

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #5

Do Not Mark In This Box

Oct 13 3 53 PM '99

OFFICE OF THE SECRETARY OF STATE  
200 STATE STREET  
CHARLESTON, WV 25305

**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 and §18-9E-3

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 \_\_\_ NO XX

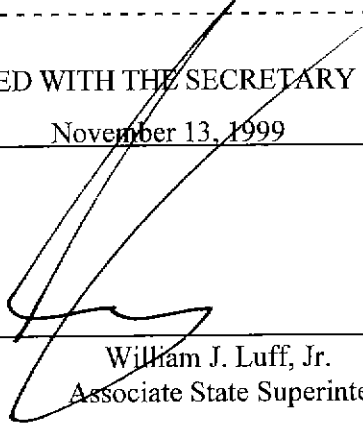
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

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

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 174

TITLE OF RULE BEING PROPOSED: Investigating Indoor Air Quality Complaints (6202)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS November 13, 1999

  
William J. Luff, Jr.  
Associate State Superintendent

6202  
10/13/99  
10/13/99

**EXECUTIVE SUMMARY  
WEST VIRGINIA DEPARTMENT OF EDUCATION**

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**POLICY NUMBER AND TITLE:           POLICY 6202  
  INVESTIGATING INDOOR AIR QUALITY  
  COMPLAINTS**

**PUBLIC COMMENT PERIOD ENDS: Sept. 13, 1999 ADOPTED: October 8, 1999**

**BACKGROUND:**

The Air Quality in New Schools Act (House Bill 2401) has evolved due to the work completed by the Radon/Indoor Air Quality in Schools Committee of the West Virginia Legislature. Policy 6202 has been written in consultation with the Department of Health and Human Resources, the School Building Authority and others. This policy makes specific recommendations for the investigation of indoor air quality complaints.

**PURPOSE**

To require the county boards to investigate indoor air quality complaints and provide a plan of correction if necessary.

**TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION**

**SERIES 174  
INVESTIGATING INDOOR AIR QUALITY COMPLAINTS  
POLICY 6202**

**§126-174-1. General.**

1.1 Scope.-This legislative rule requires each county board to investigate indoor air quality complaints in existing and schools subsequently constructed(H.B.2401, §18-9E-5.). Furthermore, this rule also provides: 1)each county will designate an official or officials who will be responsible for addressing any indoor air quality complaint; 2)set forth a policy for any party to file a complaint with the designated official or officials; 3)any indoor air quality complaint found to be valid by the designated official or officials shall be addressed by forming a plan of correction; 4)a county board should consider any documented plans of closure of a school building when forming any plan of correction; 5) each plan of correction shall be incorporated into the county board's ten-year county-wide major improvement plan.

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

1.3 Filing Date.-- October 13, 1999

1.4 Effective Date.-November 12, 1999

**§126-174-2. Program Regulation.**

2.1. When an indoor air quality complaint is filed by any party it will be necessary to complete and file with the principal of the specific school where there is a concern an Indoor Air Quality Complaint Investigation Form(WVDE IAQ 1 7/77).

2.2. The principal of the facility may investigate the complaint and respond to the complainant within ten(10) working days of the initial filing or the principal may convene the school's Indoor Air Quality Investigation Advisory Committee consisting of seven individuals. The following is a recommended list of IAQ committee members: the principal, the county superintendent or designee, the county facilities/maintenance director(which should also be the county's designated official), the complainant, a faculty senate member, a school custodian, and a local school improvement council member. The complainant may check on the status of the complaint any time during this process.

2.3. If not satisfied with the principal's response and the Indoor Air Quality

Investigation Advisory Committee has not addressed this specific complaint the complainant may, within five(5) working days, ask the principal for the complaint to be reviewed by the Indoor Air Quality Investigation Advisory Committee.

2.4 The Indoor Air Quality Investigation Advisory Committee then has ten(10) working days to review and respond via the principal as to the status and plan of correction on the Indoor Air Quality Investigation Form to the complainant. The complainant may check on the status of the complaint at any time during this process. This review will finalize the complainant's school system appeal procedure.

2.5. The local board will: 1) assign a log number for each complaint filed with the principal; 2) provide a plan of correction and estimated cost for each valid complaint; 3) annually, before the thirty-first day of July, send to the West Virginia Department of Education, Office of School Transportation and Facilities a report on the number of IAQ complaints and the total estimated cost of correction for all IAQ complaints registered during the previous fiscal year; 4) each plan of correction that meets the required criteria shall be added to the county boards's ten year county-wide major improvement plan.

**FISCAL NOTE WORKSHEET**  
(Submit 4 Copies)

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

SUBJECT Investigating Indoor Air Quality Complaints 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	\$	\$	\$	\$	\$
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER	\$	\$	\$	\$	\$
2. ESTIMATED TOTAL REVENUES	\$	\$	\$	\$	\$

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

Assumptions:

Cost will be incorporated in HVAC Technician Policy 6203

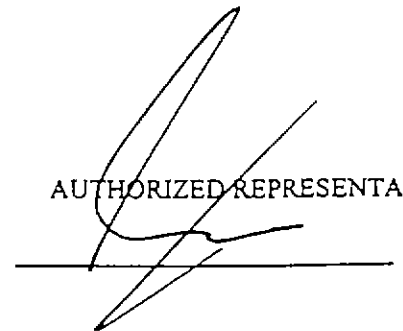
DATE

7/23/99

AGENCY

Education

AUTHORIZED REPRESENTATIVE



COMMENTS AND SUGGESTIONS LOG  
 REVISIONS FOR POLICY 6202  
 INVESTIGATING INDOOR AIR QUALITY

ACTION  
 N: No Response  
 NA: Not Accepted  
 A: Accepted

TYPE  
 - Negative  
 + Positive  
 • Neutral

Date Received	Individual/Organization	Comments/Suggestions	Action/Type	Rationale
9/1/99	Jim Maley, Dir, School Ser. Pleasants Co. BOE	<u>General Comment</u> Under 2.2 - The first sentence May be more workable if you would add the county's "designated official" to the principal and super- intendent. From a very pragmatic standpoint I suspect that the "designated official" would be the most logical person to handle these complaints.	NA	
9/3/99	Dr. Deborah Akers, Sup't. Mercer County Schools	Under 2.2 - Creating one more committee is not necessary to fulfill the intent of this legislation. The time allotment is too short to obtain inform- ation necessary for informed decision making.	NA	
		Under 2.3 - This section put the Advisory Committee at a level higher than the principal and superintendent. This group does not have the resources nor the	NA	

background to review this type of information. The time is too short to obtain data necessary for rational decision making.

Under 2.4 - This committee would not have the expertise necessary to develop an adequate plan of correction. NA

Under 2.5 - the required criteria is not clear Does this mean that every corrective plan that has a log number and is filed with the State Dept' Must then be added to the improvement plan? Where is the finding for these corrective plans? NA

9/2/99 Upshur County Schools NA  
Under 2.2 - Any air quality complaint requires testing by outside firms to determine validity of complaint. A ten day time line is not sufficient for a substantive response.

9/2/99 L. A. Coleman/K. R. Carson NA  
Fayette County BOE  
Under 2.2 - Will the principal/superintendent/ committee have the knowledge/expertise to investigate a complaint? Or, will this require contracting with appropriately certified/trained inspectors? Who pays for? Will investigators be the technicians employed by the state (Policy 6203)? Can inspections and cost estimates be completed in 10 working days?

Under 2.4 - Again is 10 working days sufficient for certified/trained inspectors/technicians to investigate and develop cost estimates? IAQ committee "... review will finalize the complaint's county appeal procedure." Can complainant appeal to county board of education? Again, must there only be a plan? Action contingent upon available funding??? What is the "required criteria" for adding to county board's 10-year county-wide improvement plan? NA

8/31/99	Ron Duerring Kanawha County Schools	Under 2.5 - What legal/financial/moral obligation does the county/state have once a plan of correction has been developed? LISTING WITHIN A 10-YEAR PLAN DOES NOT FULFILL OBLIGATIONS! Will there be state funding to address these essential projects? If not, and a county does not available funds???	NA
Under 2.1 - Principal or superintendent replace with principal or superintendent or designee of the superintendent	NA		
Under 2.2 - Principal of the facility or the county superintendent. Replace with principal of the facility or the county superintendent or designee of the superintendent.	NA		
Under 2.3 - Principal or superintendent. Replace with principal or county superintendent or designee of the superintendent.	NA		
Under 2.1 - At any point during this process will one or both: an air monitor and/or industrial hygienist be available to county without this great expense to county to investigate any complaint.	NA		
Under 2.3 - Funding for counties?			
9/15/99	Hardy County Schools Loy Kesner	Under 2.3 - Funding for counties?	
9/17/99	Summers County Schools Steve Pack	Under 2.2 - Change "may" investigate to "shall" investigate	
Under 2.3 - What standard will be used to judge complaint validity?			
Under 2.4 - Is this the end of the appeal procedure? Where can complainant go after county appeal?			

9/21/99

Bill Arnold  
Keyser Middle School

Under 2.5 - What is the required criteria that correction plan must meet?

Under 2.1 - Define "any party". Is this inclusive of parents whose children may be suffering from accumulating chronic effects of poor IAQ prior to Hodgkin disease, and what means are provided to inform them that they have a specific complaint right, such as in sexual harassment provisions?

Under 2.2 - Leaving investigation of an IAQ complaint (from wherever) to the discretion of the principal is haphazard since he/she must succumb to the Superintendent. It should read, "the principal of the facility 'must' investigate the complaint...." The same may be assumed concerning whether to give the facility principal to discretion to convene the IAQ-IAC. The principal must convene the school's IAQ-IAC. Language needs to be installed which responsibly broadens the base of participation to include even PTA/PTO representatives.

Under 2.3 - If not satisfied with the principal's response and the IAQ-IAC has not officially addressed this complaint, the complainant shall within five working days know that the principal has had the IAQ-IAC review complainant's submitted form with all its appurtenances and addendums.

Under 2.4 - IAQ-IAC then has ten working days to review and definitively respond to the principal pertaining to whether or not their recommendation compels the county board to remedy the discomfort noted by complainant within a specified

time frame. STRIKE: This review will finalize the complainant's school system appeal procedure.

Under 2.5 - Upon receiving the IAQ-IAC \ recommendations the local board shall honor it by 1) assigning a log #; 2) provide a correction plan (insert within ten working days of the estimated cost for valid complaints).

Under 2.2 - At any point during this process will one or both: an air monitor and/or industrial hygienist be available to county to county to investigate any complaint?

9/20/99  
Lawrence M. Miller  
Ohio County Schools