of guilty, conditional pleas or pleas of no contest.

19.1.1 Failure to meet the physical and mental/emotional requirements set forth in Sections 16 and 17 above, as indicated from the results of any physical or psychological examination.

19.1.2 Failure to pass the annual online examination.

19.1.3 . Failure to complete the annual minimum 12 hours of transportation related professional development.

19.1.4 Accumulation of ten or more points on DMV driving record following initial certification or conviction of reckless driving, as defined by W. Va. Code § 17C-5-3 or conviction for leaving the scene of an accident involving physical injury or death, as defined by W. Va. Code §17C-4-1, or conviction for obstructing an officer or fleeing an officer as defined by W. VA. Code §61-5-17.

19.1.5 Conviction of a felony.

19.1.6 Conviction of and/or DMV suspension or revocation of license, on a charge of operating a motor vehicle while under the influence of alcohol or controlled substances, , or preponderance of evidence presented, such as positive breath or blood test, of operating a motor vehicle under the influence of same. The applicant/employee shall not be certified to operate a school bus for at least two years subsequent to a first offense for such conviction or suspension/revocation. For a second offense certification shall be revoked and refused permanently.

19.1.7 Failure of any drug or alcohol test administered by the school bus operator's employer or submission of an adulterated specimen. The school bus operator shall not be certified to operate a school bus for at least two years subsequent to a positive or adulterated test result. For a second positive test result or adulteration, certification shall be revoked and refused permanently.

19.1.8 Demonstration of a preponderance of evidence or by conviction that the school bus operator is an abuser of alcohol, or lawfully prescribed controlled substances or a user of illegal controlled substances or controlled substances not lawfully prescribed.

19.1.9 Conviction of any sexual assault or abuse charge. The school bus operator may also have certification renewal refused or certification suspended or revoked

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when it is shown by a preponderance of evidence that he/she has sexually assaulted or sexually abused any person, or engaged in a consensual sexual or amorous relationship with a student.

19.1.10 Demonstrations by a preponderance of evidence of frequent violations of traffic laws, sound safety practices, regulations or ordinances, or any single violation that threatened the safety of student passengers, or other users of streets or highways.

19.1.11 Violation of Policy 5902, "Employee Code of Conduct" that has a rational nexus or relationship to the performance of a school bus operator's duties.

20. Procedures for Due Process on the Recall of School Bus Operator's Certification

20.1 When the State Superintendent receives information concerning any of the violations set forth in Section 18, or any other conduct that would justify the recall, refusal or suspension or the imposition of any condition upon the certification of any school bus operator, the certification holder shall be notified of the pending action against him/her and afforded the opportunity for a hearing in accordance with W.Va. §126CSR94, West Virginia Board of Education Policy 1340, "Rules of Procedure for Administrative Hearings and Appeals."

21. Guidelines for Curricular and Extracurricular Trips

21.1 County boards of education providing transportation for students participating in curricular and extracurricular activities shall require participating school officials to submit a planned schedule to the County Superintendent or his/her designee for approval. Procedure shall be as follows:

21.1.1 The County Director/Supervisor of Transportation shall receive a copy of the approved schedule far enough in advance to arrange safe and adequate transportation.

21.1.2 Schedules for approved trips shall not interfere with the regular transportation schedule.

21.1.3 Only school bus operators employed by the county board of education shall operate type A1, A2, B, C, and D buses on such trips.

21.1.4 All school buses used for such trips shall be covered by insurance as provided in W.Va. Code §18-5-13.

21.1.5 Students transported in a school bus on such trips shall, in addition to the school bus operator, be supervised by a least one professional employee of the

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county board of education who shall provide a list of all persons on the bus to the school bus operator. Each additional bus shall be supervised by a professional employee or person approved by the county board and assurances that provisions for specialized health care needs are made if necessary.

21.2 Counties providing curricular and extracurricular transportation shall file through the WVEIS, at the end of each month, a report on curricular and extracurricular trips.

21.3 Professional personnel hired to drive board owned, rented or leased vehicles with less than 10 passenger capacity shall have a valid driver's license.

21.4 Students may be transported to a school-sponsored activity in a vehicle that has a seating capacity of sixteen or more passengers which is not owned and operated by the county board only as follows:

21.4.1 Automobile insurance coverage;

21.4.1.a A Certificate of Insurance must be issued as follows:

21.4.1.a.1 The Certificate Holder will be the County School System

21.4.1.a.2 The Certificate of Insurance must evidence a minimum of \$5,000,000 per occurrence of Auto Liability.

21.4.1.a.3 The certificate should provide for thirty day (30) notice of cancellation. Any Certificate of Insurance limited to a specific event or date is **not** acceptable.

21.4.1.a.4 Acceptance will be for all locations and operations of the school system.

21.4.1.a.5 In order for the charter bus company to remain eligible to provide service a **new** Certificate of Insurance **must** be supplied to the county school system whenever the insurance is **renewed**, which normally occurs on an annual basis. The school system will **not** contact the bus company before suspending the company from providing charter service due to an expired certificate.

21.4.1.a.6 Any notice from the insurance company that a bus company's insurance has been cancelled for any reason will result in the bus company's suspension from providing charter service to the school system.

21.4.2 Vehicle safety specifications;

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21.4.3 School bus or public transit ratings;

21.4.4 Driver training, certification and criminal history record check;

21.4.5 The vehicle owner shall provide to the county board proof that the vehicle and driver satisfy the requirements of the WVBE rule

21.5 Lease school buses pursuant to rules established by the county board.

21.5.1 Leased buses may be operated only by bus operators regularly employed by the county board.

21.5.2 The lessee shall bear all costs and expenses incurred by, or incidental to the use of, the bus.

21.5.3 The county board may lease buses to:

21.5.3.1 Public and private nonprofit organizations and private corporations to transport school-age children for camps or educational activities

21.5.3.2 Any college, university or officially recognized campus organization for transporting students, faculty and staff to and from the college or university. Only college and university students, faculty and staff may be transported pursuant to this paragraph. The lease shall include provisions for:

21.5.3.2.a Public and private nonprofit organizations, including education employee organizations, for transportation associated with fairs, festivals and other educational and cultural events.

21.5.3.2.b Compensation for bus operators;

21.5.3.2.c Consideration for insurance coverage, repairs and other costs of service; and

21.5.3.2.d Any rules concerning student behavior.

21.5.4 The county board may charge fees in addition to those charges otherwise required by this subsection.

22. Guidelines for School Bus Routing

22.1 The recommended duration of the one-way school bus transportation time for students to and from school under normal weather and operating conditions are as follows:

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22.1.1 For elementary school students, thirty minutes;

22.1.2 For middle school, intermediate school and junior high school students, forty-five minutes; and

22.1.3 For high school students, sixty minutes.

22.2 A county board may not create a new bus route for the transportation of students in any of the grade levels prekindergarten through grade five to and from any school included in a school closure, consolidation or new construction project approved after the first day of July, two thousand eight, which exceeds by more than fifteen minutes the recommended duration of the one-way school bus transportation time for elementary students adopted by the WVBE in accordance with subsection 22.1 of this section unless:

22.2.1 The county board adopts a separate motion to approve creation of the route and request written permission of the WVBE to create the route; and

22.2.2 Receives the written permission of the WVBE to create the route.

22.3 A county board may not create, nor may the WVBE permit, the creation of a new bus route for the transportation of students in any of the grade levels prekindergarten through grade five to and from any school included in a school closure, consolidation or new construction project approved after the first day of July, two thousand eight, which exceeds by more than thirty minutes the recommended duration of the one-way school bus transportation time for elementary students adopted by the WVBE in accordance with subsection 22.1 of this section.

22.4 The WVBE shall provide technical assistance to county boards with the objective of achieving school bus transportation routes for students which are within the recommended time durations established by the state board.

APPENDIX A

SCHOOL BUS OPERATOR'S INSPECTIONS

School bus operators are required to make the appropriate inspection of the school bus and complete specified duties in order to insure the safe transport of all passengers. The following is a list of the required inspections and duties.

1. Pre-Trip Daily Inspections and Duties

The school bus operator shall:

- 1.1 Check tires for proper inflation and condition.
- 1.2 Check wheels for loose hub bolts, wheel lugs, lube leaks, etc.
- 1.3 Check steering for proper functioning of all components.
- 1.4 Check radiator coolant, windshield washer fluid, power steering fluid, oil and fuel.
- 1.5 Check alternator, fan and power steering belts.
- 1.6 Check lighting system(s), windshield wiper/washer and horn.
- 1.7 Check brakes, including warning light and buzzer.
- 1.8 Check all emergency exits.
- 1.9 Check first aid kit, fire extinguisher, communication system(s) and emergency traffic warning devices.
- 1.10 Check back-up alarm.
- 1.11 Check stop arm and crossing arm.
- 1.12 Check exhaust for leaks to determine, as far as possible, that fumes are not reaching the bus interior.
- 1.13 After each run, walk to the rear of the bus and check for students, objects left on bus, and vandalism.
- 1.14 Sweep the floor and dust the seats immediately following the morning run.
- 1.15 Clean windshield, windows, mirrors, all light lenses and identification lettering.

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- 1.16 Keep stepwell and aisle clean and free of debris.
- 1.17 Remove markings found on walls/ceiling.
- 1.18 Keep loose objects, brooms, tire chains, wheel chair restraints, etc., off the floor.
- 1.19 Keep glove compartment clean and well-organized.
- 1.20 Be sure that there are no aerosol cans inside the school bus.

2. **Weekly Duties:**

The school bus operator shall:

- 2.1 Mop the school bus floor.
- 2.2 Clean interior upholstery with a damp cloth.
- 2.3 Wash the exterior of the bus.

APPENDIX B

RECOMMENDATIONS FOR COUNTY SCHOOL BUS TRANSPORTATION SYSTEMS

In addition to the pertinent sections of the West Virginia Code and the preceding regulations, the West Virginia Board of Education recommends the following:

1. School bus maintenance center equipment should include:

- 1.1 Hoists, jacks, lifts and/or service pits to enable repair and servicing in a safe and efficient manner.
- 1.2 Adequate diagnostic equipment to facilitate preventive adjustments and repairs.
- 1.3 The necessary tools for efficiency in performing the service.
- 1.4 An adequate place for washing buses, preferably inside.
- 1.5 Adequate storage for stocking and identifying parts.
- 1.6 Protective equipment.

2. Personnel/Staffing

- 2.1 Maintenance center staff shall vary with the number of vehicles to be maintained.
 - 2.1.1 One mechanic for nine buses.
 - 2.1.2 One mechanic and one assistant for a fleet of ten to eighteen buses.
 - 2.1.3 One additional mechanic and one additional assistant for each additional sixteen buses over eighteen.
- 2.2 The county superintendent shall ultimately determine the structure and staff needed to deliver a quality program.

3. Training

Maintenance center personnel shall:

- 3.1 Participate in job related continuing education as approved by the county school service personnel staff development council. A minimum of eighteen

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hours is required annually.

3.2 Participate in specific industry job related maintenance and repair workshops.

3.3 Participate in state and regional job related workshops and seminars.

3.3.1 Those individuals designated as Director of Transportation shall undergo training in school bus operation, emergency procedures and personnel laws and regulations. Annual in-service shall include 6-10 hours of content in safety and transportation.

4. Transportation to Alternative Education Sites

Buses transporting students to these sites should be equipped with the following:

4.1 An effective means of communication such as cellular phone or two-way radio.

4.2 A large mirror in rear of the bus.

4.3 A video camera.

4.4 An aide, another school bus operator or a staff member from the alternative school.

5. Transportation of Students With Disabilities

5.1 It is recommended that buses used to transport students with disabilities should be equipped with cellular telephones and/or two way radios.

APPENDIX C

SCHOOL BUS OPERATOR SAFE DRIVERS' PROGRAMS

National Safety Council - Safe Driver's Award

The West Virginia Board of Education encourages county boards of education to continue their support of the Safe Driver Award Programs sponsored by the National Safety Council.

School Bus Safety Rodeo

The West Virginia Department of Education annually sponsors a "School Bus Safety Rodeo" as a means of developing and refining the bus handling skills of school bus operators.

To maximize the skill development potential, and to recognize those who achieve excellence in school bus handling skills it is recommended that:

School transportation administrators in each county provide, as a part of their school bus operator in-service training, some type of skill development exercise in bus handling.

All school bus operators be given an opportunity to annually participate in a county and/or regional school bus safety rodeo.

All school bus operators who win recognition for their safe driving skills in local competition be provided an opportunity and encouraged to compete in regional and/or state rodeos.

The county school administrators provide the opportunity and encouragement for county school bus operators who win recognition in the state "School Bus Safety Rodeo" to compete in the national event.

APPENDIX D

W.Va. §126CSR162, West Virginia Board of Education Policy 5902, "Employee Code of Conduct"

"Employee" shall include all school personnel employed by a county board of education whether employed on a regular full-time basis or otherwise, and shall include other personnel such as employees of the West Virginia Schools for the Deaf and the Blind, and all employees of West Virginia Department of Education Institutional Education Programs.

All West Virginia school employees shall:

Exhibit professional behavior by showing positive examples of preparedness, communication, fairness, punctuality, attendance, language, and appearance.

Contribute, cooperate, and participate in creating an environment in which all employees/students are accepted and are provided the opportunity to achieve at the highest levels in all areas of development.

Maintain a safe and healthy environment, free from harassment, intimidation, bullying, substance abuse, and/or violence, and free from bias and discrimination.

Create a culture of caring through understanding and support.

Immediately intervene in any code of conduct violation, that has a negative impact on students, in a manner that preserves confidentiality and the dignity of each person.

Demonstrate responsible citizenship by maintaining a high standard of conduct, self-control, and moral/ethical behavior.

Comply with all federal and West Virginia laws, policies, regulations and procedures.

Responsibilities for Implementation:

The West Virginia Department of Education shall provide for the distribution of Policy 5902 to all West Virginia schools.

The West Virginia Department of Education shall provide professional development for county superintendents and principals on Policy 5902.

County boards of education shall provide professional development for all employees on Policy 5902.

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APPENDIX E

WEST VIRGINIA DIVISION OF MOTOR VEHICLES
REQUEST FOR DRIVING RECORDS
(form on following 2 pages)

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DMV-101-PS-1
Rev. 06/18/2007

WEST VIRGINIA DIVISION OF MOTOR VEHICLES
REQUEST FOR DRIVING RECORDS

This form may be used for multiple requests and a fee of \$5.00 per name must accompany each request. You may duplicate this form or contact the Division of Motor Vehicles for additional forms or any questions by telephoning (304) 558-3900. Driver's license number and last name must be provided. If you do not have the driver's license number, you must provide the social security number and/or date of birth with an additional \$1.00 fee. All fees are non-refundable.

Driver's License Number	Name	Social Security Number	Date of Birth

Please return requested records to the following address:

(Please print Company name, if applicable)

(Mailing address) (City, State and Zip)

(Telephone Number)

Any person may request their own driving record at any DMV regional office. You must provide your state-issued driver's license or state-issued identification card for proof of identification.

All other requests must be sent to the address provided below. You may not obtain information about others without their signed written consent (attached form DMV-101-PS-2) or unless the request is made on company/business letterhead and provides a legitimate and detailed reason for the request as defined in the Uniform Motor Vehicles Records Disclosure Act (17A-2A-1 et seq.). **EACH REQUEST FORM SUBMITTED MUST INCLUDE A COPY OF THE REQUESTOR'S STATE-ISSUED DRIVER'S LICENSE OR STATE-ISSUED IDENTIFICATION CARD.** If you do not meet these requirements, your reason will be reviewed and if accepted, you will receive a driving record that excludes all personal information from the record.

Any person who knowingly or willfully obtains information under false pretenses will be in violation of federal law, and if convicted, will be fined not more than \$1,000 and/or imprisoned not more than one year. I hereby certify that the information obtained from the Division of Motor Vehicles will be used for the sole purpose stated above.

Signature of Requestor: _____ ID Verified By: _____

**A COPY OF YOUR REQUEST MAY BE FORWARDED TO THE PERSON
WHOSE RECORDS YOU ARE REQUESTING.**

If you do not qualify for the information requested, you may submit a Message Forwarding Form. On this form, you may write a message and the Division of Motor Vehicles will forward the form with all information you provide to the licensee at their current address in our records. This service has a non-refundable fee of \$5.00. The Division of Motor Vehicles does not guarantee delivery or a response.

Any request for a driving record other than the individual's own, must be submitted to the WV Division of Motor Vehicles at the address listed below. DMV Regional Offices are prohibited from dispensing driving records to anyone requesting another individual's record.

BEFORE MAILING, BE SURE YOU HAVE INCLUDED: COMPLETED DMV-101-PS-1 FORM, APPLICABLE FEES, COPY OF DRIVER'S LICENSE OR PHOTO ID, LETTERHEAD EXPLANATION AND A COMPLETED DMV-101-PS-2 (IF APPLICABLE).

Please mail your request to: **Division of Motor Vehicles
Insurance Section/ Driving Records
1800 Kanawha Blvd., East, Bldg. 3
Charleston, WV 25317**

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DMV- 101-PS-2
02/14/2008

IF YOUR ATTORNEY OR ANOTHER PARTY INTENDS TO REQUEST INFORMATION ON YOUR BEHALF, PLEASE COMPLETE THE RELEASE AUTHORIZATION SECTION BELOW.

RELEASE AUTHORIZATION

I, _____ / _____
(PLEASE PRINT NAME) (PLEASE SIGN NAME)

hereby authorize the West Virginia Division of Motor Vehicles to release any of my information found within the Division's records to:

(Individual name and Company name, if applicable)

ALL REQUESTORS FOR INFORMATION MUST COMPLETE THE REQUEST FOR DRIVING RECORDS FORM (DMV-101-PS-1) AND THIS FORM (DMV-101-PS-2) OR THE REQUEST WILL NOT BE PROCESSED. THE INDIVIDUAL RELEASED TO RECEIVE INFORMATION MUST INCLUDE A COPY OF THEIR GOVERNMENT ISSUED ID OR DRIVERS LICENSE. ALL REQUESTS FOR INFORMATION MUST HAVE THIS FORM COMPLETED OR THE REQUEST MAY NOT BE PROCESSED.

PLEASE CHECK APPROPRIATE FEE

- \$5.00 - DRIVING RECORD WITH DRIVER'S LICENSE NUMBER
- \$5.00 - CERTIFIED DRIVING RECORD WITH DRIVER'S LICENSE NUMBER
- \$6.00 - DRIVING RECORD WITHOUT DRIVER'S LICENSE NUMBER
- \$6.00 - CERTIFIED DRIVING RECORD WITHOUT DRIVER'S LICENSE NUMBER
- \$5.00 - MESSAGE FORWARDING SERVICE
- \$.25 PER PAGE - COPY OF SUSPENSION/REVOCAION/DISQUALIFICATION FILE

ADMINISTRATIVE HEARING DOCUMENT FEES

- \$1.50 PER PAGE - PRODUCTION OF ORIGINAL TRANSCRIPT OF HEARING
- \$.50 PER PAGE - COPY OF EXISTING TRANSCRIPT OF HEARING
- \$30.00 - COPY OF RECORDED TESTIMONY IN CD FORMAT
- \$25.00 - COPY OF RECORDED TESTIMONY IN CASSETTE FORMAT
- \$15.00 - COPY OF VIDEO TAPE SUBMITTED INTO EVIDENCE

APPENDIX F

<INSERT ORGANIZATION NAME HERE>
**Prescription and Over-The-Counter
Medication Policy**

PURPOSE

The National Transportation Safety Board (NTSB) issued a directive to the Federal Transit Administration (FTA) to educate service agencies on the potential safety risks associated with the use of prescription (Rx) and over-the-counter (OTC) medications by employees who perform (insert job duties here) .

In the interest of complying with this directive and protecting employees and others, <INSERT ORGANIZATION NAME HERE> has developed this Rx/OTC policy. As such, all safety-sensitive employees must make sure that any prescribed drug, any over-the-counter medication, or combination of drugs being taken will not adversely impact their job performance. The employee must inform the prescribing medical practitioner of the employee's job duties performed and the medical practitioner must approve the medications to ensure that the employee's job duties can be performed safely.

APPLICABILITY

This policy applies to all (insert applicable positions here) . The procedure set forth herein applies only to medications that are to be taken or that would have an effect while at work.

PRESCRIPTION MEDICATIONS

The appropriate use of legally prescribed medications is not prohibited. However, the employee has the responsibility to discuss the potential effects of any prescription medication with the prescribing medical practitioner including its potential to impair mental functioning, motor skills, or judgment. The employee must refrain from performing (insert job duties here) any time their ability to safely perform their job duties is adversely impacted by the use of a prescription medication.

1. A legally prescribed drug means the employee has a prescription or other written approval from a medical practitioner for his/her use of a drug in the course of medical treatment. The written statement must include the employee's name, the name of the substance, quantity/amount to be taken, and the period of authorization.
2. The misuse or abuse of prescription medications is prohibited. Examples of misuse and/or abuse include:

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- a. Use of a medication that is not prescribed by the employee.
- b. The employee exceeds the prescribed dosage.
- c. Use of any medication that contains alcohol within four hours of performing safety-sensitive functions.
- d. The use of any prescription medications that adversely impacts the employee's ability to safely perform his/her assigned duties.

<INSERT ORGANIZATION NAME HERE> requires that all (insert applicable positions here) obtain a statement from their medical practitioner for each medication prescribed indicating whether the employee should be medically disqualified from performing safety-sensitive functions during the duration of the treatment. The statement must be provided to the <insert management title here> where it will be kept in the employee's confidential medical file.

OVER-THE-COUNTER MEDICATIONS

The appropriate use of over-the-counter (OTC) medications is not prohibited. However, the employee has the responsibility to read all warning labels and contraindication notices and if necessary discuss the potential effects of any OTC medication with a medical practitioner or pharmacist including its potential to impair mental functioning, motor skills, or judgment. The employee must refrain from performing a safety-sensitive function any time his/her ability to safely perform their job duties is adversely impacted by the use of OTC medications.

1. The misuse or abuse of OTC medications is prohibited. Examples of misuse and/or abuse include:
 - a. Use of any medication that contains alcohol within four hours of performing safety-sensitive functions.
 - b. The use of any OTC that adversely impacts the employee's ability to safely perform his/her job duties.
 - c. Using an OTC for other than its intended purpose.
 - d. Exceeding the recommended dosage.

<INSERT ORGANIZATION NAME HERE> requires that all (insert applicable positions here) obtain a statement from their medical practitioner or pharmacist for each OTC used that has a warning label or caution that indicates that mental functioning, motor skills, or judgment may be adversely affected. As an example, the warning label might indicate: "May cause drowsiness. Use care when operating a car or heavy machinery." The statement should indicate whether the employee should be medically disqualified from performing safety-sensitive functions during the duration of the treatment. The statement must be provided to the <insert management title here> where it will be kept in the employee's confidential medical file.

MEDICAL DISQUALIFICATION

Ultimately, the employee is the best judge of how a substance is impacting him/her. As such, the employee has the responsibility to inform the medical practitioner/pharmacist of performance

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altering side effects and request medical disqualification from performance of their duties. The employee is encouraged to discuss/consider alternative treatments that do not have the performance altering side effects.

An employee will be medically disqualified from the performance of safety-sensitive functions if the medical practitioner/pharmacist determines that the side effects of the medication being taken pose a potential threat to the safety of co-workers, the public and/or the employee.

The medical practitioner/pharmacist determination is subject to review by the <INSERT ORGANIZATION NAME HERE> company physician. The company physician may consult with the medical practitioner/pharmacist to obtain additional information as necessary. Based on the information provided, the company physician may determine that the employee should be medically disqualified. The company physician's decision will be deemed final.

The medical practitioner/pharmacist statements and any other medical information obtained through this process are confidential information and will be maintained in confidential medical files in the <INSERT ORGANIZATION NAME HERE> office.

PROCEDURAL GUIDELINES

The employee has the responsibility to assess his/her fitness for duty while using Rx/OTC prescription medication. As such, the employee has the following responsibilities:

- The employee has the responsibility to discuss the potential effects of any OTC drug with a medical practitioner or pharmacist, including any adverse impact on the safe performance of their job duties. The employee is encouraged to discuss with their medical practitioner/pharmacist alternative treatments that do not have performance altering side effects.
- The employee has the responsibility to inform the medical practitioner/ pharmacist of performance altering side effects experienced and request medical disqualification from the performance of safety-sensitive job duties.
- The employee must have medical practitioner/pharmacist determine if he/she should be medically disqualified from the performance of safety-sensitive job duties based on the side effects of the OTC. The employee must subsequently request the medical practitioner/pharmacist to complete a statement indicating whether or not the employee should be medically disqualified, and if so, the duration of the disqualification. An example of the form to be used is provided in Appendix A of this policy.
- Employees are required to provide the medical practitioner/pharmacist statement in a sealed envelope to the <insert management title here> . The envelope should be sealed and marked confidential.

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- The employee must notify their immediate supervisor of the duration of his/her medical disqualification. The employee will be immediately removed from duty.
- Employees will be allowed to use their accumulated sick leave, personal time, and/or vacation for the duration of the medical disqualification.

The <INSERT ORGANIZATION NAME HERE> will periodically publish a list of medications that are of the greatest concern. The list will be provided as a guide only and should not be considered all-inclusive. Use of the list to identify potential problem medications does not exempt the employee from the process as defined herein, but should be used to trigger more in depth discussions with the medical practitioner/pharmacist.

CONSEQUENCES OF POLICY VIOLATION

An employee who fails to report the use of an Rx/OTC medication or who performs safety-sensitive functions when his/her performance is being adversely impacted by an OTC medication will be subject to the following discipline.

- Failure to report (1st Offense) <insert disciplinary action here>
- Failure to report (2nd Offense) <insert disciplinary action here>
- Performance of safety-sensitive function when adversely impacted by OTC medication <insert disciplinary action here>
- Falsification of medical practitioner/pharmacist statement Discharge

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APPENDIX G

West Virginia Department of Education Medical Examination Form for Bus Operators
(on next 8 pages

Medical Examination Report

The West Virginia Department of Education

1. DRIVER'S INFORMATION <small>Driver completes this section</small>	
Driver's Name (Last, First, Middle)	Social Security No.
Address	Birthdate M / D / Y
City, State, Zip Code	Sex <input type="checkbox"/> M <input type="checkbox"/> F
Work Tel: ()	Age
Home Tel: ()	Driver License No.
	License Class <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> Other
	New Certification Recertification <input type="checkbox"/> Follow-up <input type="checkbox"/>
	Date of Exam
2. HEALTH HISTORY <small>Driver completes this section, but medical examiner is encouraged to discuss with driver.</small>	
<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Any illness or injury in the last 6 years? Head/Brain injuries, disorders or illnesses Seizures, epilepsy <input type="checkbox"/> medication</p> <p>Eye disorders or impaired vision (except corrective lenses) Ear disorders, loss of hearing or balance Heart disease or heart attack, other cardiovascular condition <input type="checkbox"/> medication</p> <p>Heart surgery (valve replacement/bypass, angioplasty, pacemaker) High blood pressure Muscular disease Shortness of breath</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Lung disease, emphysema, asthma, chronic bronchitis Kidney disease, dialysis Liver disease Digestive problems Diabetes or elevated blood sugar controlled by: diet <input type="checkbox"/> pills <input type="checkbox"/> insulin <input type="checkbox"/> Nervous or psychiatric disorders, e.g., severe depression medication <input type="checkbox"/> Loss of, or altered consciousness <input type="checkbox"/></p>
<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p> <p>Fainting, dizziness Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring Stroke or paralysis Missing or impaired hand, arm, foot, leg, finger, toe Spinal injury or disease Chronic low back pain Regular, frequent alcohol use Narcotic or habit-forming drug use</p>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>For any YES answer, indicate onset date, diagnosis, treating physician's name and address, and any current limitation. List all medications (including over-the-counter medications) used regularly or recently.</p>	

I certify that the above information is complete and true. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate.

Driver's Signature _____ Date _____

Medical Examiner's Comments on Health History (The medical examiner must review and discuss with the driver any "yes" answers and potential hazards of medications, including over-the-counter medications, while driving. This discussion must be documented below.)

TESTING (Medical Examiner completes Section 3 through 7) Name: Last, _____ First, _____ Middle, _____

3. VISION

Standard: At least 20/40 acuity (Snellen) in each eye with or without correction. At least 70 degrees peripheral in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

INSTRUCTIONS: When other than the Snellen chart is used, give test results in Snellen-comparable values. In recording distance vision, use 20 feet as normal. Report visual acuity as a ratio with 20 as numerator and the smallest type read at 20 feet as denominator. If the applicant wears corrective lenses, these should be worn while visual acuity is being tested. If the driver habitually wears contact lenses, or intends to do so while driving, sufficient evidence of good tolerance and adaptation to their use must be obvious. *Monocular drivers are not qualified.*

Numerical readings must be provided.

ACUITY	UNCORRECTED	CORRECTED	HORIZONTAL FIELD OF VISION	
Right Eye	20/	20/	Right Eye	o
Left Eye	20/	20/	Left Eye	o
Both Eyes	20/	20/		

Applicant can recognize and distinguish among traffic control signals and devices showing standard red, green, and amber colors? Yes No

Applicant meets visual acuity requirement only when wearing: Corrective Lenses

Monocular Vision: Yes No

Complete next line only if vision testing is done by an ophthalmologist or optometrist

Date of Examination _____ Name of Ophthalmologist or Optometrist (print) _____ Tel. No. _____ License No./ State of Issue _____ Signature _____

4. HEARING

Standard: a) Must first perceive forced whispered voice \geq 5 ft., with or without hearing aid, or b) average hearing loss in better ear \leq 40 dB

Check if hearing aid used for tests. Check if hearing aid required to meet standard.

INSTRUCTIONS: To convert audiometric test results from ISO to ANSI, -14 dB from ISO for 500-Hz, -10dB for 1,000 Hz, -8.5 dB for 2000 Hz. To average, add the readings for 3 frequencies tested and divide by 3.

Numerical readings must be recorded.

a) Record distance from individual at which forced whispered voice can first be heard.

b) If audiometer is used, record hearing loss in decibels. (acc. to ANSI Z24.5-1951)	Right Ear		Left Ear	
	500 Hz	1000 Hz	2000 Hz	500 Hz
Average:				

5. BLOOD PRESSURE/PULSE RATE

Numerical readings must be recorded. Medical Examiner should take at least two readings to confirm BP.

Blood Pressure	Systolic	Diastolic
----------------	----------	-----------

Driver qualified if \leq 140/90.

Pulse Rate: Regular Irregular

Record Pulse Rate: _____

Reading	Category	Expiration Date	Recertification
140-159/90-99	Stage 1	1 year	1 year if \leq 140/90. One-time certificate for 3 months if 141-159/91-99.
160-179/100-109	Stage 2	One-time certificate for 3 months.	1 year from date of exam if \leq 140/90
\geq 180/110	Stage 3	6 months from date of exam if \leq 140/90	6 months if \leq 140/90

6. LABORATORY AND OTHER TEST FINDINGS

Numerical readings must be recorded.

Urinalysis is required. Protein, blood or sugar in the urine may be an indication for further testing to rule out any underlying medical problem. Other Testing (Describe and record)

URINE SPECIMEN	SP. GR.	PROTEIN	BLOOD	SUGAR
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Physical Qualifications for Drivers

THE DRIVER'S ROLE

Responsibilities, work schedules, physical and emotional demands, and lifestyles among commercial drivers vary by the type of driving that they do. Some of the main types of drivers include the following: turn around or short relay (drivers return to their home base each evening); long relay (drivers drive 9-11 hours and then have at least a 10-hour off-duty period), and straight through haul.

The following factors may be involved in a driver's performance of duties: abrupt schedule changes and rotating work schedules, which may result in irregular sleep patterns and a driver beginning a trip in a fatigued condition; long hours; extended time away from family and friends, which may result in lack of social support; tight pickup and delivery schedules, with irregularity in work, rest, and eating patterns, adverse road, weather and traffic conditions, which may cause delays and lead to hurriedly loading or unloading cargo in order to compensate for the lost time; and environmental conditions such as excessive vibration, noise, and extremes in temperature.

There may be duties in addition to the driving task for which a driver is responsible and needs to be fit. Some of these responsibilities are: lifting, installing, and removing heavy tire chains and inspecting the vehicle. The above tasks demand agility, the ability to bend and stoop, the ability to maintain a crouching position to inspect the underside of the vehicle and frequent entering and exiting of the bus.

In addition, a driver must have the perceptual skills to monitor a sometimes complex driving situation, the judgment skills to make quick decisions, when necessary, and the manipulative skills to control an oversize steering wheel, shift gears using a manual transmission, and maneuver a vehicle in crowded areas.

PHYSICAL QUALIFICATIONS FOR DRIVERS

(a) A person shall not drive a commercial motor vehicle unless he is physically qualified to do so and, except as provided in §391.67, has on his person the original, or a photographic copy, of a medical examiner's certificate that he is physically qualified to drive a commercial motor vehicle.

(b) A person is physically qualified to drive a motor vehicle if that person:

(1) Has no loss of a foot, a leg, a hand, or an arm, or has been granted a Skill Performance Evaluation (SPE) Certificate (formerly Limb Waiver Program) pursuant to §391.49.

(2) Has no impairment of: (i) A hand or finger which interferes with prehension or power grasping; or (ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or has been granted a SPE Certificate pursuant to §391.49.

(3) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control;

(4) Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure.

(5) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his ability to control and drive a commercial motor vehicle safely.

(6) Has no current clinical diagnosis of high blood pressure likely to interfere with his ability to operate a bus safely.

(7) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with his ability to control and operate a commercial motor vehicle safely.

(8) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a commercial motor vehicle;

(9) Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his ability to drive a commercial motor vehicle safely;

(10) Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green and amber;

(11) First perceives a forced whispered voice in the better ear not less than 5 feet with or without the use of a hearing aid, or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz and 2,000 Hz with or without a hearing device when the audiometric device is calibrated to the American National Standard (formerly ASA Standard) Z24.5-1951;

(12) (i) Does not use a controlled substance identified in 21 CFR 1308.11 Schedule I, an amphetamine, a narcotic, or any other habit-forming drug.

(ii) Exception: A driver may use such a substance or drug, if the substance or drug is prescribed by a licensed medical practitioner who: (A) Is familiar with the driver's medical history and assigned duties; and (B) Has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a commercial motor vehicle; and (13) Has no current clinical diagnosis of alcoholism.

INSTRUCTIONS TO THE MEDICAL EXAMINER

General Information

The purpose of this examination is to determine a driver's physical qualification to operate a commercial motor vehicle (CMV) in interstate commerce according to the requirements in 49 CFR 391.41-49. Therefore, the medical examiner must be knowledgeable of these requirements and guidelines developed by the FMCSA to assist the medical examiner in making the qualification determination. The medical examiner should be familiar with the driver's responsibilities and work environment and is referred to the section on the form, **The Driver's Role**.

In addition to reviewing the **Health History** section with the driver and conducting the physical examination, the medical examiner should discuss common prescriptions and over-the-counter medications relative to the side effects and hazards of these medications while driving. Educate the driver to read warning labels on all medications. History of certain conditions may be cause for rejection, particularly if required by regulation, or may indicate the need for additional laboratory tests or more stringent examination perhaps by a medical specialist. These decisions are usually made by the medical examiner in light of the driver's job responsibilities, work schedule and potential for the conditions to render the driver unsafe.

Medical conditions should be recorded even if they are not cause for denial, and they should be discussed with the driver to encourage appropriate remedial care. This advice is especially needed when a condition, if neglected, could develop into a serious illness that could affect driving.

If the medical examiner determines that the driver is fit to drive and is also able to perform non-driving responsibilities as may be required, the medical examiner signs the medical certificate which the driver must carry with his/her license. The certificate must be dated. Under current regulations, the certificate is valid for two years, unless the driver has a medical condition that does not prohibit driving but does require more frequent monitoring. In such situations, the medical certificate should be issued for a shorter length of time. The physical examination should be done carefully and at least as complete as is indicated by the attached form. Contact the FMCSA at (202) 366-1790 for further information (a vision exemption, qualifying drivers under 49 CFR 391.64, etc.).

Interpretation of Medical Standards

Since the issuance of the regulations for physical qualifications of commercial drivers, the Federal Motor Carrier Safety Administration (FMCSA) has published recommendations called **Advisory Criteria** to help medical examiners in determining whether a driver meets the physical qualifications for commercial driving. These recommendations have been condensed to provide information to medical examiners that (1) is directly relevant to the physical examination and (2) is not already included in the medical examination form. The specific regulation is printed in *italics* and it's reference by section is highlighted.

**Federal Motor Carrier Safety Regulations
-Advisory Criteria-****Loss of Limb:**
§391.41(b)(1)

A person is physically qualified to drive a commercial motor vehicle if that person:
Has no loss of a foot, leg, hand or an arm, or has been granted a Skill Performance Evaluation (SPE) Certificate pursuant to Section 391.49.

Limb Impairment:
§391.41(b)(2)

A person is physically qualified to drive a commercial motor vehicle if that person:
Has no impairment of: (i) A hand or finger which interferes with prehension or power grasping; or (ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or (iii) Any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a commercial motor vehicle; or (iv) Has been granted a Skill Performance Evaluation (SPE) Certificate pursuant to Section 391.49.

A person who suffers loss of a foot, leg, hand or arm or whose limb impairment in any way interferes with the safe performance of normal tasks associated with operating a commercial motor vehicle is subject to the Skill Performance Evaluation Certification Program pursuant to section 391.49, assuming the person is otherwise qualified.

With the advancement of technology, medical aids and equipment modifications have been developed to compensate for certain disabilities. The SPE Certification Program (formerly the Limb Waiver Program) was designed to allow persons with the loss of a foot or limb or with functional impairment to qualify under the Federal Motor Carrier Safety Regulations (FMCSRs) by use of prosthetic devices or equipment modifications which enable them to safely operate a commercial motor vehicle. Since there are no medical aids equivalent to the original body or limb, certain risks are still present, and thus restrictions may be included on individual SPE certificates when a State Director for the FMCSA determines they are necessary to be consistent with safety and public interest.

If the driver is found otherwise medically qualified (391.41(b)(3) through (13)), the medical examiner must check on the medical certificate that the driver is qualified only if accompanied by a SPE certificate. The driver and the employing motor carrier are subject to appropriate penalty if the driver operates a motor vehicle in interstate or foreign commerce without a current SPE certificate for his/her physical disability.

Diabetes**§391.41(b)(3)**

A person is physically qualified to drive a commercial motor vehicle if that person:
Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

Diabetes mellitus is a disease which, on occasion, can result in a loss of consciousness or disorientation in time and space. Individuals who require insulin for control have conditions which can get out of control by the use of too much or too little insulin, or food intake not consistent with the insulin dosage. Incapacitation may occur from symptoms of hyperglycemic or hypoglycemic reactions (drowsiness, semiconsciousness, diabetic coma or insulin shock).

The administration of insulin is, within itself, a complicated process requiring insulin, syringe, needle, alcohol sponge and a sterile technique. Factors related to long-haul commercial motor vehicle operations, such as fatigue, lack of sleep, poor diet, emotional conditions, stress, and concomitant illness, compound the dangers. The FMCSA has consistently held that a diabetic who uses insulin for control does not meet the minimum physical requirements of the FMCSRs.

Hypoglycemic drugs, taken orally, are sometimes prescribed for diabetic individuals to help stimulate natural body production of insulin. If the condition can be controlled by the use of oral medication and diet, then an individual may be qualified under the present rule. CMV drivers who do not meet the Federal diabetes standard may call (202) 366-1790 for an application for a diabetes exemption.

(See Conference Report on Diabetic Disorders and Commercial Drivers and Insulin-Using Commercial Motor Vehicle Drivers at:
<http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Cardiovascular Condition**§391.41(b)(4)**

A person is physically qualified to drive a commercial motor vehicle if that person:

Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse or congestive cardiac failure.

The term "has no current clinical diagnosis of" is specifically designed to encompass: "a clinical diagnosis of" (1) a current cardiovascular condition, or (2) a cardiovascular condition which has not fully stabilized regardless of the time limit. The term "known to be

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accompanied by" is designed to include a clinical diagnosis of a cardiovascular disease (1) which is accompanied by symptoms of syncope, dyspnea, collapse or congestive cardiac failure; and/or (2) which is likely to cause syncope, dyspnea, collapse or congestive cardiac failure.

It is the intent of the FMCSRs to render unqualified a driver who has a current cardiovascular disease which is accompanied by and/or likely to cause symptoms of syncope, dyspnea, collapse, or congestive cardiac failure. However, the subjective decision of whether the nature and severity of an individual's condition will likely cause symptoms of cardiovascular insufficiency is on an individual basis and qualification rests with the medical examiner and the motor carrier. In those cases where there is an occurrence of cardiovascular insufficiency (myocardial infarction, thrombosis, etc.), it is suggested before a driver is certified that he or she have a normal resting and stress electrocardiogram (ECG), no residual complications and no physical limitations, and is taking no medication likely to interfere with safe driving.

Coronary artery bypass surgery and pacemaker implantation are remedial procedures and thus, not unqualifying. Implantable cardioverter defibrillators are disqualifying due to risk of syncope. Coumadin is a medical treatment which can improve the health and safety of the driver and should not, by its use, medically disqualify the commercial driver. The emphasis should be on the underlying medical condition(s) which require treatment and the general health of the driver. The FMCSA should be contacted at (202) 365-1790 for additional recommendations regarding the physical qualification of drivers on coumadin.

(See Cardiovascular Advisory Panel Guidelines for the Medical Examination of Commercial Motor Vehicle Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Respiratory Dysfunction

\$391.41(b)(5)

A person is physically qualified to drive a commercial motor vehicle if that person:
Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with ability to control and drive a commercial motor vehicle safely.

Since a driver must be alert at all times, any change in his or her mental state is in direct conflict with highway safety. Even the slightest impairment in respiratory function under emergency conditions (when greater oxygen supply is necessary for performance) may be detrimental to safe driving.

There are many conditions that interfere with oxygen exchange and may result in incapacitation, including emphysema, chronic asthma, carcinoma, tuberculosis, chronic bronchitis and sleep apnea. If the medical examiner detects a respiratory dysfunction, that in any way is likely to interfere with the driver's ability to safely control and drive a commercial motor vehicle, the driver must be referred to a specialist for further evaluation and therapy. Anticoagulation therapy for deep vein thrombosis and/or pulmonary thromboembolism is not unqualifying once optimum dose is achieved, provided lower extremity venous examinations remain normal and the treating physician gives a favorable recommendation.

(See Conference on Pulmonary/Respiratory Disorders and Commercial Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Hypertension

\$391.41(b)(6)

A person is physically qualified to drive a commercial motor vehicle if that person:

Has no current clinical diagnosis of high blood pressure likely to interfere with ability to operate a commercial motor vehicle safely.

Hypertension alone is unlikely to cause sudden collapse; however, the likelihood increases when target organ damage, particularly cerebral vascular disease, is present. This regulatory criteria is based on FMCSA's Cardiovascular Advisory Guidelines for the Examination of CMV Drivers, which used the Sixth Report of the Joint National Committee on Detection, Evaluation, and Treatment of High Blood Pressure (1997).

Stage 1 hypertension corresponds to a systolic BP of 140-159 mmHg and/or a diastolic BP of 90-99 mmHg. The driver with a BP in this range is at low risk for hypertension-related acute incapacitation and may be medically certified to drive for a one-year period. Certification examinations should be done annually thereafter and should be at or less than 140/90, if less than 160/100, certification may be extended one time for 3 months.

A blood pressure of 160-179 systolic and/or 100-109 diastolic is considered Stage 2 hypertension, and the driver is not necessarily unqualified during evaluation and institution of treatment. The driver is given a one time certification of three months to reduce his or her blood pressure to less than or equal to 140/90. A blood pressure in this range is an absolute indication for anti-hypertensive drug therapy. Provided treatment is well tolerated and the driver demonstrates a BP value of 140/90 or less, he or she may be certified for one year from date of the initial exam. The driver is certified annually thereafter.

A blood pressure at or greater than 180 (systolic) and 110 (diastolic) is considered Stage 3, high risk for an acute BP-related event. The driver may not be qualified, even temporarily, until reduced to 140/90 or less and treatment is well tolerated. The driver may be certified for 6 months and biannually (every 6 months) thereafter if at recheck BP is 140/90 or less.

Annual recertification is recommended if the medical examiner does not know the severity of hypertension prior to treatment.

An elevated blood pressure finding should be confirmed by at least two subsequent measurements on different days.

Treatment includes nonpharmacologic and pharmacologic modalities as well as counseling to reduce other risk factors. Most antihypertensive medications also have side effects, the importance of which must be judged on an individual basis. Individuals must be alerted to the hazards of these medications while driving. Side effects of somnolence or syncope are particularly undesirable in commercial drivers.

Secondary hypertension is based on the above stages. Evaluation is warranted if patient is persistently hypertensive

on maximal or near-maximal doses of 2-3 pharmacologic agents. Some causes of secondary hypertension may be amenable to surgical intervention or specific pharmacologic disease.

(See Cardiovascular Advisory Panel Guidelines for the Medical Examination of Commercial Motor Vehicle Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Rheumatic, Arthritic, Orthopedic, Muscular, Neuromuscular or Vascular Disease \$391.41(b)(7)

A person is physically qualified to drive a commercial motor vehicle if that person:

Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease which interferes with the ability to control and operate a commercial motor vehicle safely.

Certain diseases are known to have acute episodes of transient muscle weakness, poor muscular coordination (ataxia), abnormal sensations (paresthesia), decreased muscular tone (hypotonia), visual disturbances and pain which may be suddenly incapacitating. With each recurring episode, these symptoms may become more pronounced and remain for longer periods of time. Other diseases have more insidious onsets and display symptoms of muscle wasting (atrophy), swelling and paresthesia which may not suddenly incapacitate a person but may restrict his/her movements and eventually interfere with the ability to safely operate a motor vehicle. In many instances these diseases are degenerative in nature or may result in deterioration of the involved area.

Once the individual has been diagnosed as having a rheumatic, arthritic, orthopedic, muscular, neuromuscular or vascular disease, then he/she has an established history of that disease. The physician, when examining an individual, should consider the following: (1) the nature and severity of the individual's condition (such as sensory loss or loss of strength); (2) the degree of limitation present (such as range of motion); (3) the likelihood of progressive limitation (not always present initially but may manifest itself over time); and (4) the likelihood of sudden incapacitation. If severe functional impairment exists, the driver does not qualify. In cases where more frequent monitoring is required, a certificate for a shorter period of time may be issued. (See Conference on Neurological Disorders and Commercial Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

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Epilepsy

§391.41(b)(6)
A person is physically qualified to drive a commercial motor vehicle if that person:

Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle.

Epilepsy is a chronic functional disease characterized by seizures or episodes that occur without warning, resulting in loss of voluntary control which may lead to loss of consciousness and/or seizures. Therefore, the following drivers cannot be qualified: (1) a driver who has a medical history of epilepsy; (2) a driver who has a current clinical diagnosis of epilepsy; or (3) a driver who is taking antiseizure medication.

If an individual has had a sudden episode of a nonepileptic seizure or loss of consciousness of unknown cause which did not require antiseizure medication, the decision as to whether that person's condition will likely cause loss of consciousness or loss of ability to control a motor vehicle is made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6 month waiting period elapse from the time of the episode. Following the neurological examination, if the results of the examination are negative and antiseizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition and has no existing residual complications, and not taking antiseizure medication.

Drivers with a history of epilepsy/seizures off antiseizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off antiseizure medication for a 5-year period or more.

(See Conference on Neurological Disorders and Commercial Drivers at

<http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Mental Disorders

§391.41(b)(9)
A person is physically qualified to drive a commercial motor vehicle if that person:

Has no mental, nervous, organic or functional disease or psychiatric disorder likely to interfere with ability to drive a motor vehicle safely.

Emotional or adjustment problems contribute directly to an individual's level of memory, reasoning, attention, and judgment. These problems often underlie physical disorders. A variety of functional disorders can cause drowsiness, dizziness, confusion, weakness or paralysis that may lead to incoordination, inattention, loss of functional control and susceptibility to accidents while driving. Physical fatigue, headache, impaired coordination, recurring physical ailments and chronic "nagging" pain may be present to such a degree that certification for commercial driving is inadvisable. Somatic and psychosomatic complaints should be thoroughly examined when determining an individual's overall fitness to drive.

Disorders of a periodically incapacitating nature, even in the early stages of development, may warrant disqualification. Many bus and truck drivers have documented that "nervous trouble" related to neurotic, personality, or emotional or adjustment problems is responsible for a significant fraction of their preventable accidents. The degree to which an individual is able to appreciate, evaluate and adequately respond to environmental strain and emotional stress is critical when assessing an individual's mental alertness and flexibility to cope with the stresses of commercial motor vehicle driving.

When examining the driver, it should be kept in mind that individuals who live under chronic emotional upsets may have deeply ingrained maladaptive or erratic behavior patterns. Excessively antagonistic, insensitive, impulsive, openly aggressive, paranoid or severely depressed behavior greatly interfere with the driver's ability to drive safely. Those individuals who are highly susceptible to frequent states of emotional instability (schizophrenia, affective psychoses, paranoia, anxiety or depressive neuroses) may warrant disqualification. Careful consideration should be given to the side effects and interactions of medications in the overall qualification determinations. See Psychiatric Conference Report for specific recommendations on the use of medications and potential hazards for driving.

(See Conference on Psychiatric Disorders and Commercial Drivers at

<http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Vision

§391.41(b)(10)
A person is physically qualified to drive a commercial motor vehicle if that person:

Has distant visual acuity of at least 20/40 (Snellen) in each eye with or without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

The term "ability to recognize the colors of" is interpreted to mean if a person can recognize and distinguish among traffic control signals and devices showing standard red, green and amber, he or she meets the minimum standard, even though he or she may have some type of color perception deficiency. If certain color perception tests are administered, (such as Ishihara, Pseudochromatic, Yarn) and doubtful findings are discovered, a controlled test using signal red, green and amber may be employed to determine the driver's ability to recognize these colors.

Contact lenses are permissible if there is sufficient evidence to indicate that the driver has good tolerance and is well adapted to their use. Use of a contact lens in one eye for distance visual acuity and another lens in the other eye for near vision is not acceptable, nor telescopic lenses acceptable for the driving of commercial motor vehicles.

If an individual meets the criteria by the use of glasses or contact lenses, the following statement shall appear on the Medical Examiner's Certificate: "Qualified only if wearing corrective lenses."

CMV drivers who do not meet the Federal vision standard may call (202) 366-1790 for an application for a vision exemption.

(See Visual Disorders and Commercial Drivers at <http://www.fmcsa.dot.gov/rulesregs/medreports.htm>)

Hearing

§391.41(b)(11)

A person is physically qualified to drive a commercial motor vehicle if that person:

First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid, or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ADA Standard) Z24.5-1951.

Since the prescribed standard under the FMCSRs is the American Standards Association (ANSI), it may be necessary to convert the audiometric results from the ISO standard to the ANSI standard. Instructions are included on the Medical Examination report form.

If an individual meets the criteria by using a hearing aid, the driver must wear that hearing aid and have it in operation at all times while driving. Also, the driver must be in possession of a spare power source for the hearing aid.

For the whispered voice test, the individual should be stationed at least 5 feet from the examiner with the ear being tested turned toward the examiner. The other ear is covered. Using the breath which remains after a normal expiration, the examiner whispers words or random numbers such as 66, 18,

23, etc. The examiner should not use only sibilants (s sounding materials). The opposite ear should be tested in the same manner. If the individual fails the whispered voice test, the audiometric test should be administered.

If an individual meets the criteria by the use of a hearing aid, the following statement must appear on the Medical Examiner's Certificate "Qualified only when wearing a hearing aid." (See Hearing Disorders and Commercial Motor Vehicle Drivers at: <http://www.fmcsa.dot.gov/rulesregsmedports.htm>)

Drug Use

§391.41(b)(12)
A person is physically qualified to drive a commercial motor vehicle if that person:

Does not use a controlled substance identified in 21 CFR 1308.11.

Schedule I, an amphetamine, a narcotic, or any other habit-forming drug
Exception: A driver may use such a substance or drug, if the substance or drug is prescribed by a licensed medical practitioner who is familiar with the driver's medical history and assigned duties; and has advised the driver that the prescribed substance or drug will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

This exception does not apply to methadone. The intent of the medical certification process is to medically evaluate a driver to ensure that the driver has no medical condition which interferes with the safe performance of driving tasks on a public road. If a driver uses a Schedule I drug or other substance, an amphetamine, a narcotic, or any other habit-forming drug, it may be cause for the driver to be found medically unqualified. Motor carriers are encouraged to obtain a practitioner's written statement about the effects on transportation safety of the use of a particular drug.

A test for controlled substances is not required as part of this biennial certification process. The FMCSA or the driver's employer should be contacted directly for information on controlled substances and alcohol testing under Part 382 of the FMCSRs.

The term "uses" is designed to encompass instances of prohibited drug use determined by a physician through established medical means. This may or may not involve body fluid testing. If body fluid testing takes place, positive test results should be confirmed by a second test of greater specificity. The term "habit-forming" is intended to include any drug or medication generally recognized as capable of becoming habitual, and which may impair the user's ability to operate a commercial motor vehicle safely.

The driver is medically unqualified for the duration of the prohibited drug(s) use and until a second examination shows the driver is free from the prohibited drug(s) use. Recertification may involve a substance abuse evaluation, the successful completion of a drug rehabilitation program, and a negative drug test result. Additionally, given that the certification period is normally two years, the examiner has the option to certify for a period of less than 2 years if this examiner determines more frequent monitoring is required.

(See Conference on Neurological Disorders and Commercial Drivers and Conference on Psychiatric Disorders and Commercial Drivers at: <http://www.fmcsa.dot.gov/rulesregs/medports.htm>)

Alcoholism

§391.41(b)(13)

A person is physically qualified to drive a commercial motor vehicle if that person:

Has no current clinical diagnosis of alcoholism.

The term "current clinical diagnosis of" is specifically designed to encompass a current alcoholic illness or those instances where the individual's physical condition has not fully stabilized, regardless of the time element. If an individual shows signs of having an alcohol-use problem, he or she should be referred to a specialist. After counseling and/or treatment, he or she may be considered for certification.

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined _____ if accompanied with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties. I find this person is qualified and, if applicable, only after:

- wearing corrective lenses Driving within an exempt weight zone (49 CFR 391.62)
- wearing hearing aid accompanied by a Skill Performance Evaluation Certificate (SPE)
- accompanied by a _____ examiner exemption Qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment encloses my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER _____

TELEPHONE _____

DATE _____

MEDICAL EXAMINER'S NAME (PRINT) _____

MD DO Chiropractor

Physician Assistant Authorized Nurse

MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. ISSUING STATE _____

SIGNATURE OF DRIVER _____

DRIVER'S LICENSE NO. _____

STATE _____

ADDRESS OF DRIVER _____

MEDICAL CERTIFICATE EXPIRATION DATE _____

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APPENDIX H

West Virginia Department of Education Application for Bus Operator Certification
ON NEXT TWO PAGES

West Virginia Department of Education Application for Bus Driver Certification
Instructions -

Applicant - Submit this document to the County Transportation Director.
Transportation Director - Submit this document to WVDOE with fingerprint card and background check information.

Last Name	First Name	Middle Initial	
Address	City	State	Zip Code
Telephone Number	Cell Phone Number	Email Address	
Date of Birth	Social Security Number	Operator/CDL License Number	

Employment History

Employer Name & Address	Date of Employment (From/To)	Reason for leaving
Employer Name & Address	Date of Employment (From/To)	Reason for leaving
Employer Name & Address	Date of Employment (From/To)	Reason for leaving
Employer Name & Address	Date of Employment (From/To)	Reason for leaving

*Attached additional sheets if needed.

Do you have a High School Diploma or a GED?
 Yes No

Do you have a current CDL license? If so, list the State.
 Yes No State -

Do you currently have a valid operator license? If so, list the State.
 Yes No State -

West Virginia Department of Education Application for Bus Driver Certification

Instructions -

Applicant - Submit this document to the County Transportation Director.

Transportation Director - Submit this document to WVDOE with fingerprint card and background check information.

List all traffic violations within that past 5 years

Violation	Location	Date
Violation	Location	Date
Violation	Location	Date
Violation	Location	Date
Violation	Location	Date

*Attached additional sheets if needed.

Disclosure of Background Information

**If you answer yes to any question below, SUBMIT with your application a complete narrative. Include dates, locations, school systems, and any other appropriate information.*

1) Have you ever had adverse action taken against any application, certificate, or license in any state, including any operator or commercial driver's license? Adverse action includes the following: letter of warning, reprimand, denial, suspension, revocation, voluntary surrender or cancellation.	Yes	No
2) Have you ever been disciplined, reprimanded, suspended, or discharged from any employment because of allegations of misconduct?	Yes	No
3) Have you ever resigned, entered into a settlement agreement, or otherwise left employment as a result of alleged misconduct?	Yes	No
4) Is any action now pending against you for alleged misconduct in any school district, court, or before any educator licensing agency?	Yes	No
5) Have you ever been arrested for or under indictment for a felony? *	Yes	No
6) Have you ever been arrested for a misdemeanor? (For the purpose of this application, all moving traffic violations should be reported) Charges or convictions for driving while intoxicated (DWI) or driving under the influence of alcohol or other drugs (DUI), reckless driving, must be reported. *	Yes	No

* For a YES response to items 5 & 6, the following must be included: 1) Judgment Order -OR- 2) Final Order -OR- 3) Magistrate Court Documentation -AND- 4) all other relevant court documents.

I swear or affirm under the penalty of false swearing that all information provided in or with this application is true, correct, and complete to the best of my knowledge. I understand that any false statements, misrepresentations, or omissions of fact in or with this application are grounds for denial, suspension, or revocation of the license(s) that I am seeking or currently hold.

Signature of Applicant

Date

APPENDIX I

Appendix I

Checklist for Identifying Potential School Bus Route Fixed Driving Hazards

Railroad Grade Crossings

Railroad Grade Crossing Identification Number _____

Location _____

How many tracks are present? _____

What are the times of the scheduled trains? _____

What types of trains use the track? Passenger ____ Freight ____ Commuter

What are the travel speeds of the scheduled trains? _____

1. Are the regulatory signs (crossbucks) clearly visible? _____
2. Are there regulatory devices (lights/gates/bells) present? _____
3. Are there any unique characteristics to the operation of the crossing controls? What are they? _____
4. When stopped approximately 15 feet from the nearest railroad track, is there an unobstructed sight distance of approximately 1,000 feet in both directions? _____
5. Is there at least enough room on the other side of the furthest railroad track for the largest school bus to stop without encroaching on the train's right-of-way? _____
6. Are there any roadway design features that could affect the safe operation of a school bus at the railroad crossing? _____ What are they? _____

Dangerous Intersections and Roadways

Location _____

1. Is this a high-frequency crash location? _____

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Appendix I (continued)

2. Are traffic control devices present? _____
3. Are there visibility obstructions? _____
4. What are they? _____
5. Are there areas with no shoulders? _____
6. Are there peculiar roadway features? _____
7. What are they? _____

Bridges, Tunnels/Underpasses and Overpasses

Location _____

1. Is the weight capacity of the bridge/overpass sufficient for a fully-loaded school bus?

2. Is the height of the tunnel/underpass adequate for the tallest school bus, including open roof hatches? _____
3. Is the lane width of the bridge, tunnel/underpass, or overpass adequate for the widest school bus, including the mirrors? _____

Queuing/Storage Areas

Location _____

1. Is there sufficient area for the largest school bus in the acceleration/deceleration lane?

2. Is there sufficient area for the largest school bus in the median area between a multi-lane road? _____
3. Is there sufficient area for the largest school bus in the turning lane? _____

Industrial Intersections and Construction Zones

Location _____

1. Do heavy vehicles enter/exit/cross the roadway frequently? _____

Appendix I (continued)

- 2. Are there highway signs alerting drivers of the industrial/construction traffic? _____
- 3. Are there traffic controls in the area? _____

Steep Downgrades

Location _____

- 1. Are there highway signs alerting drivers to the downgrade? _____
- 2. Are there signs alerting drivers to "Check Brakes"? _____
- 3. Are there areas marked and designated for vehicles to safely leave the road (runoff areas)? _____

Areas of Significant Speed Differential Between Vehicles

Location _____

- 1. Is there sufficient space to accelerate/decelerate a school bus when entering/exiting a high-speed road? _____
- 2. Does slow-moving farm equipment operate on the road? _____
- 3. Do non-motorized vehicles, e.g., horse-drawn carriages, operate on the road? _____
- 4. Are there roadway conditions, e.g., mountainous terrain, that result in vehicles operating at high speeds and low speeds? _____

What are they? _____

Pedestrian Areas

Location _____

- 1. Are there difficulties seeing pedestrians at school bus stops? _____
- 2. Are there narrow streets with parked vehicles where children may run into the street?

Appendix I (continued)

3. Are there areas of heavy pedestrian congestion, e.g., shopping and business areas?
- _____

Other Conditions Identified in Local Area

Location _____

1. Are there unique roadway conditions?
- i. roads without guardrails that pose a danger, e.g., next to rivers, lakes, quarries? _____
- ii. dirt or gravel roads that could affect braking? _____
2. Others? What are they? _____
3. Are there roadway conditions that make it difficult to make a "right turn on red?" _____
- a. What are they? _____
4. Are there areas with visibility problems due to industrial smoke, air quality, etc.?
5. Are there areas where emergency equipment operate on a regular basis, e.g., fire stations or hospitals? _____

APPENDIX J

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 99
STUDENT CODE OF CONDUCT (4373)

§126-99-1. General.

1.1. Scope. -- This rule sets the requirements for the conduct of students in West Virginia schools in order to assure a nurturing and orderly, safe, drug-free, violence- and harassment-free learning environment that supports student academic achievement and personal-social development.

1.2. Authority. -- W. Va. Constitution, Article XII, §2, and W. Va. Code §§16-9A-4, 16-9A-9, 17A-1-1, 18-2-5, 18-2-5a, 18-2-7b, 18-2-9, 18-2-33, 18-2C-1 et seq., 18-5-1, 18-5-13, 18-16-1, 18A-1-1, 18A-5-1, 18A-5-1a, 60A-1-101, 60A-7-11a, 61-2-15, 61-7-2, and 61-7-11a.

1.3. Filing Date. -- December 16, 2002.

1.4. Effective Date. -- July 1, 2003.

1.5. Repeal of Former Rule. -- This legislative rule revises W.Va. §126CSR99, "Student Code of Conduct" (Policy 4373) filed June 7, 2002 and effective July 7, 2002. This policy is to be read in conjunction with W.Va. §126CSR18, "Racial, Sexual, Religious/Ethnic Harassment and Violence Policy" (Policy 2421), and W.Va. §126CSR98, "Student Handbook - Student Rights and Responsibilities" (Policy 4372).

§126-99-2. Purpose.

2.1. The West Virginia Board of Education recognizes the need for students, teachers, administrators, and other school personnel to have a nurturing and orderly, safe, and stimulating educational environment. The purpose of these regulations is to provide West Virginia school districts with a policy of student conduct that will ensure an orderly and safe environment that is conducive to learning. These regulations also require that West Virginia's public schools respond immediately and consistently to incidents of harassment, intimidation, bullying, substance abuse and/or violence or other Student Code of Conduct violations in a manner that effectively deters future incidents and affirms respect for individuals. These regulations require county boards to design and implement prevention and response programs, to outline investigatory and reporting procedures, and to delineate penalties for violations of this policy. The West Virginia Board of Education believes further that public schools should undertake proactive, preventive approaches to

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ensure a nurturing and orderly and safe school environment that fosters learning and personal-social development. Public schools must create, encourage, and maintain a safe, drug-free, and fear-free school environment in the classroom, on the playground, and at school-sponsored activities. Assuring such an educational environment requires a comprehensive program supported by everyone in the school organization, as well as parents/guardians, and the community. Any form of harassment, intimidation, bullying, substance abuse, violence, or other policy violation is unacceptable in West Virginia schools.

§126-99-3. Student Code of Conduct.

3.1. All students enrolled in West Virginia public schools shall behave in a manner that promotes a school environment that is nurturing, orderly, safe and conducive to learning and personal-social development.

3.1.1. Students will help create an atmosphere free from bullying, intimidation and harassment.

3.1.2. Students will demonstrate honesty and trustworthiness.

3.1.3. Students will treat others with respect, deal peacefully with anger, use good manners and be considerate of the feelings of others.

3.1.4. Students will demonstrate responsibility, use self-control and be self-disciplined.

3.1.5. Students will demonstrate fairness, play by the rules, and will not take advantage of others.

3.1.6. Students will demonstrate compassion and caring.

3.1.7. Students will demonstrate good citizenship by obeying laws and rules, respecting authority, and by cooperating with others.

APPENDIX K

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 25A
STANDARDS FOR BASIC AND SPECIALIZED
HEALTH CARE PROCEDURES (2422.7)

§126-25A-1. General.

1.1. Scope. - This legislative rule establishes standards for certified school nurses to assess student health needs and to decide who is best skilled to respond to them.

1.2. Authority. - W.Va. Constitution, Article XII, §2, W.Va. Code §§18-2-5, 18-5-22, 18-5-22a, 18-5-22b, 30-7-1, et seq. and 30-7A-1, et seq.

1.3. Filing Date. - September 15, 2004.

1.4. Effective Date. - October 15, 2004.

1.5. Adoption by reference. - Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools.

§126-25A-2. Purpose.

2.1. Good health is essential to student learning. This policy establishes the standards that must be followed in providing for students with health care needs. The resulting Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools was designed for use by certified school nurses in West Virginia to assure safe, consistent provision of health care.

§126-25A-3. Definitions.

3.1. Basic Health Care Procedures are defined as procedures performed by school personnel to ensure that health and safety needs of students are met.

3.2. Cardiopulmonary Resuscitation (CPR) is defined as possession of a current valid certificate from an approved training program for adult, child and infant CPR, e.g. American Heart Association/American Red Cross.

3.3. Certified School Nurse is defined as a registered professional nurse, who is 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 approved program as defined in the West Virginia Board of Education Policy 5100: Approval of Educational Personnel Preparation

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Programs (W.Va.126CSR114), and meets the requirements for certification contained in West Virginia Board of Education Policy 5202: Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications (W.Va. 126CSR136) (hereinafter Policy 5202). The certified school nurse must be employed by the county board of education or the county health department as specified in W.Va. Code §18-5-22.

3.4. Contracted Licensed Health Care Provider is defined as a licensed health care provider, as set forth in Section 3.9 of this policy, providing health care services under contract with county boards of education. Health care services may be contracted after the ratio of one nurse for every 1,500 students, kindergarten through seventh grade, is provided to county schools.

3.5. Contracted School Nurse is defined as an employee of a public health department providing services under a contract with a county board of education to provide services considered equivalent to those required in W.Va. Code §18-5-22.

3.6. First Aid is defined as a training course in emergency treatment that is administered to an injured or sick person before professional medical care is available. This training will be coordinated by the school nurse.

3.7. Health Assessment is defined as the process by which the certified school nurse obtains student health data. This assessment is comprehensive, systematic and continuous to allow the certified school nurse to make a nursing diagnosis and plan for interventions with the student, family, school staff and licensed prescriber when necessary.

3.8. Health Care Plan is defined as the written document developed by the certified school nurse which includes a nursing diagnosis, is individualized to the student's health needs and consists of specific goals and interventions delineating the school nursing actions, delegated procedures and student's role in self care.

3.9. Licensed Health Care Provider is defined as a medical doctor or doctor of osteopathy, podiatrist, registered nurse, practical nurse, registered nurse practitioner, physician assistant, dentist, optometrist, pharmacist or respiratory care professional licensed under Chapter Thirty of W.Va. Code.

3.10. Licensed Practical Nurse is defined as a person who has met all the requirements for licensure as a practical nurse and who engages in practical nursing under the direction of a Registered Professional Nurse as defined in W.Va. Code §30-7A-1, et seq.

3.11. Licensed Prescriber is defined as a licensed health care provider with the authority to prescribe medication and health care procedures.

3.12. Performance Check List is defined as a tool used by the certified school nurse in determining that a school employee meets the minimum standards required to safely perform basic and/or specialized health care procedures.

3.13. Qualified is defined as the ability to demonstrate competence and skills in the use of

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equipment and performance of techniques and procedures necessary to provide basic and/or specialized health care services for individuals with health needs and to demonstrate current knowledge of community emergency medical resources.

3.14. Related Services are defined as transportation and such developmental, corrective, and other supportive services as are required to assist an eligible exceptional student to benefit from education as defined in West Virginia Board of Education Policy 2419: Regulations for the Education of Exceptional Students (W.Va.126CSR16) (hereinafter Policy 2419). The term includes, but is not limited to, audiology, speech and language pathology, psychological services, physical and/or occupational therapy, counseling/social services, school health services, early identification and assessment, medical services for diagnostic or evaluation purposes and parent training.

3.15. Retrained is defined as a proper demonstration and/or instruction, as deemed necessary by the certified school nurse.

3.16. School Employee as defined by W.Va. Code §18-5-22 means teachers, as defined in W.Va. Code §18-1-1, secretaries, as defined in W.V. Code §18A-4-8 and aides, as defined in W.Va. Code §18A-4-8.

3.17. School Health Manager is defined as a certified school nurse who reviews and interprets medical data related to student health problems and coordinates all school health services.

3.18. School Related Events is defined as any curricular or co-curricular activity, as defined by West Virginia Board of Education Policy 2510: Assuring the Quality of Education: Regulations for Education Programs (W.Va. 126CSR42), that is conducted outside of the school environment and/or instructional day. Examples of co-curricular activities include the following: band and choral presentations; theater productions; science or social studies fairs; mathematics field days; career/technical student organizations' activities; or other activities that provide in-depth exploration or understanding of the content standards and objectives appropriate for the students' grade levels.

3.19. Specialized Health Care Procedures are defined as procedures ordered by the student's licensed prescriber(s) requiring medical and/or health-related training for the individual who performs the procedures.

3.20. Supervision of Designated School Employees is defined as periodic on-site review and documentation by the certified school nurse verifying the competency of that individual in performing basic and/or specialized health care procedures and maintaining appropriate records.

3.21. Direct Supervision. A certified school nurse shall be present on the same school campus as the employee being supervised and available for consultation and/or referral for appropriate assistance.

3.22. Indirect Supervision. A certified school nurse shall be available to the qualified, designated school employee, either in person or through electronic means to provide necessary instruction, consultation and/or referral for appropriate assistance.

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3.23. Training is defined as instruction and demonstration provided to designated school employees in preparation to be qualified for the performance of basic and/or specialized health care procedures.

3.24. School Personnel, as referred to in this policy and the Basic and Specialized Health Care Procedure Manual, includes any school employee, as defined in W.Va. Code §18-5-22 that is not a licensed health care provider but has been designated, trained and deemed competent by a certified school nurse and approved by a school administrator to provide basic and/or specialized health care procedure(s) to students in West Virginia public schools.

§126-25A-4. State Administrative Procedures.

4.1. The Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools shall be utilized as the minimum standard for safe practice as adopted by the State Division of Health in the Specialized Health Procedures in Public Schools Rule, 64 W.Va. CSR 66, 1992.

4.2. Training Program. School employees who provide basic and/or specialized health care procedures for students with special health needs, shall undergo training or demonstrate competency in the performance of Required procedures that are set forth in Section 4.2.1 of this policy. In addition, applicable Basic and/or Specialized training will be required for all school employees performing health care procedures.

4.2.1. Required training: All employees defined in Section 4.2 must be trained in:

- a. Handling and disposal of body fluids;
- b. Basic first aid;
- c. CPR;
- d. Confidentiality.

A. Employees performing basic health care procedures may be exempt from Required training of first aid and CPR, if deemed unnecessary by the certified school nurse.

4.2.2. Basic training: Individualized training in the performance of any one or more basic health care procedures as applicable to employee job assignment.

4.2.3. Specialized training: Individualized training in the performance of any one or more specialized health care procedures as applicable to employee job assignment.

4.3. Training and retraining must be provided and/or coordinated by a certified school nurse.

4.4. An assessment of the performance of each procedure shall be completed by the certified school nurse. This assessment shall include the completion of a critical skills performance check list

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and shall be conducted in relation to changes in student health care needs, licensed prescriber's orders and medical/health technology.

4.5. The category of supervision required (direct or indirect) in each situation shall be determined by the certified school nurse.

4.6. Training shall be provided through simulation or use of training models. Initial practice of the procedure shall be simulated or done on models rather than the student, whenever possible.

4.7. Personnel shall be retrained, every two years on performance of all basic and/or specialized health care procedures that are currently prescribed and being performed by said personnel.

§126-25A-5. Organization and Management.

5.1. School employees will be certified for completion of Required training and applicable basic and/or specialized health care procedures.—

5.1.1. Required training certification must assure:

a. Completion of Required training program stipulated for all employees defined in Section 4.2.

b. Demonstrated competency in Required training to be performed in Section 4.2.1.

5.1.2. Basic and Specialized certification must assure:

a. Completion of Required training program stipulated for all employees defined in Section 4.2. Completion of training in all basic and/or specialized health care procedures to be performed.

b. Demonstrated competency based on a performance checklist.

5.2. The Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools must be used for teaching and training basic and specialized health care procedures. The training may be provided by:

5.2.1. Schools of nursing;

5.2.2. Vocational schools;

5.2.3. Independent faculty approved by a certified school nurse;

5.2.4. Certified school nurses;

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5.2.5. Public health department;

5.2.6. Contracted school nurse;

5.2.7. Contracted licensed health care provider.

5.3. This policy/rule will be updated, as necessary, by the Council of School Nurses, as outlined in §126-25A-8.

§126-25A-6. System for School Admission and Care.

6.1. For students needing specialized health care procedures, the certified school nurse shall assess the student, review the licensed prescriber's order and assure implementation of needed health and safety procedures. This assessment shall be completed prior to initial school attendance and following any absence in which a health condition may have changed, necessitating reevaluation.

6.2. The licensed prescriber's orders are kept on file in the student's permanent record. These orders are valid for a maximum of one year, unless changed by the licensed prescriber.

6.3. Certified school nurses shall determine delegation of any aspect of basic and/or specialized health care.

§126-25A-7. Health Care Plan.

7.1. A health care plan is required for all students receiving specialized health care procedure(s) during the school day and school related events.

7.2. The health care plan must be prepared by the certified school nurse based on assessment of student and/or a written order by a licensed prescriber.

7.3. A review of the health care plan will be conducted with staff member(s) assigned by the administrator to carry out the plan.

7.4. The plan should contain:

7.4.1. Nursing assessment,

7.4.2. Nursing diagnosis,

7.4.3. Goals and expected outcomes,

7.4.4. Interventions and

7.4.5. Evaluation.

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7.5. Health care plans are reviewed annually or more frequently as the student's condition warrants.

§126-25A-8. Quality Assurance.

8.1. A needs assessment conducted by county school nurses within each Regional Education Service Agency (RESA) will be the basis for revision of the Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools. The Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools will be revised, as deemed necessary, by the West Virginia Council of School Nurses based on the needs assessments conducted by school nurses.

8.2. The Council of School Nurses shall meet at least bi-annually, or more frequently, as deemed necessary by the Chair of the Council in consultation with the West Virginia Department of Education for review of certification and training program(s) regarding school employees designated to perform basic and/or specialized health care procedures.

8.3. The certified school nurse shall participate in continuing education programs which provide:

8.3.1. Training related to new specialized health care procedures.

8.3.2. Staff development applicable to effective school health practice.

8.4. The certified school nurse must develop a monitoring system with appropriate timeframes to ensure safety and effective monitoring of the delegation of all basic and/or specialized health care procedures.

§126-25A-9. School Health Records.

9.1. All records are confidential and shall not be released except under existing law and West Virginia Board of Education policies.

9.2. An individual record will be maintained for each student needing a specialized health care procedure. It will include date and time procedure was performed, any notes on events and/or interactions and signature of person performing/supervising procedure.

§126-25A-10. Staffing Requirements.

10.1. Certified school nurses must be employed in sufficient numbers to ensure adequate provision of services to severely handicapped pupils. Registered nurses have the authority and the ability to teach and to supervise other persons in rendering selected health services and/or procedures.

10.2. The certified school nurse must have a current license as a registered professional nurse in the State of West Virginia (W.Va. Code §30-7-1, et seq.). The school nurse must be certified as a

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school nurse as set forth in Policy 5202. The certified school nurse must be employed by the county board of education or the county health department (W.Va. Code §18-5-22) which contracts to provide equivalent services to boards of education. Performance of professional nursing service means both independent nursing functions and health related services which require specialized knowledge, judgment, and skills as governed by the West Virginia Nurse Practice Act (W.Va. Code §30-7-1, et seq.) and the National Association of School Nurses, Inc. "Scope and Standards of Professional School Nursing Practice".

10.3. The licensed practical nurse must be currently licensed in the State of West Virginia (W.Va. Code §30-7A-1, et seq.) and must function under the supervision of the registered professional nurse or licensed physician. The practical nurse shall not function as a school nurse.

10.4. Medical contacts, referrals and interpretations of medical data shall be managed by the certified school nurse. The nurse serves as the manager for health related problems and decisions. In the role of manager, the nurse is responsible for standards of school nurse practice in relation to health appraisal and health care planning. School employees, with the approval of the principal and the county board of education, may elect or in some cases be required to provide approved specialized health care procedures and such procedures shall be delegated by the certified school nurse as deemed appropriate. The school nurse shall provide for training, retraining, and supervision, and, upon completion, certify satisfactory level of competence before school employees perform basic and/or specialized health care procedures. A qualified designated school employee may be deemed not qualified in the performance of delegated basic and/or specialized health care procedures based on the ongoing monitoring and supervision by the school nurse.

10.5. A licensed prescriber and/or professional nurse may be held liable for delegating professional responsibilities to individuals not qualified to perform them.

§126-25A-11. Student Rights.

11.1. Students are entitled to the assignment of qualified personnel.

11.2. Students are afforded the right to privacy, dignity, respect and courtesy, in accordance with The Family Education Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99).

§126-25A-12. Penalties.

12.1. Failure of any school personnel to comply with the above rules will result in personnel disciplinary actions based on state and local board of education policy.

§126-25A-13. Administrative Due Process.

13.1. Families dissatisfied with the health care plan and its handling by personnel should:

13.1.1. Schedule a meeting with the certified school nurse and school principal or

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designee.

13.1.2. Follow due process procedure as outlined in the Policy 2419 and/or in the West Virginia Board of Education Policy 7211: Appeals Procedures for Citizens (W.Va. 126CSR188).

13.1.3. Appeal unacceptable outcomes at the fourth step to the State Superintendent of Schools.

§126-25A-14. Severability.

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

APPENDIX L
TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 27
MEDICATION ADMINISTRATION (2422.8)

§126-27-1. General.

1.1. Scope. – This legislative rule establishes standards for administration of all medication in the West Virginia public school system.

1.2. Authority. – W.Va. Constitution, Article XII, §2 and W.Va. Code §§18-1-1, 18-2-5, 18-5-22, 18-5-22a, 18-5-22b, 18A-4-8, and 30-7-1, et seq.

1.3. Filing Date. – April 19, 2004 _____

1.4. Effective Date. – July 1, 2004 _____

1.5. Repeal of Former Rule. – None. This is a new policy.

§126-27-2. Purpose.

2.1 Good health and safety are essential to student learning. The administration of medication to students during the school day should be discouraged unless absolutely necessary for the student's health. Administration of medication during the school day is essential to allow some students to attend school. This policy establishes the standards that must be followed when any medication is required to be administered during attendance at school or school related events and to provide for emergency medication administration, when necessary.

2.2. An objective of this medication administration policy is to promote individual responsibility. This can be achieved by educating students and their families.

§126-27-3. Application.

3.1. These regulations apply to school nurses, administrators, other authorized school employees, contracted school nurses, and contracted licensed health care providers (as specified in W.Va. Code §18-5-22a) administering medication to students in the West Virginia public school system.

3.2 County Boards of Education shall develop or amend medication administration policies to meet or exceed the standards set forth in W.Va. Code §18-5-22a

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as well as the components set forth in this policy.

3.3 The West Virginia Department of Education (STATE DEPARTMENT) may issue and periodically update advisories to provide guidance on the administration of medication to students in the West Virginia public school system.

3.4. This policy shall not impact the operating procedures of School Based Health Centers. It is not the intent of this policy to interfere with existing policies and procedures of health care providers managing School Based Health Centers.

§126-27-4. Definitions.

4.1. "Administration of medication" means a health care procedure, which may be performed by school personnel who are designated, qualified, trained and authorized to administer medications to students.

4.2. "Administrator's designee" means an employee (excluding the school nurse or contracted provider of nursing services) who is designated by the building administrator, is trained to administer non-prescribed medication, and agrees to administer non-prescribed medications.

4.3 "Contracted licensed health care provider" means a licensed health care provider, as set forth in Section 4.6 of this policy, providing health care services under a contract with county boards of education. Health care services may be contracted after the ratio of one nurse for every 1,500 students, kindergarten through seventh grade, is provided to county schools.

4.4 "Contracted school nurse" means an employee of a public health department providing services under a contract with a county board of education to provide services considered equivalent to those required in W.Va. Code §18-5-22.

4.5 "Designated qualified personnel" means an employee or contracted provider who agrees to administer medications, is authorized by the administrator, successfully completes training as defined in West Virginia Board of Education Policy 2422.7 – Standards for Basic and Specialized Health Care Procedures (126CSR25A), hereinafter Policy 2422.7, and is qualified for the delegation of the administration of prescribed medications.

4.6. "Licensed health care provider" means a medical doctor or doctor of osteopathy, podiatrist, registered nurse, practical nurse, registered nurse practitioner, physician assistant, dentist, optometrist, pharmacist or respiratory care professional licensed under Chapter Thirty of W.Va. Code.

4.7. "Licensed prescriber" means licensed health care providers with the authority to prescribe medication.

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4.8. "Long-term and Emergency Prescribed Medication" means medication ordered by a licensed prescriber that is used to treat acute and chronic health conditions including both daily and PRN (as needed) medication.

4.9. "Medication document" means the individual medication record or medicine log used to record the administration of medication to a student.

4.10. "Non-prescribed Medication" means medication and food supplements that have been approved by the Food and Drug Administration and may be obtained over-the-counter (OTC) without a prescription from a licensed prescriber.

4.11. "Parent/Guardian Authorization Form" means a form completed and signed by parent/guardian in order to authorize medication administration to said parent's/guardian's child. The form must include the following: student name; date; allergies; medication name, dosage, time and route; intended effect of medication; other medication(s) taken by student; and parent/guardian signature.

4.12. "Prescribed Medication" means medication with a written order signed by a licensed prescriber.

4.13. "School Based Health Centers" means clinics located in schools that: 1) are sponsored and operated by community based health care organizations; 2) provide primary health care services (including but not limited to diagnosis and treatment of acute illness, management of chronic illness, physical exams, immunizations, and other preventive services) to students who are enrolled in the health center; and 3) follow state and federal laws, policies, procedures, and professional standards for provision of medical care.

4.14. "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 approved program as defined in West Virginia Board of Education Policy 5100 – Approval of Educational Personnel Preparation Programs (126CSR114) and meets the requirements for certification contained in West Virginia Board of Education Policy 5202 – Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classification (126CSR136). The school nurse must be employed by the county board of education or the county health department as specified in W.Va. Code §18-5-22.

4.15. "School-related event" means any curricular or co-curricular activity, as defined in West Virginia Board of Education Policy 2510 – Assuring the Quality of Education: Regulations for Education Programs (126CSR42), that is conducted outside of the school environment and/or instructional day. Examples of co-curricular activities include the following: band and choral presentations; theater productions; science or social studies fairs; mathematics field days; career/technical student organizations' activities; or other activities that provide in-depth exploration or understanding of the content standards and objectives appropriate for the students' grade levels.

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4.16. "Self-administration" means medication administered by the student under the supervision of the school nurse, designated qualified personnel, administrator or administrator's designee. The self-administration of prescribed medication may also include medication taken by a student in an emergency or an acute situation (e.g., rescue inhaler).

§126-27-5. Authorization.

5.1. Authorized personnel include trained school nurses, other licensed health care providers, administrators, teachers, aides and secretaries as defined in W.Va. Code §§18-1-1, 18A-4-8 and 18-5-22.

§126-27-6. Roles and Responsibilities.

6.1 Role of the school administrator(s).

6.1.1. Provide for appropriate, secure, and safe storage and access of medications.

6.1.2. Provide a clean, safe environment for medication administration.

6.1.3. Provide a mechanism for safely receiving, counting and storing medications.

6.1.4. Provide a mechanism for receiving and storing appropriate medication authorization forms.

6.1.5. Select potential candidates for medication administration (prescribed and non-prescribed).

6.1.6. Assign qualified employees, who meet a satisfactory level of competence for prescribed medication administration as defined in Policy 2422.7 and non-prescribed medication as determined by the STATE DEPARTMENT.

6.1.7. Coordinate development of procedures for the administration of medication during school-related events with classroom teachers, school nurses, parents/guardians, designated qualified personnel and administrator's designees.

6.2. Role of the school nurse and contracted licensed health care provider.

6.2.1. Determine if the administration of prescribed medication may be safely delegated to designated qualified personnel, as defined in Section 4.4.

6.2.2. Contact the parent/guardian or licensed health care provider to clarify any questions about prescribed medication that is to be administered in the West Virginia public school system.

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6.2.3. Manage health related problems and decisions. In the role of manager, the nurse is responsible for standards of school nurse practice in relation to health appraisal, health care planning and maintenance of complete and accurate documentation. For students needing long-term and emergency prescription medication to attend school, the school nurse shall assess the student, review the licensed prescriber's orders, assure implementation of needed health and safety procedures, and develop a health care plan.

6.2.4. Utilize the "West Virginia Board of Examiners for Registered Professional Nurses Guidelines for Determining Acts that May be Delegated or Assigned by Licensed Nurses", January 2001, and any revisions thereof, as the mechanism for determining whether or not the administration of prescribed medications may be delegated.

6.2.5. Provide and/or coordinate training, as defined in Policy 2422.7, for all school employees designated to administer prescribed medication.

6.2.6. Validate and document student knowledge and skills related to self-administration of prescribed medication.

6.3. Role of designated qualified personnel/administrator's designee.

6.3.1. Successfully complete the Cardiopulmonary Resuscitation (CPR), First Aid, and the medication administration portion of training, as defined in Policy 2422.7.

6.3.2. Store and administer medication, complete the medication document and report medication incidents as outlined in Sections 7.4. and 8.5.

6.4. Role of the parent/guardian.

6.4.1. Administer the initial dose of any medication at home, except for emergency medications and unless otherwise directed by the licensed prescriber and/or a court order.

6.4.2. Complete and sign a parent/guardian authorization form (to be designed by each county), which indicates student name; date; allergies; medication name; dosage, time, and route; intended effect of medication; other medication(s) taken by student; and parent/guardian signature.

6.4.3. Provide school with completed licensed prescriber authorization form for prescribed medication(s).

6.4.4. Supply medication and ensure that medication arrives safely at school in a current and properly labeled container (see Sections 7.2 and 8.3). Give the medication

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to the person authorized by the administrator to receive, store, and administer medication. Maintain effective communication pertaining to medication administration.

6.4.5. Replenish long-term and emergency prescribed medication as needed.

6.4.6. Retrieve unused or outdated medicine from school personnel no later than thirty days after the authorization to give the medication expires or on the last day of school.

6.5. Role of the student.

6.5.1. Consume the medication in the specified manner, in as much as his/her age, development and maturity permit.

6.5.2. Self-administer prescribed emergency or acute medications, such as but not limited to a Epi-pen or ibuprofen when the prescription indicates that said student must maintain possession of the medication. The student must be able to bring the medication to school, carry the medication in a safe and responsible manner, and use the medication only as prescribed. At the discretion of county boards of education, high school students (not below grade 9) may be allowed to carry and self-administer non-prescribed medication (OTC) with parent/guardian authorization, unless restricted by the administrator.

§126-27-7. Administration of Prescribed Medication.

7.1. Prescribed medications shall be administered after written authorization from a licensed prescriber and parent/guardian are received.

7.2. Prescribed medication shall be in the originally labeled container, which includes the following:

7.2.1. Prescribed medication(s) from a pharmacy

- a. student's name,
- b. name of the medication,
- c. reason(s) for the medication (if to be given only for specific symptoms),
- d. dosage, time and route,
- e. reconstitution directions, if applicable, and
- f. the date the prescription and/or medication expires.

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7.2.2. Prescribed Over-the-Counter Medication(s)

- a. student's name (affixed to original manufacturer's bottle),
- b. name of the medication,
- c. reason(s) for the medication (if to be given only for specific symptoms),
- d. dosage, time and route,
- e. reconstitution directions, if applicable, and
- f. the date the prescription and/or medication expires.

7.2. Medication administration steps must be followed exactly as outlined in Policy 2422.7.

7.3.1. Medication administration must take place in a clean and quiet environment where privacy may be established and interruptions are minimal.

7.3.2. The school nurse is to be contacted immediately when a prescribed medication's appearance or dosage is questioned. The school nurse shall take the appropriate steps to assure the medication is safe to administer.

7.3.3. The school nurse is to be contacted immediately when a student's health condition suggests that it may not be appropriate to administer the medication.

7.3.4. When a student's medical condition requires a change in the medication dosage or schedule, the parent must provide a new written authorization form from a licensed prescriber and container. This must be given to designated personnel within an appropriate time frame.

7.4. Medication administration incidents include, but are not limited to, any deviation from the instructions provided by the licensed health care provider. The school nurse and administrator shall be contacted immediately in the event of a medication incident. The school nurse or administrator shall do the following:

7.4.1. Contact the physician and parent/guardian, if necessary.

7.4.2. Implement the school nurse or administrator recommendation/licensed prescriber order in response to a medication incident.

7.4.3. Document all circumstances, orders received, actions taken and student's status.

7.4.4. Submit a written report to the administrator and county

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superintendent at the time of the incident. The report should include the name of the student, the parent/guardian name and phone number, a specific statement of the medication incident, who was notified, and what remedial actions were taken.

7.5. Self-administration of asthma medication shall be permitted in accordance with W.Va. Code §18-5-22b after the following conditions are met:

7.5.1. A written authorization is received from the parent/guardian for self-administration of asthma medication.

7.5.2. A written statement is received from a licensed prescriber which contains the student name, purpose, appropriate usage, dosage, time or times at which, or the special circumstances under which the medication is to be administered.

7.5.3. The student has demonstrated the ability and understanding to self-administer asthma medication by passing an assessment by the school nurse evaluating the student's technique of self-administration and level of understanding of the appropriate use of the asthma medication.

7.5.4. The parent/guardian has acknowledged in writing that they have read and understand a notice provided by the county board of education stating that the school, county school board and its employees and agents are exempt from any liability, except for willful and wanton conduct, as a result of any injury arising from the self-administration of asthma medication.

7.5.5. The permission to self-administer asthma medication shall be effective for the school year for which it is granted and all documents related to the self-administration of asthma medication shall become part of the student health record.

7.5.6. The permission to self-administer asthma medication may be revoked if the school administrator finds that the student's technique and understanding of the use of asthma medication is not appropriate or is willfully disregarded.

§126-27-8. Administration of Non-Prescription Medication.

8.1. Non-prescribed medications shall be administered only after meeting the following requirements:

8.1.1. Parent/guardian authorization form is provided.

8.1.2. The school administrator has the authority to determine if the administration of the non-prescribed medication may be safely delegated to the administrator's designee as defined in Section 4.2.

8.1.3. The school administrator has the authority to contact the parent/guardian or a licensed health care provider to clarify any questions about the medication

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being administered.

8.2. Any non-prescribed medication(s) must be provided by the parent/guardian.

8.3. Non-prescribed medication shall be in the manufacturer's original packaging clearly marked with the following:

8.3.1. student's name (affixed to original manufacturer's bottle),

8.3.2. name of medication,

8.3.3. ingredients,

8.3.4. dosage, time and route,

8.3.5. reconstitution directions, if applicable, and

8.3.6. medication expiration date.

8.4. Medication administration steps must be followed exactly as outlined by the STATE DEPARTMENT.

8.4.1. Medication administration must take place in a clean and quiet environment where privacy may be established and interruptions are minimal.

8.4.2. The parent/guardian is to be contacted immediately when a medication's appearance or dosage is questioned. The administrator's designee shall take the appropriate steps to assure the medication is safe to administer.

8.4.3. The parent/guardian is to be contacted immediately when a student's health condition suggests that it may not be appropriate to administer the medication.

8.5. Medication administration incidents include, but are not limited to, any deviation from the instructions provided by the parent/ guardian. The school administrator shall be contacted immediately in the event of a medication incident. The school administrator will then contact the parent/ guardian, if necessary. The school administrator or designee shall:

8.5.1. Implement the parent's/guardian's recommended response to a medication incident.

8.5.2. Document all circumstances, orders received, actions taken and student's status.

8.5.3. Submit a written report to the administrator and county

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superintendent at the time of the incident. The report should include the name of the student, the parent/guardian name and phone number, a specific statement of the medication incident, who was notified, and what remedial actions were taken.

8.5.4. When a parent/guardian authorizes a non-prescribed medication to be given in addition to a known prescribed medication, the administrator or school nurse shall validate the safety of multiple medications. At times, this validation process may require a licensed provider order.

§126-27-9. Medication Storage, Inventory, Access and Disposal.

9.1. Each school shall designate space in the building to store student medication, at the correct temperature, in a secure, locked, clean cabinet or refrigerator, as required.

9.2. All medication shall be entered on a medication inventory and routinely monitored for expiration and disposal.

9.3. Access to medications shall be under the authority of the administrator of the school in conjunction with the school nurse assigned to that school. If there is a full-time school nurse assigned to the building, the school nurse shall have authority over the access to prescribed medications.

9.4. An appropriate supply of long-term and emergency prescribed medication may be maintained at the school in amounts not to exceed school dosages within each calendar month.

9.5. School personnel shall dispose of unused or outdated medicine unclaimed by the parent/guardian no later than 30 days after the parent/guardian medication authorization expires or on the last day of school.

9.6. Medication disposal shall be done in a manner in which no other individual has access to any unused portion. Two individuals will witness the disposal of the medication and the procedure must be documented on the appropriate form related to the specific student.

§126-27-10. Confidentiality and Documentation.

10.1. Student information related to diagnosis, medications ordered and medications given must be maintained according to The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99) and in such a manner that no one could view these records without proper authorization as specified in West Virginia Board of Education Policy 4350 - Procedures for the Collection, Maintenance and Disclosure of Student Data (126CSR94).

10.2. Documentation of medication administration shall include the following information:

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- 10.2.1. student name,
- 10.2.2. medication(s) name,
- 10.2.3. dosage, time and route of medication('s) administration,
- 10.2.4. reaction(s) or untoward effects,
- 10.2.5. reason(s) the medication was not administered; and
- 10.2.6. date and signature of person administering medication.

§126-27-11. Consequences of Policy Violation.

11.1. If a student violates the policy regarding medication administration, action will be based upon West Virginia Board of Education Policy 4373 - Student Code of Conduct (126CSR99) and/or West Virginia Board of Education Policy 2422.5 - Substance Abuse (126CSR23).

11.2. Failure of school personnel to comply with the above rules shall result in personnel disciplinary actions based on West Virginia Board of Education Policy 5310 - Performance Evaluation of School Personnel (126CSR142) and West Virginia Board of Education Policy 5902 - Employee Code of Conduct (126CSR162).

§126-27-12. Severability.

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

APPENDIX M

TITLE 126
PROCEDURAL RULE
BOARD OF EDUCATION

SERIES 4
RULES OF PROCEDURE FOR ADMINISTRATIVE
HEARINGS AND APPEALS (1340)

§126-4-1. General.

1.1. Scope. - The "Rules of Procedure for Administrative Hearings and Appeals" are promulgated to assure procedural due process and expeditious processing of administrative proceedings before the State Superintendent of Schools. Nothing herein should be interpreted to give rise to an action on the part of any county school personnel; all remedies which are allowable by a county board of education or county school superintendent should be exhausted before appealing to the State Superintendent to hear a controversy. Employee grievances are governed by the provisions of West Virginia Code §18-29-1, *et seq.*

1.2. Authority. - W.Va. Const., Article XII, §2; W.Va. Code §§6-9A-1 et seq., 18-2-5, 18-3-4, 18A-3-2a, and 18A-3-6.

1.3. Filing Date. - June 7, 2002.

1.4. Effective Date. - July 7, 2002.

1.5. Repeal of Former Rule. This procedural rule repeals and replaces Legislative Rule W. Va. §126CSR4 "Rules of Procedure for Administrative Hearings and Appeals" filed February 15, 2002 and effective March 17, 2002.

§126-4-2. Foreword.

2.1. This policy governs the disposition of all administrative proceedings as well as the hearing of appeals and the adjudication of controversies and disputes arising under school laws by the State Superintendent of Schools, including citizens' appeals under WVBE Policy 7211.

§126-4-3. General Rules.

3.1. Definition of "Designee." As used in these rules, "Designee" shall mean that employee of the West Virginia Department of Education (STATE DEPARTMENT) designated by the Superintendent to hear and determine issues pursuant to the terms and conditions of this policy.

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3.2. Definition of "Superintendent." As used in these rules, unless a different meaning appears from the context, "Superintendent" shall mean the State Superintendent of Schools.

3.3. Definition of "Party." "Party" shall mean petitioner, respondent, and/or intervener. "Party" shall also mean teacher to the extent pertinent.

3.4. All parties shall receive notice at least ten (10) days prior to the hearing. The notice of hearing shall include:

3.4.1. the date, time and place of the hearing,

3.4.2. a concise statement of the purpose,

3.4.3. mention that either the Superintendent or a designee of the Superintendent shall conduct the hearing.

3.5. A copy of this policy shall be provided to the parties to the hearing.

3.6. Appearance Pro Se. Any person may either appear in person or be represented by a representative or an attorney at law admitted and authorized to practice in this State.

3.7. Authority of Superintendent. The Superintendent shall have authority to administer oaths and affirmations; examine witnesses and receive evidence; rule upon offers of proof; issue subpoenas; take or cause depositions to be taken whenever the ends of justice would, in the Superintendent's opinion, be served thereby; regulate the course of the hearing; and dispose of procedural requests or similar matters. The authority of the Superintendent shall extend to his/her designee in all cases arising under this policy when the matter is heard by the designee at the request of the Superintendent.

3.7.1. The Superintendent may also call witnesses and question them. The Superintendent may limit the number of witnesses who will be called, within reason, and may also limit the length of oral argument.

3.7.2. A hearing may be adjourned from one day to another or to another place either by announcement by the Superintendent at the hearing or by appropriate notice.

3.7.3. The Superintendent may grant a continuance for good cause shown by the requesting party or upon his/her own motion.

3.8. Evidence. The formal rules of evidence shall be relaxed. Evidence will be admissible if it is material and relevant to the matter; however, irrelevant, immaterial or unduly repetitious evidence shall be excluded. All evidence, including any records, investigations, reports and documents which the Superintendent desires to consider as

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evidence in making a decision, shall be offered and made a part of the record in the proceeding. The Superintendent may take official notice of any fact which may be judicially noticed by a Court and, in addition, may take official notice of general, technical or scientific facts within the Superintendent's knowledge. Parties may be given a fair opportunity to refute the facts so noticed. The requirements of this rule shall not apply to cases in which the truth of the particular fact or matter is admitted or to a determination of appropriate relief.

3.9. Stenographic Transcript. Where there is available a stenographic transcript of proceedings before a county board of education, or before any court of record or other official or body whose action is called into question before the Superintendent, either party may, if at least ten (10) days' notice of intention to do so has been given to opposing parties or counsel, offer the transcript of testimony of any witness or witnesses named in said notice in lieu of producing said witness or witnesses at the hearing.

3.10. Briefs and Oral Argument. All parties shall have the opportunity to submit briefs on the matter, and to present oral argument if requested. Oral argument shall be limited to thirty (30) minutes for each party, unless the Superintendent shall otherwise order. Briefs, if any, shall be submitted within the time fixed by the Superintendent.

3.11. Failure to Cooperate. The Superintendent, on his or her own initiative or at the request of the designee, may institute judicial proceedings for punishment of persons for contemptuous conduct directed to the Superintendent or the designee, in the course of a proceeding.

3.12. Written Decision. Every determination shall be embodied in a written decision which shall contain both findings of fact and conclusions of law and an appropriate recommended order. Such decisions shall be issued by the Superintendent's designee. Upon receipt of the recommended order with findings and conclusions from such designee, the Superintendent shall review the same along with the record and issue an order adopting the findings, conclusions, and/or recommendations of the designee; rejecting the findings, conclusions and/or recommendations of the designee; or remanding the matter back to the designee with instructions for further evidence or findings, conclusions and/or recommendations. When the case is heard directly by the Superintendent, the Superintendent shall issue both a written decision, which shall set forth findings of fact and conclusions of law, and an appropriate order. Said orders shall be filed in the office of the Superintendent and copies thereof shall be served or mailed to the parties of record affected thereby or their attorneys of record within thirty (30) days following the Superintendent's receipt of any recommendation from his or her designee or within thirty (30) days following the hearing when heard directly by the Superintendent.

3.13. Waiving of Rules. Any of the provisions of these rules relating to the presentation of his/her case or argument may be waived by any party or his/her attorney.

3.14. Hearings shall be recorded by electronic means or by a court reporter.

§126-4-4. Rules for Hearings on Certification Suspension/Revocation/Denial for Cause.

4.1. Definitions of terms used in this section.

4.1.1. "Hearing Officer." As used in these rules, unless a different meaning appears from the context, "Hearing Officer" shall mean the State Superintendent of Schools, the Professional Practice Panel, the Licensure Appeal Panel, or a STATE DEPARTMENT employee designated by the Superintendent to hear and determine issues of teaching certificate suspension and/or revocation and/or denial for cause.

4.1.2. "Teacher." As used in these rules, the word "Teacher" (and its derivatives) shall mean any person certified or otherwise professionally licensed by the Superintendent pursuant to policy, rule, or regulation of the West Virginia Board of Education or pursuant to statute, including but not limited to administrators, professionals, paraprofessionals, coaches, and holders of service certificates.

4.1.3. "Applicant." As used in these rules, the word "Applicant" (and its derivatives) shall mean any person applying for a teacher license issued by the Superintendent pursuant to policy, rule, or regulation of the West Virginia Board of Education or pursuant to statute.

4.1.4. "Party." "Party" shall mean petitioner, respondent, and/or intervener. "Party" shall also mean teacher to the extent pertinent.

4.1.5. "Suspension." "Suspension", as used in these rules, shall mean a temporary revocation imposed for a fixed and definite period of time. After a period of suspension has expired, the affected individual must reapply for licensure.

4.1.6. "Professional Practice Panel." "Professional Practice Panel" shall mean the seven (7) individuals selected to hear and make recommendations to the Superintendent regarding revocation for cause of a teacher's license, pursuant to West Virginia Board of Education Policy 5050.

4.1.7. "Licensure Appeal Panel." "Licensure Appeal Panel" shall mean the seven (7) individuals selected to hear and make recommendations to the Superintendent regarding denial for cause of a teacher's license, pursuant to West Virginia Board of Education Policy 5050.

4.2. Grounds for Revocation or Suspension of Certificates. The Superintendent may, after ten (10) days' notice and upon proper evidence, revoke or suspend the certificate(s) of any teacher for drunkenness, untruthfulness, immorality, or for any physical, mental or moral defect which would render him/her unfit for the proper performance of his or her duties, or for any neglect of duty or refusal to perform the same, or for using fraudulent, unapproved, or insufficient credit; or for any other cause which would have justified the withholding of a certificate when the same was issued. (West

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Virginia Code §§18A-3-2a, 18A-3-6)

4.3. Grounds for Denial of Licensure for Cause. A certificate shall not be issued to any person who is not of good moral character and physically, mentally, and emotionally qualified to perform the duties for which the certification would be granted or for any other cause which would justify the revocation or suspension of certification. (West Virginia Code §§18A-3-2a, 18A-3-6)

4.4. Duty of County Superintendent. It shall be the duty of any county superintendent who knows of any immorality or neglect of duty on the part of any teacher, including student teachers, to report the same, together with all the facts and evidence, to the Superintendent for such action as may be proper. In the case of a student teacher, the county superintendent must also send the report to the appropriate teacher preparation institution. Failure to report such information, if willful, may be grounds for revocation of the certificate of the county superintendent.

4.5. Recalling Certificates for Correction. If a certificate has been granted through an error, oversight, or misinformation, the Superintendent shall have authority to recall the certificate and make such corrections as will conform to the requirements of law and WVBE of Education policy.

4.6. Teaching Certificate Revocation and Suspension Proceedings; Notice. Teaching certificate revocation proceedings shall be conducted before the Hearing Officer. The teacher shall receive notice ten (10) days prior to the hearing.

4.6.1. The notice shall include:

4.6.1.a. the date, time and place of the hearing,

4.6.1.b. a concise statement of the charges,

4.6.1.c. indicate that the Superintendent or his/her designee shall conduct the hearing, and

4.6.1.d. the possible actions to be taken against the certificate of the teacher.

4.6.2. Upon timely request by the teacher, a more definite statement of the charges shall be received by the teacher at least ten (10) days prior to the hearing.

4.6.3. Appearance Pro Se. Any person may either appear in person with or without a representative or an attorney at law admitted and authorized to practice in this State.

4.6.4. A quorum shall be required. A majority of Professional Practice Panel members shall constitute a quorum.

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4.7. Denial for Cause Proceedings. Denial for cause proceedings shall be conducted before the Hearing Officer. The applicant may submit a written request for an appeal hearing within thirty (30) days of notification of a recommendation of a denial for cause from the Office of Professional Preparation. If no such hearing request is timely received, the application may be denied for cause by the Superintendent. If an appeal hearing request is received, the applicant shall receive notice ten (10) days prior to the hearing.

4.7.1. The notice shall include:

4.7.1.a. the date, time and place of the hearing,

4.7.1.b. a concise statement of the reasons for the denial recommendation, and

4.7.1.c. indicate that the Superintendent or his/her designee shall conduct the hearing as the Hearing Officer.

4.7.2. Appearance Pro Se. Any person may either appear in person with or without a representative or attorney at law admitted and authorized to practice in this State.

4.7.3. A quorum shall be required. A majority of Licensure Appeal Panel members shall constitute a quorum.

4.8. Hearing on Teaching Certification. A teaching certificate suspension, revocation, or denial for cause hearing is a continuation of the Superintendent's investigation into whether a professional teaching or administrative certificate or lesser license, a paraprofessional certificate or lesser license, a service certificate or lesser license, or a coaching certificate or lesser license should be suspended, revoked or denied for cause.

4.8.1. A teaching certificate suspension, revocation or denial for cause hearing shall be open to the public, unless the teacher or applicant requests that it be closed.

4.8.2. The purpose of a teaching certificate suspension, revocation or denial for cause hearing is to allow the teacher or applicant due process regarding the asserted causes for revocation, suspension, or denial of the teaching certificate. The teacher or applicant may present his or her position through presentation of evidence, examination and cross-examination of witnesses, and oral argument.

4.8.3. The Hearing Officer may also call witnesses and question them, as well as those called by the teacher or applicant. The Hearing Officer may limit the number of witnesses who will be called, within reason, and may also limit the length of oral argument.

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4. 8.4. A hearing may be adjourned from one day to another or to another place either by announcement by the Hearing Officer at the hearing or by appropriate notice.

4. 8.5. The Superintendent or his or her designee may grant a continuance for good cause shown by the requesting party or upon his/her own motion.

4.9. Authority of Hearing Officer. The Hearing Officer shall have authority to administer oaths and affirmations; examine witnesses and receive evidence; rule upon offers of proof; issue subpoenas; take or cause depositions to be taken whenever the ends of justice would, in the Hearing Officer's opinion, be served thereby; regulate the course of the hearing; and dispose of procedural requests or similar matters.

4.9.1. The Hearing Officer shall have authority to recommend that a teacher's certificate be revoked, suspended, or denied for cause by the Superintendent.

4.10. Evidence. The formal rules of evidence shall be relaxed. Evidence will be admissible if it is material and relevant to the matter before the Hearing Officer; however, irrelevant, immaterial or unduly repetitious evidence shall be excluded. All evidence, including any records, investigations, reports and documents which the Hearing Officer desires to consider as evidence in making a decision, shall be offered and made a part of the record in the proceeding. The Hearing Officer may take official notice of any fact which may be judicially noticed by a Court and, in addition, may take official notice of general, technical or scientific facts within the Hearing Officer's knowledge. Parties may be given a fair opportunity to refute the facts so noticed. The requirements of this rule shall not apply to cases in which the truth of the particular fact or matter is admitted, or to a determination of appropriate relief. Revocation, suspension, or other action against the certificate of a teacher in another jurisdiction or refusal by another jurisdiction to issue a teacher certificate shall be *prima facie* evidence of grounds for revocation, suspension, denial for cause or other action against the certificate in West Virginia.

4.11. Stenographic Transcript. Where there is available a stenographic transcript of proceedings before a county board of education, or before any court of record or other official or body concerning issues which form or support the basis for the hearing before the Hearing Officer, either party may provide to the Hearing Officer and the other party copies of said transcripts to be used as substantive evidence in the proceedings. The transcript of testimony of any witness or witnesses may be used in lieu of producing said witness or witnesses at the hearing. The use of transcripts may also be directed by the Hearing Officer in the interest of time.

4.12. Briefs and Oral Argument. All parties shall have the opportunity to submit briefs on the matter, and to present oral argument if requested. Oral argument shall be limited to thirty (30) minutes for each party, unless the Hearing Officer shall otherwise order. Briefs, if any, shall be submitted within the time fixed by the Hearing Officer.

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4.13. **Failure to Participate.** Upon failure of a teacher or applicant to contest the asserted causes for revocation of a certificate or lesser license or for the denial for cause of a certificate or lesser license, or upon failure of a party respondent to appear and defend against the petitioner's claims, all of the allegations/claims duly made may be accepted by the Hearing Officer as confessed.

4.14. **Failure to Cooperate.** The Superintendent, on his or her own initiative or at the request of the designee, may institute judicial proceedings for punishment of persons for contemptuous conduct directed to the Hearing Officer in the course of a proceeding.

4.15. **Written Decision.** Every decision of the Hearing Officer shall be embodied in a written recommendation which shall contain both findings of fact and conclusions of law and an appropriate recommended order. Such written decisions shall be issued by the Hearing Officer to the Superintendent. An appropriate Order setting forth a decision regarding revocation of certification, denial for cause or other action shall be issued by the Superintendent. The Order shall either adopt the recommendation of the Hearing Officer or contain a factual or legal basis for varying from the recommendation of the Hearing Officer. When the case is heard directly by the Superintendent, the Superintendent shall issue a written decision which shall set forth the findings of fact and conclusions of law and an appropriate order. Said Orders shall be filed in the office of the Superintendent and copies thereof shall be served or mailed to the parties of record affected thereby or their attorneys of record within thirty (30) days following the receipt of the recommendations by the Superintendent or within thirty (30) days of the hearing if the same was conducted by the Superintendent.

4.16. **Waiving of Rules.** Any of the provisions of these rules relating to the presentation of his/her case or argument may be waived by any party or his/her attorney.

4.17. Hearings shall be recorded by electronic means or by a court reporter.

§126-4-5. Other Hearings.

5.1. **Hearing on Removal of a School Official.** Hearings conducted for removal of a county school official shall be conducted following the general rules in §126-4-3 of this policy.

§126-4-6. Appeal to Circuit Court.

6.1. Any party not satisfied with the decision rendered by the Superintendent or his or her designee may appeal the same to the Circuit Court within 30 days of mailing of the order to the last known address of the party.

6.2. Upon the West Virginia Department of Education's receipt of notice of an appeal, a transcript of the proceedings held in accordance with the provisions of this policy shall be forwarded to all named parties at the expense of the West Virginia Department of

Education.

§126-4-7. Severability.

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

APPENDIX N

TITLE 126
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EDUCATION

SERIES 51
COMMUNICABLE DISEASE CONTROL (2423)

§126-51-1. General.

1.1. Scope. - The legislative rule requires establishment of county policies related to communicable disease control.

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

1.3. Filing Date. - September 14, 2007

1.4. Effective Date. - October 15, 2007

1.5. Repeal of Former Rules. - This rule amends W. Va. §126CSR51 “Communicable Disease Control (2423),” filed May 12, 2006 and effective July 1, 2007.

§126-51-2. Purpose.

2.1. Good health and safety are essential to student learning. The education and monitoring of communicable diseases during the school year is necessary to keep students healthy and learning. This policy establishes the standards that must be placed in county policy for addressing issues and educating students and school personnel on communicable diseases. The knowledge of standard/universal precautions, transmission, prevention and treatment of communicable diseases will enhance health education, prevention and equality for all.

2.2. The objective of this policy is to allow for procedures to be in place for detection of potential 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 home and the local health department while decreasing duplication of health services offered by the school and the medical home and/or the community serving the students.

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§126-51-3. Application.

3.1. County boards of education shall develop or amend communicable disease policies to reflect understanding of disease transmission in the school setting and to reflect understanding of student/staff rights to attend school or remain employed. The goal of the policy is to protect individual students, staff members and the school population in general.

3.2. The potential for unnecessary exclusion from the school setting is cause for concern. This problem makes it necessary for counties to develop a policy that is 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 communicable disease policy. Technical assistance will be provided by the West Virginia Department of Education to any county upon request.

3.4. The county school system will work cooperatively with the county 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, 18-5-22, and 18-5-34 for prevention, control and containment of communicable disease in schools.

§126-51-4. Definitions.

4.1. "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).

4.2. "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.

4.3. "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.

4.4. "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).

4.5. "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.

4.6. “Centers for Disease Control and Prevention” also known as CDC, is defined as one of the thirteen major operating components of the United States Department of Health and Human Services (USDHHS), 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.

4.7. “Communicable Disease” means a disease that may be transmitted directly or indirectly from one individual to another.

4.8. “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.

4.9. “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).

4.10. “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.

4.11. “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

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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 such as measles, rubella, mumps, and polio 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 would generally be permitted under Family Educational Rights and Privacy Act's (FERPA) health or safety emergency provisions.

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

4.13. "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.

4.14. "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.

4.15. "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 approved program as defined in 126CSR114 West Virginia Board of Education Policy 5100, Approval of Educational Personnel Preparation Programs and meets the requirements for certification contained in 126CSR136 West Virginia Board of Education 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.

4.16. "Standard/Universal Precautions" is a body substance isolation approach to infection control. Standard 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.

4.17. "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.

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4.18. "West Virginia Education Information System (WVEIS)" is a comprehensive, uniform, integrated, on-line management information system (MIS) for schools and county school systems (districts). The system began implementation in 1991 with all schools and districts currently participating. The system provides for doing the business of the schools and districts in areas such as student demographics, special programs participation, grades, schedules, attendance, payroll, accounts payable, warehousing, student health records, immunizations, etc. Districts submit to the West Virginia Department of Education data from WVEIS required for state and federal reporting.

§126-51-5. Disease Prevention Measures.

5.1. All county boards of education must incorporate hand washing, as defined and outlined in The Basic and Specialized Health Care Procedures Manual for West Virginia Public Schools that accompanies 126CSR25A, West Virginia Board of Education Policy 2422.7, Standards For Basic and Specialized Health Care Procedures, into the county board of education communicable disease policy. 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. 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 the school.

5.2. Students must be in compliance with the required immunization schedule as set forth by the WVDHHR State Health Officer. The WVDHHR State Health Officer, or his/her designee (local health officer) shall make the final determination in cases in which an authorized medical practitioner's written medical exemption is challenged by school personnel as inappropriate or invalid. The immunization record shall be entered and reviewed annually into the West Virginia Education Information System (WVEIS).

5.2.1. All children entering prekindergarten (Pre-k), kindergarten and a 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. All Pre-k students shall also meet requirements in 126CSR28 West Virginia Board of Education Policy 2525, West Virginia's Universal Access to a Quality Early Education System.

5.2.2. It is strongly recommended that students entering grades six and nine receive adolescent immunizations as defined by the United States Department of Health and Human Services (USDHHS), Centers for Disease Control and Prevention (CDC) and WVDHHR State Health Officer. The immunization record for each student in grades six and nine shall be entered into the West Virginia Education Information System (WVEIS) 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.

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5.3. 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 126CSR44E West Virginia Board of Education Policy 2520.5, Health 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.

5.4. An educational inservice on the prevention, transmission and treatment of current communicable diseases shall include, but not limited to, human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (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.

§126-51-6. Disease Control Measures.

6.1. 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.

6.2. 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. §18A-5-1 and W. Va. §18-5-22).

6.3. 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 American Academy of Pediatrics 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 county health department, without disclosure of personally identifiable information, as set forth in West Virginia Bureau for Public Health Legislative Rule 64CSR7, Reportable Diseases, Events and Conditions. The county health department is able to provide reportable communicable disease guidance or go to <http://www.wvdhhr.org/idep/#Disease%20%20Reporting>.

6.4. 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.

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6.5. 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/>.

§126-51-7. Confidentiality.

7.1. All persons 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 126CSR94, West Virginia Board of Education Policy 4350, Procedures for the Collection, Maintenance and Disclosure of Student Data, Family Educational Rights and Privacy Act of 1988 and Family Educational Rights and Privacy: Final Regulations. Part II, 34 CFR Part 99.

7.2. Information from health records 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.

§126-51-8. Severability.

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

FISCAL NOTE FOR PROPOSED RULES

Rule Title: W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Department of Education

Address: 1900 Kanawha Boulevard, East,
Building 6 Room 318
Charleston, WV 25305

Phone Number: 304. 558.2711

Email: bshew@access.k12.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

No state costs or revenues will be impacted by the proposed repeal and replacement of W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next 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 & Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

Rule Title: W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual, Policy 4336

3. **Explanation of above estimates (including long-range effect);**
Please include any increase or decrease in fees in your estimated total revenues.

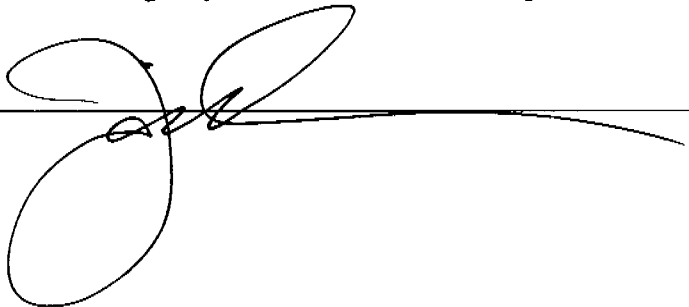
No state costs or revenues will be impacted by the proposed repeal and replacement of W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

No state costs or revenues will be impacted by the proposed repeal and replacement of W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual, Policy 4336. The amendments proposed will provide regulations for the employees of local boards of education, students, and staff pertaining to the transportation of students to and from school and school related events. It sets standards for training, physical examinations, physical performance and administrative requirements.

Signature of Agency Head or Authorized Representative

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Date

5-2-08

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POLICY 4336: The West Virginia School Bus Transportation Policy and Procedures Manual

COMMENT PERIOD ENDS:

COMMENT RESPONSE FORM

The following form is provided to assist those who choose to comment on Policy 4336: The West Virginia School Bus Transportation Policy and Procedures Manual. Additional sheets may be attached, if necessary.

Name : _____ Organization: _____

Title: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Please check the box below that best describes your role.

- | | | |
|---|--|--|
| <input type="checkbox"/> School System Superintendent | <input type="checkbox"/> School System Staff | <input type="checkbox"/> Parent/Family |
| <input type="checkbox"/> Principal | <input type="checkbox"/> Teacher | <input type="checkbox"/> Business/Industry |
| <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Community Member |

COMMENTS/SUGGESTIONS

§126-92-1. General.

§126-92-2. Incorporation by Reference

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§126 -92-3. Severability

W. Va. §126CSR92, West Virginia School Bus Transportation Policy and Procedures Manual, Policy 4336 (Please note section number when submitting comments)

(Section Number and Name)

Please direct all comments to:

Ben Shew
Office of School Transportation
West Virginia Department of Education
Capitol Building 6, Room 318
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330
E-Mail Address: bshew@access.k12.wv.us
Fax No.: (304) 558-6268