

**WEST VIRGINIA
SECRETARY OF STATE**

JOE MANCHIN, III

ADMINISTRATIVE LAW DIVISION

Form #5

Do Not Mark In This Box

FILED

2002 JUN -7 P 3:44

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

CITE AUTHORITY: W.Va. Constitution, Article XII, §2, W.Va. Code §§18-2-5, 18-2E-5, and 18A-1-1(a).

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W.Va. Code §§29A-3B-1, et seq.; W.Va. Board of Education
v. Hechler, 180 W.Va. 451; 376 S.E.2d 839 (1988).

AMENDMENT TO AN EXISTING RULE: YES X NO _____

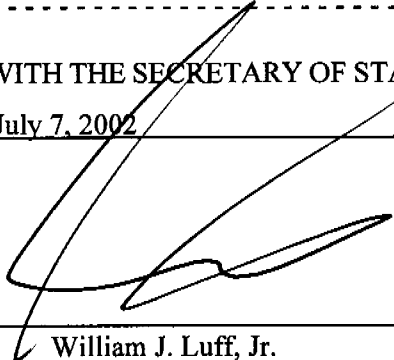
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 162

TITLE OF RULE BEING AMENDED: Employee Code of Conduct (5902)

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS July 7, 2002



William J. Luff, Jr.
Deputy State Superintendent of Schools

SCANNED

EXECUTIVE SUMMARY

EMPLOYEE CODE OF CONDUCT POLICY 5902

Background

The West Virginia Board of Education has in effect policies dealing with harassment, Student Code of Conduct and Teacher Code of Conduct. Democratic citizenship, healthy and productive adulthood begin with standards of conduct and standards for achievement in our schools. All school employees are vitally important in assuring that all students and school staff are treated with courtesy and respect. This Employee Code of Conduct would repeal and replace the existing Teacher Code of Conduct Policy. The policy has been on comment since May 3, 2002 and three comments were received. Section 3.2. was changed so that intervention is immediate when a student is negatively impacted by an incident of bullying/harassment/intimidation, etc.

Purpose

The West Virginia Board of Education recognizes the need for students, teachers, administrators and all other school personnel to have a nurturing, orderly, safe and stimulating education environment. The purpose of these regulations is to provide all employees with consistent standards of behavior that lead toward meeting the obligations we have to students.

These regulations also apply to the conduct expected between and among staff members.

Impact

The Employee Code of Conduct will ensure that public schools create, encourage and maintain a safe, and nurturing environment for all students and employees.

126CSR162

FILED

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 162
EMPLOYEE CODE OF CONDUCT (5902)

§126-162-1. General.

1.1. Scope. - Code of conduct for all West Virginia school employees.

1.2. Authority. - West Virginia Constitution, Article XII, §2 and W.Va. Code §§18-2-5, 18-2E-5, and 18A-1-1(a).

1.3. Filing Date. - June 7, 2002.

1.4. Effective Date. - July 7, 2002.

1.5. Repeal of Former Rule. - This legislative rule repeals and replaces W.Va. 126CSR162 "Teacher Code of Conduct" filed February 25, 1992 and effective March 26, 1992.

§126-162-2. Application.

2.1. This legislative rule applies to all West Virginia school employees.

2.2. This policy is to complement W.Va. §126CSR142, West Virginia Board of Education Policy 5310, "Performance Evaluation of School Personnel" and W.Va. §126CSR99, West Virginia Board of Education Policy 4373, "Student Code of Conduct".

§126-162-3. Purpose.

3.1. The West Virginia Board of Education recognizes that the capabilities and conduct of all school employees greatly affect the quality of education provided to students in the public schools. The West Virginia Board of Education further believes that all school employees should be intrinsically motivated by the importance of the job that they do. The purpose of the Employee Code of Conduct is to establish appropriate standards of conduct for all West Virginia school personnel.

126CSR162

3.2. These regulations also require that West Virginia public school employees respond immediately and consistently to incidents of bullying, harassment, intimidation, substance abuse, and/or violence or any other code of conduct violation that impacts negatively on students in a manner that effectively addresses incidents, deters future incidents, and affirms respect for individuals.

§126-162-4. Employee Code of Conduct.

4.1 "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 Programs.

4.2 All West Virginia school employees shall:

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

4.2.2. 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.

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

4.2.4. create a culture of caring through understanding and support.

4.2.5. 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.

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

4.2.7. comply with all Federal and West Virginia laws, policies, regulations and procedures.

§126-162-5. Responsibilities for Implementation.

5.1. The West Virginia Department of Education shall provide for the distribution of the Employee Code of Conduct to all West Virginia school employees.

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5.2. The West Virginia Department of Education shall provide professional development for county superintendents and principals on the Employee Code of Conduct.

5.3. County boards of education shall provide professional development for all employees on the Employee Code of Conduct.

§126-162-6. Severability.

6.1. 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 WORKSHEET

(Submit 4 Copies)

HD NO _____ DRAFT NO _____ BILL NO _____ RESOLUTION NO _____

SUBJECT Employee Code of Conduct - Policy 5902 FUND _____

SOURCE OF REVENUE: GENERAL FUND SPECIAL OTHER (SPECIFY) _____

COST OF ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

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

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

| EFFECT OF PROPOSAL | ANNUAL | | FISCAL YEAR | | |
|--|----------|----------|-------------|------|------------|
| | INCREASE | DECREASE | CURRENT | NEXT | THEREAFTER |
| 1. ESTIMATED TOTAL COST | \$ 0.00 | | \$ 0.00 | | |
| PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER | \$ 0.00 | | \$ 0.00 | | |
| 2. ESTIMATED TOTAL REVENUES | \$ 0.00 | | \$ 0.00 | | |

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

DATE *Hester*

AGENCY
West Virginia Department of Education

AUTHORIZED REPRESENTATIVE
[Signature]

**POLICY 5902: EMPLOYEE CODE OF CONDUCT
COMMENT LOG**

May 3, 2002- June 3, 2002

Action Type
 N: No Response - Negative
 NA: Not Accepted + Positive
 A: Accepted o Neutral

| Date | Individual/Organization | Comments | Action/Type | Rationale |
|---------|--|--|-------------|--|
| | | §126-162-1. General. | | |
| | | §126-162-2. Application. | | |
| | | §126-162-3. Purpose. | | |
| | | §126-162-4. Employee Code of Conduct. | | |
| 5/13/02 | Robert L. Slone Hurricane Middle School | <p>Dear Madam:</p> <p>I applaud the West Virginia Dept. of Education for its ambition to set a standard of Code of Conduct for its employees; however, Section 4.2.1 is very broad in its elaboration and each criterion is too vague and left open to merits of interpretation that would be too board by the individual interpreting the Code.</p> <p>Each are need to be more specific and not general as it is written for interpretation.</p> <p>Section 4.2.6 is entirely too vague. High standards need to be specified as to what is construed as "High Exception/Standards".</p> <p>Moreover, "Moral Behavior" is too broad for legal interpretation at the local level for administrators. One needs to defined acceptable moral behaviors vs. what constitutes immoral behaviors. Moral behavior is a broad scope and it is within the State Code of School Law.</p> | N | Policy is meant to allow for local implementation and determination of violations. |

| | | | | |
|---------|--|--|---|--|
| 5/14/02 | Virginia Hose | <p>In the employee code of conduct: (4.2.6) demonstrate responsible citizenship by maintaining a high standard of conduct, self-control, and moral/ethical behavior, would that include lying and misleading statements? (4.2.3) Does intimidation include, a student being afraid to speak out about a teacher for fear of the repercussions? Thank you.</p> | A | The answer to both questions is yes. |
| 5/16/02 | Travis F. Baldwin Sissonville High School Charleston, WV 25312 | <p>I think it is important that a statement similar to the following be included in the employee code of conduct: Employees will treat all persons with respect and dignity regardless of their age, gender, ability, race, ethnicity, religion, handicapping condition or sexual orientation. Although this is partly addressed in sections 4.2.2 through 4.2.5, I feel the language is too general and needs to be more specific so there is no question that all people (peers, parents, students, etc.) are to be treated with respect and dignity at all times. Thank you.</p> | N | The language stated in 4.2.2. through 5.2.5. applies to all students/employees and does not need to be made more specific. |
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Lenore Zedosky

From: Robert Slone [rslone@access.k12.wv.us]
Sent: Monday, May 13, 2002 2:05 PM
To: lzedosky@access.k12.wv.us
Subject: Re: Code of Conduct for Professional Employees.

Dear Madam:

I applaud the West Virginia Dept. of Education for its ambition to set a standard of Code of Conduct for its employees; however, Section 4.2.1 is very broad in its elaboration and each criterion is too vague and left open to merits of interpretation that would be too board by the individual interpreting the Code.

Each are need to be more specific and not general as it is written for interpretation.

Section 4.2.6 is entirely too vague.

High standards need to be specified as to what is construed as " High Exception/Standards".

Moreover, " Moral Behavior" is too broad for legal interpretation at the local level for administrators. One needs to defined acceptable moral behavlor vs. what constitutes immoral behaviors. Moral behavior is a broad scope and it is within the State Code of School Law.

Sincerely,
Robert L. Slone
Hurricane Middle School

Lenore Zedosky

From: Virginia Hose [virginiahose@citlink.net]
Sent: Tuesday, May 14, 2002 9:11 PM
To: lzedosky@access.k12.wv.us
Subject: question about employee code of conduct

In the employee code of conduct: (4.2.6) demonstrate responsible citizenship by maintaining a high standard of conduct, self-control, and moral/ethical behavior, would that include lying and misleading statements? (4.2.3) Does intimidation include, a student being afraid to speak out about a teacher for fear of the repercussions? Thank you.

Lenore Zedosky

From: Travis [rtfbaldwin@newwave.net]
Sent: Thursday, May 16, 2002 5:41 PM
To: lzedosky@access.k12.wv.us
Subject: Policy 5902

Dear Ms. Zedosky:

I think it is important that a statement similar to the following be included in the employee code of conduct:

Employess will treat all persons with respect and dignity regardless of their age, gender, ability, race, ethnicity, religion, handicapping condition or sexual orientation.

Although this is partly addressed in sections 4.2.2 through 4.2.5, I feel the language is too general and needs to be more specific so there is no question that all people (peers, parents, students, etc.) are to be treated with respect and dignity at all times.

Thank you.

Travis F. Baldwin
Sissonville High School
6100 Sissonville Drive
Charleston, WV 25312