

***Wayne County Board of Education
Policies Update: (Professional Staff) (8)***

- ***Policy 3113 (Professional Staff: Conflict of Interest)***
- ***Policy 3120.04 (Professional Staff: Employment of Substitutes)***
- ***Policy 3120.08 (Professional Staff: Employment of Personnel for Extra-Curricular Activities)***
- ***Policy 3122.01 (Professional Staff: Drug-Free Workplace)***
- ***Policy 3139.01 (Professional Staff: Suspension)***
- ***Policy 3213 (Professional Staff: Student Supervision and Welfare by Professional Staff)***
- ***Policy 3251 (Professional Staff: Teacher Work Load/Supplemental Duties)***
- ***Policy 3340 (Professional Staff: Grievance Procedure)***

***Your comments concerning these policy should be sent
in writing (mail or email) to:***

***Mr. Todd Alexander
Superintendent
Wayne County Board of Education
PO Box 70
Wayne, WV 25570
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***These policies are out for public comment for 10 working days beginning Friday,
March 27, 2026 through Thursday, April 9, 2026.***

Book	Public Comment Period 3/27/26-4/9/26
Section	Vol 16-2 EDGAR Agenda-Second Reading
Title	Revised Policy - Volume 16, No. 2 - EDGAR UGG - December 2024 - CONFLICT OF INTEREST
Code	po3113
Status	
Adopted	May 26, 2015
Last Revised	October 17, 2017

Revised Policy - Volume 16, No. 2 - EDGAR UGG - December 2024

3113 - CONFLICT OF INTEREST

A. The proper performance of school business is dependent upon the maintenance of unquestionably high standards of honesty, integrity, impartiality, and professional conduct by Board of Education members, and the ~~District's~~ County's employees, officers and agents. Further, such characteristics are essential to the Board's commitment to earn and keep the public's confidence in the ~~District~~ County. For these reasons, the Board adopts the following guidelines to assure that conflicts of interest do not occur. These guidelines apply to all ~~District~~ County employees, officers and agents, including members of the Board. These guidelines are not intended to be all-inclusive, nor to substitute for good judgment on the part of all professional employees, officers, ~~and agents, and Board members.~~

1. No professional employee, officer, ~~or agent, or Board member~~ shall engage in or have a financial or other interest, directly or indirectly, in any activity that conflicts or raises a reasonable question of conflict with ~~his/her~~ their duties and responsibilities in the school system.
2. Professional employees, officers, ~~and agents, and Board members~~ shall not engage in business, private practice of their profession, the rendering of services, or the sale of goods of any type where advantage is taken of any professional relationship they may have with any student, private practice client, or parents of such students or clients in the course of their employment or professional relationship with the Board.

Included, by way of illustration rather than limitation, are the following:

- a. the provision of any private lessons or services for a fee;
 - b. the use, sale, or improper divulging of any privileged information about a student or client gained in the course of the employee's, officer's or agent's employment or professional relationship with the ~~District~~ County through ~~his/her~~ their access to ~~School District~~ County records;
 - c. the referral of any student or client for lessons or services to any private business or professional practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals; and
 - d. the requirement of students or clients to purchase any private goods or services provided by an employee, officer or agent or any business or professional practitioner with whom any employee, officer, ~~or agent, or Board member~~ has a financial or other relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations.
3. No professional employee, member of his/her immediate family, or business with which s/he is associated shall have or develop, directly or indirectly, a pecuniary interest in the proceeds, profits, or benefits of any contract with the ~~District~~ County, or in providing goods or services to the ~~District~~ County for compensation, if s/he has voice, influence, or control over the decision by the ~~District~~ County to contract or acquire the goods or services. A professional employee who has an interest in the profits or benefits of a contract is prohibited from making, participating in making, or in any way attempting to use his/her employment to influence a ~~District~~ County decision affecting his/her financial interest.

4. No professional employee having any official action to perform in connection with bids, contracts, purchases, claims or other pecuniary transactions shall solicit, accept, or agree to accept any gift or gratuity from any person known by the employee to be interested in any such bid, contract, claim, purchase or transaction.
5. Every professional employee is prohibited from using his/her position of employment for his/her own private gain or that of another person.
6. No professional employee may solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the employee or his/her immediate family. Even then, a professional employee is prohibited from soliciting a charitable gift from any ~~District~~ **District-County** official or employee whose position is subordinate to the soliciting professional employee.
7. No professional employee may knowingly and improperly disclose any confidential information acquired in the course of his/her duties nor use such information to further his/her personal interests or the interests of another person.
8. No professional employee may solicit private business from a subordinate employee whom s/he has the authority to direct, supervise or control, except when the solicitation is a) a general solicitation directed to the public at large through the mailing or other means of distribution of a letter, pamphlet, handbill, circular or other written or printed media; or b) limited to the posting of a notice in a communal work area; or c) for the sale of property of a kind that the person is not regularly engaged in selling; or d) made at the location of a private business owned or operated by the professional employee to which the subordinate employee has come on his/her own initiative.

By way of illustration rather than limitation, this policy forbids the following:

- a. the provision to the ~~District's~~ **District-County's** students of any private lessons or services for a fee, provided, however, that tutorial services may be furnished to a student off school premises by appropriate teaching personnel at a fee negotiated between the student, the student's parent or guardian, and the professional, with prior approval of the Superintendent.
 - b. the use, sale, or improper divulging of any privileged information about a student or client gained in the course of the professional employee's employment or through his/her access to ~~District~~ **District-County** records
 - c. the referral of any student or client for lessons or services to any private business or professional practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals
 - d. the requirement of students or clients to purchase any private goods or services provided by a professional employee or any business or professional practitioner with whom any employee has a financial relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations
9. A professional employee may use frequent flyer bonus points earned while traveling on official ~~District~~ **District-County** business only if his/her participation in the frequent flyer program results in no additional cost to the ~~District~~ **District-County**.
 10. Professional employees shall not make use of materials, equipment, or facilities of the ~~District~~ **District-County** in private practice. Examples would be the use of facilities before, during, or after regular business hours for service to private practice clients, or the checking out of items from an instructional materials center for private practice.
 11. A full-time professional employee is prohibited from personally participating in a decision, approval, disapproval, recommendation, rendering advice, investigation, inspection or other substantial exercise of administrative discretion involving a vendor with whom s/he is seeking employment or has an agreement concerning future employment.
 12. A full-time professional employee who exercises authority or control over a public contract between a vendor and the ~~District~~ **District-County**, or whose subordinate exercises such authority or control, is prohibited from seeking employment by the vendor or to purchase, sell, or lease real or personal property to or from the vendor. Nor shall s/he have an agreement with the vendor concerning future employment.

By way of illustration, a professional employee or subordinate is considered to exercise authority or control over a public contract by any of the following acts: drafting bid specifications or requests for proposals; recommending selection of the vendor; conducting inspections or investigations; approving the method or manner of payment to the vendor; providing legal or technical guidance on the formation, implementation, or execution of the contract; or taking other nonministerial action that may affect the financial interests of the vendor.

A person adversely affected by the restriction on purchasing personal property may make such a purchase only if the West Virginia Ethics Commission expressly approves, or if acting in good faith reliance upon a West Virginia Ethics Commission guideline, advisory opinion, or official policy.

- B. Exceptions to Part A of this policy shall be approved by the Superintendent **before** entering into any private relationship.
- C. ~~Employees, officers and agents cannot participate in the selection, award, or administration of a contract supported by a Federal grant/award if s/he has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer or agent, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the parties described in this section, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.~~ No employee, officer, agent, or Board member with a real or apparent conflict of interest may participate in the selection, award, or administration of a contract supported by a Federal award. A conflict of interest includes when the employee, officer, agent, or Board member, any member of their immediate family, their partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

~~Employees, officers and agents cannot solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts involved with Federal grant funds.~~ An employee, officer, agent, and Board member of the County may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors.

(x) However, pursuant to Federal rules, and in accordance with the State law and policy, the ~~District~~ County has set standards for situations where the financial interest is not substantial or the gift is ~~for when an employee, officer or agent may accept the gift~~ of an unsolicited item of nominal value. For purposes of this section, "nominal value" means that the gift has a monetary value of \$25.00 or less. **[END OF OPTIONAL LANGUAGE]**

[DRAFTING NOTE: Section 200.318 allows for non-Federal entities (~~Districts~~Counties) to set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.]

- D. ~~To the extent that the District~~ If the County has a parent, affiliate or subsidiary organization that is not a State, local government or Indian tribe, the ~~School District~~ County may not conduct a procurement action involving the parent, affiliate or subsidiary organization if the ~~School District~~ County is unable, or appears to be unable, to be impartial in conducting a procurement action involving a related organization.
- E. Employees, officers, ~~and~~ agents, and Board members must promptly disclose any potential conflict of interest ~~which~~ that may lead to a violation of this policy to the ~~School District~~ County. Upon discovery of any potential conflict of interest, the ~~School District~~ County will disclose promptly, in writing, the potential conflict of interest to the appropriate Federal ~~awarding~~ agency or, if applicable, the pass-through entity.

~~The District will also disclose, in a timely manner, all violations of Federal criminal law involving fraud, bribery or gratuity that affect a Federal award to the appropriate Federal awarding agency or, if applicable, the pass-through entity.~~ The County also will disclose promptly whenever, in connection with a Federal award (including any activities or subawards thereunder), it has credible of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in title 18 of the United States Code or a violation of the civil False Claims Act (31 U.S.C. 3729-3733). The disclosure must be made in writing to the Federal agency, the agency's Office of Inspector General, and pass-through entity. The County is also required to report matters related to recipient integrity and performance in accordance with Appendix XII of 2 C.F.R. Part 200.

- F. Employees, officers, ~~and~~ agents, and Board members found to be in violation of this conflict of interest policy will be subject to disciplinary action up to and including termination, as permitted by applicable Board policy and State law, and may also face criminal charges and/or risk loss of State-issued licenses/permits.

[DRAFTING NOTE: The ~~School District~~ County has discretion over the appropriate disciplinary actions.

For example, the ~~School District County~~ may suspend or terminate the individual's employment, transfer the individual, end the District's professional relationship with that individual, or temporarily re-assign the individual. All disciplinary actions must be in accordance with applicable Federal, State, and local law, as well as any collectively bargained agreements.]

Violation of this policy shall result in discipline, which may include termination from employment.

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WV Code 6B-2-5

WV Code 61-5A-6

WV Code 61-10-15

2 C.F.R. 200.112, 200.113, 200.318

West Virginia State Board of Education policy 1224.1

West Virginia State Board of Education policy 8200

Book	Public Comment Period 3/27/26-4/9/26
Section	Vol 16-2 Agenda-Second Reading
Title	Revised Policy - Volume 16, No. 2 - December 2024 - EMPLOYMENT OF SUBSTITUTES
Code	po3120.04
Status	
Adopted	May 26, 2015
Last Revised	March 15, 2016

Revised Policy - Volume 16, No. 2 - December 2024**3120.04 - EMPLOYMENT OF SUBSTITUTES**

The Board of Education recognizes the need to procure the services of substitutes in order to continue the operation of the schools as a result of the absence of regular personnel.

The District Superintendent, subject to approval of the Board, may employ and assign substitute teachers to any of the following duties:

- A. to fill the temporary absence of any teacher or an unexpired school term made vacant by resignation, death, suspension or dismissal;
- B. to fill a teaching position of a regular teacher on leave of absence; and
- C. to perform the instructional services of any teacher who is authorized by law to be absent from class without loss of pay, providing the absence is approved by the Board in accordance with the law. The substitute shall be a duly certified teacher.

Persons whose names do not already appear on the substitute list may attain that status only by making application in response to a posted notice of vacancy for the substitute list. The posting process, and the selection of candidates from among the applicants, shall follow the procedures set forth in WV Code 18A-4-7a.

☒] All applications for employment shall be referred to the Personnel Office.

The spouse of the Superintendent or a Board member may not be employed by the Board in any substitute professional position of employment except as substitute classroom teacher and substitute principal. If a Board member's spouse is being considered for such employment, the Board member must not participate in any way in the discussion or vote and must leave the Board meeting during such discussion and vote. If the Superintendent's spouse is being considered, the Superintendent must not participate in the discussion.

The Board will not employ as substitute professionals the unemancipated children or, except for a spouse, a dependent (IRS criteria) of the Superintendent or any member of the Board. Otherwise, the Board may employ the Superintendent's or a member's relatives, including his/her parent or parent-in-law, brother or sister, brother-in-law or sister-in-law, child, son-in-law or daughter-in-law, grandparent, or grandchild. When any such relative of the Superintendent or a Board member is employed as a substitute professional employee, the related Superintendent or Board member shall not participate in any way in the discussion on the employment. The Board member shall not vote and shall leave the Board meeting during the discussion and vote. Thereafter, the Board member may not vote on a personnel matter involving such a person unless the matter affects the Board member's relative as a member of a profession or occupation, or as a member of a class of at least five (5) persons.

☐] No individual shall be appointed to a substitute professional position in which s/he would be responsible for supervising his/her spouse, or in which s/he would be supervised by his/her spouse.

[] No individual shall be appointed to a substitute professional position in which s/he would be responsible for supervising a member of his/her immediate family, or in which s/he would be supervised by a member of his/her spouse. A substitute professional's immediate family members are his/her spouse, parent or parent-in-law, brother or sister, brother-in-law or sister-in-law, child, son-in-law or daughter-in-law, grandparent, or grandchild.

x] Any person who intentionally misstates facts material to his/her qualifications for employment or the determination of salary shall be subject to dismissal by the Board.

[x] Applications for employment will not be accepted from any current Board member. If a Board member wishes to apply for a position, his/her resignation must be accepted by the Board prior to submitting an application and circumstances must be such as to avoid the Board member's apparent use of his/her authority or influence as a Board member to secure the employment position. Employment, as used herein, shall not include volunteer positions for which no compensation is payable or paid.

[x] No candidate for employment as a substitute professional staff member shall receive recommendation for such employment without having proffered visual evidence of proper licensing or that application for such licensing is in process. Said licensing shall meet the minimum requirements of State law for the position for which s/he is being recommended. The Superintendent shall request an appropriate criminal background check regarding the prospective employee prior to making any recommendation to the Board.

Long-term substitute means a substitute employee who fills a vacant position that the Superintendent expects to extend for a least thirty (30) consecutive days, and is either:

- A. listed in the job posting as a long-term substitute position of over thirty (30) days; or
- B. listed in a job posting as a regular, full-time position and:
 - 1. is not filled by a regular, full-time employee; and
 - 2. is filled by a substitute employee.

Persons who are hired as long-term substitute teachers shall be provided information by the Board relating to an Individual Education Plan (IEP) and 504 Plan, detailing their uses and what those long-term substitute teachers should do to implement these plans upon their hiring.

For the purposes of eligibility for PEIA benefits, a long-term substitute does not include a retired employee hired to fill the vacant position.

A substitute teacher who has been assigned as a classroom teacher in the same classroom continuously for more than one-half (1/2) of a grading period and whose assignment remains in effect two (2) weeks prior to the end of the grading period, shall remain in the assignment until the grading period has ended, unless the principal of the school certifies that the regularly employed teacher has communicated with and assisted the substitute with the preparation of lesson plans and monitoring student progress or has been approved to return to work by his/her physician. For the purposes of this policy, teacher and substitute teacher means professional educator as defined in WV Code 18A-1-1.

Upon completion of 133 days of employment in any one (1) school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. Employment of 133 days or more as a substitute teacher shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.

The pay of a substitute teacher shall not be less than eighty percent (80%) of the daily rate of the State basic salary paid to teachers; however, any substitute teacher who teaches in excess of ten (10) consecutive instructional days in the same position shall, thereafter, not be paid less than eighty percent (80%) of the daily rate of the State advanced salary based upon teaching experience. Any substitute teacher who teaches in excess of thirty (30) days in the same position shall be paid the daily rate of the advanced salary schedule in the District.

A substitute shall have standing to file a grievance only on matters related to days worked or when there is a violation, misapplication or misinterpretation of a statute, policy, rule or written agreement relating to such substitute.

Substitute teachers shall be evaluated in accordance with State and local policies.

Substitute teachers may be utilized to assist with classroom responsibilities in order to provide for planning time for a regular employee; however, any substitute teacher who is employed to teach a minimum of two (2) consecutive days in the same position shall be granted a planning period.

Daily substitutes shall not earn sick leave and shall not be paid for days when students are not required to attend school.

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WV Code 18A-2-3, 18A-4-7, 18A-4-14, 18A-4-7a, 18A-2-12, 18-29-2, 16-3D-3

WV Code 61-10-15

Book	Public Comment Period 3/27/26-4/9/26
Section	Vol 16-1 Agenda 3/24/26-Second Reading
Title	Revised Policy - Vol. 16, No. 1 - February 2024 - EMPLOYMENT OF PERSONNEL FOR EXTRA-CURRICULAR ACTIVITIES
Code	po3120.08
Status	
Adopted	May 26, 2015
Last Revised	April 11, 2023

Revised Policy - Vol. 16, No. 1 - February 2024

3120.08 - EMPLOYMENT OF PERSONNEL FOR EXTRA-CURRICULAR ACTIVITIES

The Board of Education may find it necessary to employ personnel for extra-curricular assignments. Extra-curricular duties shall mean, but not be limited to, any activities that occur at times other than regularly scheduled working hours, which include the instructing, coaching, chaperoning, escorting, providing support services or caring for the needs of students, and which occur on a regularly scheduled basis.*

All principals and full-time athletic directors, while performing as such in permanent positions, are prohibited from also serving or acting as coaches or assistant coaches within the Wayne County Board of Education or any other school system. Assistant Principals employed by the Wayne County Board of Education may participate as coaches within the Wayne County School System, subject to the following limitations:

- A. Any such coaching position must be at the school where the assistant principal is assigned.
- B. The duties, responsibilities, and the schedule of the coaching position do not unduly interfere with the assistant principal's duties and responsibilities.

The assignment of teachers to extra-curricular assignments shall be made only by mutual agreement of the employee and the Superintendent, or designated representative, subject to Board approval.*

The employee and the Superintendent, or a designated representative, subject to Board approval, shall mutually agree upon the maximum number of hours of extra-curricular assignment in each school year for each extra-curricular assignment.*

The terms and conditions of the agreement between the employee and the Board shall be in writing and signed by both parties.*

An employee's contract of employment shall be separate from the extra-curricular assignment agreement and shall not be conditioned upon the employee's acceptance or continuance of any extra-curricular assignment proposed by the Superintendent, a designated representative, or the Board.*

Within the category of other certificates and permits, the State Superintendent may issue certificates for persons to serve in the public schools as athletic coaches or other extra-curricular activities coaches whose duties may include the supervision of students, subject to the following limitations:

- A. such person shall be employed under a contract with the ~~District County~~ Board of Education which specifies the duties to be performed, which specifies a rate of pay equivalent to the rate of pay for professional educators in the ~~District County~~ who accept similar duties as extra-curricular assignments and which provides for liability insurance associated with the activity

Such person shall not be considered employees of the Board for salary and benefit purposes other than as specified in the contract.

B. such person completes an orientation program designed and approved in accordance with West Virginia State Board of Education rules.**

This policy does not preclude the Board from entering into an extra-curricular coaching assignment agreement with an individual employed by another ~~District's county's~~ board of education provided both ~~District-county~~ boards of education agree to the proposed arrangement.

~~Effective with the retirement of an employee on or after July 1, 2021, any~~ An extracurricular contract of ~~the~~ an employee shall terminate when ~~an~~ the employee retires. Nothing prohibits a retired employee from ~~apply~~ applying for and, if they are the successful applicant, becoming employed in an extracurricular assignment or other position with the Board consistent with the rules for the employment of retirees established by the consolidated public retirement board.*

The Superintendent shall establish administrative guidelines to implement this policy.

*This language comes directly from Statute, West Virginia Code 18A-4-16; policy provisions are mandated by the Statute.

**This language comes directly from Statute, West Virginia Code 18A-3-2a; policy provisions are mandated by the Statute.

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WV Code 18A-4-16, 18A-3-2a

West Virginia Board of Education policy 5202

Book	Public Comment Period 3/27/26-4/9/26
Section	Vol 16-1 Agenda 3/24/26-Second Reading
Title	Revised Policy - Vol. 16, No. 1 - February 2024 - DRUG-FREE WORKPLACE
Code	po3122.01
Status	
Adopted	May 26, 2015
Last Revised	July 25, 2023

Revised Policy - Vol. 16, No. 1 - February 2024

3122.01 - DRUG-FREE WORKPLACE

The Board of Education believes that quality education is not possible in an environment affected by drugs. It will seek, therefore, to establish and maintain an educational setting which

Option 1 (needed only if Federal funds come directly from Washington)

(x) meets the requirements in the Drug-Free Workplace Act.

In compliance with the Act, the Board prohibits the manufacture, possession, use, distribution, or dispensing of any controlled substance, including alcohol, by any member of the County professional staff at any time while on Board property or while involved in any school or Board-related activity or event. Any staff member who violates this policy shall be subject to disciplinary action in accordance with Board of Education guidelines and applicable State law.

The Superintendent shall establish whatever programs and procedures are necessary to meet the Federal certification requirements.

[END OF OPTION 1]

Option 2 (applies to most schools)

(x) is not tainted by the use or evidence of use of any controlled substance.

The Board shall not permit the manufacture, possession, use, distribution, or dispensing of any controlled substance, alcohol, or any drug paraphernalia as the term is defined by law, by any member of the County's professional staff at any time while on Board property or while involved in any school or Board-related activity or event. Any staff member who violates this policy shall be subject to disciplinary action up to and including termination and/or may be required to satisfactorily participate in a drug rehabilitation or assistance program in accordance with Board of Education guidelines and applicable State law.

[END OF OPTION 2]

Consistent with WV Code 16A-15-4, an employee shall not be subject to discipline based solely upon the following:

- A. the employee has been issued a medical cannabis identification card by the West Virginia Department of Health and Human Resources, Bureau for Public Health, pursuant to the Medical Cannabis Act, WV Code 16A-1-1, et seq.; and/or
- B. the employee has been issued a physician certification to use medical cannabis as part of the treatment of a serious medical condition as that term is defined by WV Code 16A-2-1(a)(3); and/or
- C. the employee has been issued a caregiver's identification card issued by the West Virginia Department of Health and Human Resources, Bureau for Public Health, pursuant to the Medical Cannabis Act, WV Code 16A-1-1, et seq.

Employees are prohibited from using, possessing, being under the influence of, and/or storing medical cannabis in the workplace.

This policy is not intended to prohibit the lawful use of medical cannabis by employees outside of the workplace, provided that when the employee returns to or is otherwise in the workplace, the employee is not under the influence of medical cannabis. An employee may be considered under the influence of medical cannabis when the employee manifests specific symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's position. Such symptoms may include but are not limited to, impairment of speech, physical dexterity, agility, coordination, demeanor, and/or behavior.

Employees whose positions are subject to United States Department of Transportation drug testing requirements, such as school bus operators, are prohibited from using medical cannabis at any time inasmuch as applicable Federal regulations do not authorize medical cannabis permitted under State law to be a valid medical explanation for an employee's positive drug test result.

Because cannabis and/or marijuana is a controlled substance under Federal law, any employee who carries, possesses, or transports a firearm or ammunition as authorized and while performing the duties of the employee's position is prohibited from using medical cannabis at any time pursuant to Federal gun law requirements.

The Board shall require every employee to sign a copy of a Drug-Free Workplace Verification Statement which states that the employee is aware of the policy and shall comply with the terms of the policy.

An employee shall notify their supervisor or department head of any criminal drug Statute conviction or alcohol violation occurring in the workplace or conviction outside of the workplace, no later than five (5) days after such violation or conviction occurs.

The Superintendent shall establish guidelines that ensure compliance with this policy and that each staff member is given a copy of the standards regarding unlawful possession, use, or distribution of illicit drugs and alcohol by staff and informed that compliance with this requirement is mandatory. Such guidelines shall provide for appropriate disciplinary actions.

~~{END OF OPTION 2}~~

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41 U.S.C. 701 et seq., Drug-Free Workplace Act of 1988 20 U.S.C. 3224A

Book	Public Comment Period 3/27/26-4/9/26
Section	Vol 16-2/Vol 18-1-Agenda-Second Reading
Title	SUSPENSION
Code	po3139.01
Status	
Adopted	May 26, 2015
Last Revised	October 11, 2022

3139.01 - **SUSPENSION**

The Superintendent, subject only to approval of the Board of Education, shall have authority to suspend school personnel. The suspension may be with or without pay.

The Superintendent's authority to suspend school personnel shall be temporary only pending a hearing upon charges filed by the Superintendent with the Board of Education, and such period of suspension shall not exceed thirty (30) days unless extended by order of the Board.

The Board may suspend or dismiss any person in its employment at any time for:

- A. immorality;
- B. incompetency;
- C. cruelty;
- D. insubordination;
- E. intemperance;
- F. willful neglect of duty;
- G. unsatisfactory performance;
- H. a finding of abuse by the Department of Health and Human Resources in accordance with WV Code 49-1-1 et seq.
- I. conviction of a misdemeanor or a guilty plea or a nolo contendere plea to a misdemeanor charge that has a rational nexus between the conduct and the performance of the employee's job;
- J. the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.

A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation.

The charges shall be stated in writing and served upon the employee within two (2) days of presentation of said charges to the Board. The employee so affected shall be given an opportunity, within five (5) days of receiving such written notice, to request, in writing, a level three (3) hearing and appeals pursuant to WV Code 6C-2-1 et seq. (Grievance Procedure), except that dismissal for a finding of abuse or the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself grounds for a grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, or child abuse may be reassigned to duties that do not involve direct interaction with students pending final disposition of the charges.

The Board has the duty and authority to provide a safe and secure environment in which students may learn and prosper; therefore, it may be necessary to take steps to suspend or dismiss any person in its employment at any time should the health, safety, and welfare of students be jeopardized or the learning environment of other students has been impacted. The Board shall complete an investigation of an employee that involves evidence that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of students despite the employee's resignation from employment prior to completion of the investigation.

Further, upon allegations that a staff member jeopardized the health, safety, welfare, or learning environment of students, at the start of the investigation into the allegation, the staff member shall be suspended, placed on administrative leave, or reassigned to duties that do not involve direct interaction with students. The principal shall report any allegations to the superintendent within twenty-four (24) hours. The principal's report to the superintendent is in conjunction with any other mandatory reports that must be made as a mandatory reporter of suspected child abuse or neglect.

If a staff member is charged with committing a felony, a misdemeanor with a rational nexus to the performance of the staff member's job, or child abuse, the Board shall, pending final disposition of the charges, suspend the staff member, place them on administrative leave, or reassign them to duties that do not involve direct interaction with students.

It shall be the duty of the Superintendent to report any employee ~~that~~ who has been suspended or dismissed or resigned during the course of an investigation in accordance with this policy and WV Code 18A-2-8, including the rationale for the suspension or dismissal, to the State Superintendent.

Per State law, it is the responsibility of the State Superintendent to create and maintain a database for all reported individuals. This database shall be confidential and will be accessible to the Superintendent and Human Resource Director.*

A suspended employee will not be barred from attending public events on school property while serving the suspension, ~~or~~ nor will a suspended employee who has a dependent child, grandchild, foster child, or other family member be barred from entering the school to exercise normal functions of a parent or guardian while suspended, notwithstanding any other provisions of law and provided that the suspended employee's presence does not jeopardize the health, safety, or welfare of students, employees, or visitors; impact the learning environment or the school-sponsored activity; prejudice an investigation or disciplinary proceedings involving the employee; violate an order of a court or any law; or threaten damage to property.

*All language in this policy comes directly from the statutes listed below and is mandated by those statutory provisions.

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Legal	WV Code 18A-2-7
	WV Code 18A-2-8
	WV Code 49-1-1 et seq.

Book	Public Comment Period 3/27/26-4/9/26
Section	Vol 16-2 Agenda-Second Reading
Title	Revised Policy - Volume 16, No. 2 - December 2024 - STUDENT SUPERVISION AND WELFARE BY PROFESSIONAL STAFF
Code	po3213
Status	
Adopted	May 26, 2015
Last Revised	July 23, 2024

Revised Policy - Volume 16, No. 2 - December 2024

3213 - STUDENT SUPERVISION AND WELFARE BY PROFESSIONAL STAFF

Professional staff shall maintain a standard of care for the supervision, control, and protection of students commensurate with their certification, classification, assigned duties and/or responsibilities and are expected to establish and maintain professional staff/student boundaries that are consistent with their legal, professional and ethical duties of care for students.

The Superintendent shall maintain and enforce the following standards:

- A. A professional staff member who transports students in a private vehicle shall do so in accordance with Policy 8660.
- B. **(x)** A professional staff member shall report to a building administrator any accident, safety hazard, or other potentially harmful condition or situation s/he detects in a reasonably prompt manner.
- C. **(x)** A professional staff member shall provide proper instruction in safety matters as presented in assigned course guides.
- D. **(x)** Each professional staff member shall immediately report to a building administrator knowledge of threats of violence by students in a reasonably prompt manner.
- E. **(x)** A professional staff member shall not send students on any personal errands for the benefit of the staff member or other school employees.
- F. **(x)** A professional staff member shall not associate or fraternize with students at any time in any manner that may give the appearance of impropriety, including, but not limited to, the creation of, instigation, encouragement of, or participation in any situation or activity that could reasonably be considered abusive or sexually suggestive or involve harmful substances such as illegal drugs, alcohol or tobacco. Any romantic, sexual or other inappropriate conduct, including mere communication of such nature, with a student by any staff member shall subject the offender to disciplinary action by the Board, up to and including termination of employment.
- G. **(x)** If a student approaches a staff member to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc., the staff member may attempt to assist the student by facilitating contact with certified or licensed individuals in the District or community who specialize in the assessment, diagnosis, and treatment of the student's stated problem. However, under no circumstances shall a staff member attempt, unless properly licensed and authorized to do so, to assess, diagnose, or treat the student's problem or behavior, nor shall such staff member inappropriately disclose personally identifiable information concerning the student to third persons unless specifically authorized to do so by law. A report of the staff member's actions with regard to the student shall be made to the school principal or other appropriate supervisory person no later than the end of the following school day.
- H. **(x)** A student shall not be required to perform work or services that may be detrimental to his/her health.

- I. (x) Professional staff members are strongly discouraged from engaging students on interactive media sites, such as Facebook, Twitter, Instagram, Snapchat, YouTube, Skype, blogs, etc., except when such communication is directly related to curricular matters or co-curricular/extracurricular events or activities with prior approval of the principal.
- J. (x) Professional staff members are prohibited from electronically transmitting any personally identifiable image of a student(s), including video, photographs, streaming video, etc. via email, text message, or through the use of social media and/or online networking media, such as Facebook, Twitter, YouTube, Instagram, Snapchat, Skype, blogs, etc. unless such transmission has been made in connection with a pre-approved curricular matter or co-curricular/extracurricular event or activity such as a school-sponsored publication or production in accordance with Policy 5722.

x] Since most information concerning a child in school, other than directory information described in West Virginia Board of Education policy 4350 and in Policy 8330, is confidential under Federal and State laws, any staff member who shares confidential information with another person not authorized to receive the information may be subject to discipline. This includes, but is not limited to, information concerning assessments, grades, behavior, family background, and alleged child abuse.

A staff member or volunteer who suspects child abuse or neglect, or observes a child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than twenty-four (24) hours after suspecting this abuse or neglect, report the circumstances, or cause a report to be made, to the Department of Health and Human Resources, and shall also notify the person in charge of the school or facility of such suspicion. Upon such notification, the person in charge of the school or facility may supplement the report or cause an additional report to be made. In cases where the reporter believes that the child suffered serious physical abuse, or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law enforcement agency having jurisdiction to investigate the complaint (Policy 8462).

Upon allegations that a staff member jeopardized the health, safety, welfare, or learning environment of students, at the start of the investigation into the allegation, the staff member shall be suspended, placed on administrative leave, or reassigned to duties that do not involve direct interaction with students. The principal shall report any allegations to the Superintendent within twenty-four (24) hours. The principal's report to the Superintendent is in conjunction with any other mandatory reports that must be made as a mandatory reporter of suspected child abuse or neglect.

~~It is a felony offense for any school employee or volunteer to engage in sexual intercourse, sexual intrusion, or sexual contact with any student in the school where the person is employed regardless of age. Any teacher, principal, counselor, coach, other employee, volunteer, or school resource officer of any private or public elementary or secondary school who engages in sexual intercourse, sexual intrusion, or sexual contact with any student enrolled in any private or public elementary or secondary school regardless of the age of the student is guilty of a felony. The fact that the student may have consented to the act or that the act did not occur on school property or during a school function is n to a defense.~~

If a staff member is charged with committing a felony, a misdemeanor with a rational nexus to the performance of the staff member's job, or child abuse, the Board shall, pending final disposition of the charges, suspend the staff member, place them on administrative leave, or reassign them to duties that do not involve direct interaction with students.

Pursuant to State law, any staff member or other person who has been found guilty of sexual assault in the first degree or sexual abuse in the first degree are prohibited from supervising or being responsible for supervising groups of children, including but not limited to religious organizations, Boy Scouts, Girl Scouts, 4-H organizations, sporting and scholastic teams, music, sporting, and theatre groups and camps, and summer day camps.*

*All language contained in this policy comes directly from the statutes and WVBE policies listed below and does not reflect the independent judgment or intent of the Board of Education.

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Legal	West Virginia Board of Education policy 4350
	West Virginia Board of Education policy 4336
	WV Code 18A-2-8
	WV Code 49-6A-2
	WV Code 61-8B-1
	WV Code 62-12-26(c)

Book	Public Comment Period 3/27/26-4/9/26
Section	Vol 16-2 Agenda-Second Reading
Title	Revised/Renamed Policy - Volume 16, No. 2 - December 2024 - TEACHER WORK LOAD/SUPPLEMENTAL DUTIES
Code	po3251
Status	
Adopted	May 26, 2015

Revised/Renamed Policy - Volume 16, No. 2 - December 2024

3251 - TEACHER WORK LOAD/SCHEDULELESSUPPLEMENTAL DUTIES

All classroom teachers will be assigned appropriate starting and dismissal times by the principal or chief administrator of the school, provided that their total regular workday will be no longer than eight (8) hours, including the one half hour duty free lunch period, homeroom, class changes, planning periods and staff development. Teachers shall have the right to leave the building during their lunch period provided they notify the office when leaving and upon returning. A teacher may exchange his/her lunch recess for any compensation or benefit mutually agreed upon by the employee and the Superintendent of Schools or his/her agent. The teacher and the Superintendent or his/her agent may not agree to terms ~~which that~~ are different from those available to any other teacher granted rights within the individual school or to terms ~~which that~~ in any way discriminate among such teachers within the individual school. The agreement shall be in writing.

Not later than the 15th day before the first day of the employment term of each school year, the county Board shall adopt and provide to each classroom teacher, full-time counselor, and full-time librarian employed by the County a calendar that specifies the days each employee is expected to work for that school year. Any supplemental duty exceeding the eight-hour contracted day shall be by agreement with the employee and preapproved by the County Superintendent or by his/her designee, unless the supplemental duty is the result of an unanticipated emergency, and shall be paid in accordance with the agreement between the employee and the County.

"Supplemental duty" means a duty other than a duty assigned under an employee's contract that is generally expected to be performed during an educational day, and which may be governed by an agreement, other than the employee's contract, between the County and the employee.

[] In regard to delayed opening and/or early dismissal days, the workday of teachers will begin ____ (____) minutes before the scheduled student starting time on said day, and will end ____ (____) minutes after the student dismissal on said day.

Each classroom teacher shall be provided at least one (1) period of unassigned duties during the student's day for preparation. The period shall coincide in length with the regular class period.

Principals shall keep a record of (x) arrival and (x) departure times.

Personnel violating this policy shall be subject to disciplinary measures.

WV Code St. R. 126-42-5.81
WV Code 18A-2A-1

Cross References
po8210 - SCHOOL CALENDAR
po8220 - SCHOOL DAY

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Legal
WV Code St. R. 126-42-5.81
WV Code 18A-2A-1

Cross References

po8210 - SCHOOL CALENDAR

po8220 - SCHOOL DAY

Book	Public Comment Period 3/27/26-4/9/26
Section	Vol 16-2 Agenda-Second Reading
Title	Revised Policy - Volume 16, No.2 - December 2024 - GRIEVANCE PROCEDURE
Code	po3340
Status	
Adopted	May 26, 2015
Last Revised	July 23, 2024

Revised Policy - Volume 16, No.2 - December 2024

3340 - GRIEVANCE PROCEDURE

The purpose of this policy is to provide a procedure for employees of Wayne County Schools and () _____ multi-county vocational centers and **[end of option]** their employer or agents of the employer to reach solutions to problems that arise between them within the scope of their respective employment relationships to the end that good morale may be maintained, effective job performance may be enhanced and the citizens of the community may be better served.

This policy is intended to provide a simple, expeditious and fair process for resolving problems at the lowest possible administrative level and shall be construed to effectuate this purpose. A grievance may be resolved informally by stipulation or settlement agreed to in writing by the parties. Nothing in this policy shall prohibit the exercise of any hearing right provided in WV Chapters 18 and 18A. Parties to grievances shall at all times act in good faith and make every possible effort to resolve disputes at the lowest level of the grievance procedure.

Definitions

For the purpose of this policy:

- A. **Board** means the West Virginia Public Employees Grievance Board.
- B. **Chief Administrator** means, in the appropriate context, the State Superintendent, the County Superintendent, the executive director of a regional educational service agency or the director of a multi-county vocational center who is vested with the authority to resolve a grievance. A chief administrator includes a designee, with the authority delegated by the chief administrator, appointed to handle any aspect of this grievance procedure.
- C. **Days** means working days exclusive of Saturday, Sunday, official holidays and any day in which the employee's workplace is legally closed under the authority of the chief administrator due to weather or other cause provided for by statute, rule, policy or practice.
- D. **Discrimination** means any differences in the treatment of similarly situated employees, unless the differences are related to the actual job responsibilities of the employees or are agreed to in writing by the employees.
- E. **Employee** means any person hired for permanent employment by an employer for a probationary, full- or part-time position.

A substitute education employee is considered an employee only on matters related to days worked or when there is a violation, misapplication or misinterpretation of a statute, policy, rule or written agreement relating to the substitute.
- F. **Employee Organization** means an employee advocacy organization with employee members that has filed with the Board the name, address, chief officer and membership criteria of the organization.
- G. **Employer** means a county board of education, regional educational service agency or multi-county vocational center, or agent thereof, using the services of an employee as defined in this policy.

- H. **Favoritism** means unfair treatment of an employee as demonstrated by preferential, exceptional or advantageous treatment of a similarly situated employee unless the treatment is related to the actual job responsibilities of the employee or is agreed to in writing by the employee.
- I. **Grievance** means a claim by an employee alleging a violation, a misapplication or a misinterpretation of the statutes, policies, rules or written agreements applicable to the employee including:
1. any violation, misapplication or misinterpretation regarding compensation, hours, terms and conditions of employment, employment status or discrimination;
 2. any discriminatory or otherwise aggrieved application of unwritten policies or practices of his/her employer;
 3. any specifically identified incident of harassment;
 4. any specifically identified incident of favoritism; or
 5. any action, policy or practice constituting a substantial detriment to or interference with the effective job performance of the employee, or the health and safety of the employee.

Grievance does not mean:

1. any pension matter or other issue relating to public employees insurance in accordance with Article Sixteen, WV Chapter Five, retirement or any other matter in which the authority to act is not vested with the employer.
 2. any matter relating to the protected classes set forth in 5-11-1 et seq. of this code.
- J. **Grievance Proceeding, Proceeding** or the plural means a conference, level one hearing, mediation, private mediation, private arbitration or level three hearing, or any combination, unless the context clearly indicates otherwise.
- K. **Grievant** means an employee or group of similarly situated employees filing a grievance.
- L. **Harassment** means repeated or continual disturbance, irritation or annoyance of an employee that is contrary to the behavior expected by law, policy and profession.
- M. **Party** and **Parties** mean the grievant, intervenor, employer, and the Director of the Division of Personnel or his/her designee, for most State government employee grievances.
- N. **Representative** means any employee organization, fellow employee, attorney or other person designated by the grievant or intervenor as his/her representative and may not include a supervisor who evaluates the grievant.
- O. **Reprisal** means the retaliation of an employer toward a grievant, witness, representative or any other participant in the grievance procedure either for an alleged injury itself or any lawful attempt to redress it.

Grievance Procedure Generally

Time Limits:

- A. Each grievant shall file a grievance form, signed by the grievant, within the time limits specified in this article. If more than one grievant is a party to the grievance, they may submit one signed form initiating the grievance. Grievant representatives who file on behalf of one or more grievants shall provide, as part of the grievance form, the name of each grievant being represented and his or her work location. Failure to properly sign the form shall result in immediate dismissal of a grievance, without prejudice. If the initial grievance was timely filed and then dismissed without prejudice, the grievant has five days from receipt of the order of dismissal to refile the grievance. The refiled grievance must meet the requirements of this article and applicable rules of procedure.
- B. The specified time limits may be extended to a date certain by mutual written agreement of the grievance evaluator, mediator, or administrative law judge at the request of any party. The specified time limits shall be extended for cause whenever an agency representative, intervenor, or a grievant is not working because of accident, sickness, death in the immediate family or other cause for which the agency representative or grievant has approved leave from employment.

Default:

- A. The grievant or the employer prevails by default if a required response is not made by the grievant or the employer representative within the time limits established in this policy, unless the employer representative or grievant is prevented from doing so directly as a result of injury, illness or a justified delay not caused by negligence or intent to delay the grievance process.
- B. Within ten (10) days of the default, the grievant or employer may file with the chief administrator a written notice of intent to proceed directly to the next level or to enforce the default. If the chief administrator objects to the default, then the chief administrator may, within five (5) days of the filing of the notice of intent, request a hearing before an administrative law judge for the purpose of stating a defense to the default. The chief administrator may assert s/he was prevented from doing so directly as a result of injury, illness or a justified delay not caused by negligence or intent to delay the grievance process, or showing that the remedy requested by the prevailing grievant is contrary to law or contrary to proper and available remedies. The administrative law judge shall determine whether the remedy is proper, available and not contrary to law.
- C. If the administrative law judge finds that the grievant or the employer has a defense to the default as permitted above, or that the remedy is contrary to law or not proper or available at law, the administrative law judge may deny the default, or modify the remedy to be granted to comply with the law or otherwise make the grievant or employer whole.

Defenses and Limitations:

- A. **Timeliness** - A grievance must be filed within the time frames established in §6C-2-4 of this code. If the level one evaluator determines that the grievance was not timely filed, an order dismissing the grievance shall be issued. In no event shall a motion to dismiss be held in abeyance while other proceedings take place. This decision may be appealed to level three, and an administrative law judge shall review the order. If the dismissal is upheld an order shall be issued and the grievance shall be removed from the grievance board's docket. If the dismissal is overturned an order shall be entered stating with particularity the facts and the law found to be in error in the order below. The grievance shall be returned to level one for disposition. An administrative law judge shall decide an appeal of a dismissal for untimeliness within thirty (30) days. If the grievant proceeds directly to level three, the administrative law judge shall make a determination on timeliness prior to scheduling the level three hearing.
- B. **Motion to dismiss** - Any party may, at any time, file a motion to dismiss asserting that the board lacks jurisdiction under 6C-2-2(i) of this code, that the grievant has otherwise failed to state a claim under this article upon which relief may be granted, or that the grievance was not timely filed. Upon filing of such a motion, the chief administrator or administrative law judge shall immediately hold in abeyance all other proceedings, and within 10 days of receipt of filing, issue a ruling on the motion or schedule the motion for a hearing.
- C. **Back Pay** - When it is a proper remedy, back pay may only be granted for one (1) year prior to the filing of a grievance, unless the grievant shows, by a preponderance of the evidence that the employer acted in bad faith in concealing the facts given rise to the claim for back pay, in which case an eighteen (18) month limitation on back pay applies
- D. **Statutory Defense** - If a party intends to assert the application of any statute, policy, rule or written agreement as a defense at any level, then a copy of the materials shall be forwarded to all parties.
- E. **Withdrawal and Reinstatement of Grievance** - An employee may withdraw a grievance at any time by filing a written notice of withdrawal with the chief administrator or administrative law judge. The grievance may not be reinstated by the grievant unless reinstatement is granted by the chief administrator or the administrative law judge. If more than one (1) employee is named as a grievant, the withdrawal of one (1) employee does not prejudice the rights of any other employee named in the grievance.
- F. **Consolidation and Groups of Similarly Situated Employees:**
 - 1. Grievances may be consolidated at any level by agreement of all parties, or at the discretion of the chief administrator or administrative law judge. Provided, that a grievance that has been dismissed under the provisions of subdivisions (1) or (2) of this subsection may not be revived or consolidated with another grievance.
 - 2. Class actions are not permitted. However, a grievance may be filed by one (1) or more employees on behalf of a group of similarly situated employees. Any similarly situated employee shall complete a grievance form stating his/her intent to join the group of similarly situated employees. Only one (1) employee filing a grievance on behalf of similarly situated employees shall be required to participate in the conference or level one hearing.

- G. Intervention - Upon a timely request, any employee may intervene and become a party to a grievance at any level when the employee demonstrates that the disposition of the action may substantially and adversely affect his/her rights or property and that his/her interest is not adequately represented by the existing parties.
- H. Representation and disciplinary action- An employee may designate and shall provide the name and contact information for the individual or organization of the representative who may be present at any step of the procedure as well as at any meeting that is held with the employee for the purpose of discussing or considering disciplinary action. An employee may not be compelled to testify against himself/herself in a disciplinary grievance hearing.
- I. Reprisal - No reprisal or retaliation of any kind may be taken by an employer against a grievant or any other participant in a grievance proceeding by reason of his/her participation. Reprisal or retaliation constitutes a grievance, and any person held responsible is subject to disciplinary action for insubordination.
- J. Improper classification – A supervisor or administrator responsible for a willful act of bad faith toward an employee or who intentionally works an employee out of classification may be subject to disciplinary action, including demotion or discharge.
- K. Forms – Forms for filing grievances, giving notice, taking appeals, making reports and recommendations, and all other necessary documents created by the Board, shall be available to any employee upon request of the chief administrator.
- L. Discovery – The Board shall create the forms for filing grievances, giving notice, taking appeals, making reports and recommendations, and all other necessary documents and provide them to the Grievance Board's website to be downloaded for completion and submission and for chief administrators to make available to any employee upon request.
- M. Notice – Reasonable notice of a proceeding shall be sent at least five (5) days prior to the proceeding to all parties and their representatives and shall include the date, time and place of the proceeding. If an employer causes a proceeding to be postponed without adequate notice to employees who are scheduled to appear during their normal work day, the employees may not suffer any loss in pay for work time lost.
- N. Record – Conferences may be recorded, at the discretion of the chief administrator for the sole use of aiding in issuing a decision or report. The recording shall not be transcribed, nor shall the recording be shared with the parties, or made part of the record. The recording shall be destroyed promptly after the decision has been issued. All documents admitted and the decision, agreement or report become part of the record. All the testimony at a level one and level three hearing shall be recorded by mechanical means, and a copy of the recording or transcript shall be provided to any party upon request. The Board is responsible for paying for and promptly providing a certified transcript of a level three hearing to the court for a mandamus or appellate proceeding.
- O. Grievance Decisions and reports:
1. Any party may propose findings of fact and conclusions of law within twenty (20) days of an arbitration or a level three hearing.
 2. A decision, agreement or report shall be dated, in writing, setting forth the reasons for the decision, or outcome and transmitted to the parties and, in a private arbitration, to the Board, within the time limits prescribed. If the grievance is not resolved, the written decision or report shall include the address and procedure to appeal to the next level.
- P. Scheduling – All proceedings shall be scheduled during regular work hours in a convenient location accessible to all parties in accommodation to the parties' normal operations and work schedules. By agreement of the parties, a proceeding may be scheduled at any time or any place. Disagreements shall be decided by the chief administrator or administrative law judge presiding in the case.
- Q. Attendance and Preparation:
1. The grievant, witnesses and an employee representative shall be granted reasonable and necessary time off during working hours to attend grievance proceedings without loss of pay and without charge to annual or compensatory leave credits. A grievant or an intervenor may not be on any type of leave time or worker compensation at the time of the conference, mediation, hearing, or other proceeding. The proceedings shall be held in abeyance until the grievant returns to work: Provided, That, where the grievant has been determined to be unable to return to work, and the grievant's inability to return to work does not render the grievance moot, the grievance proceedings shall be resumed and the grievance resolved upon its merits.

2. In addition to actual time attending proceedings, the grievant and an employee representative shall be granted time off during working hours, not to exceed four (4) hours per grievance, for the preparation of the grievance without loss of pay and without charge to annual or compensatory leave credits. However, the first responsibility of any employee is the work assigned to the employee. An employee may not allow grievance preparation and representation activities to seriously affect the overall productivity of the employee as determined by the employer. An employee may be the representative in no more than five grievances per year. Time spent in preparing for and attending grievance proceeding shall be accounted for on leave request forms by stating the amount of time expended in such activities. Each employee representative shall request annual leave for any time in excess of four hours per grievance spent in grievance preparation.
3. The grievant and an employee representative shall have access to the employer's equipment for purposes of preparing grievance documents subject to the reasonable rules of the employer governing the use of the equipment for non-work purposes.
4. Disagreements regarding preparation time shall be decided by the chief administrator or administrative law judge presiding in the case.

R. Grievance Files:

1. All grievance forms, decisions, agreements and reports shall be kept in a file separate from the personnel file of the employee and may not become a part of the personnel file, but shall remain confidential except by mutual written agreement of the parties.
2. The grievant may file a written request to have the grievant's identity removed from any files kept by the employer one (1) year following the conclusion of the grievance.

S. Number of Grievances - The number of grievances filed against an employer by an employee is not, per se, an indication of the employer's or the employee's job performance.

T. Procedures and rules. - The board shall prescribe rules and procedures in compliance with this article, article three of this chapter and the state Administrative Procedures Act under chapter 29A of this code for all proceedings relating to the level three grievance procedure. Chief administrators may adopt procedural rules to govern level one proceedings. Chief administrators and administrative law judges are governed by the West Virginia Ethics Commission's legislative Code of Conduct for Administrative Law Judges, rule 158 CSR 13.

Grievance Procedural Levels

A. Level One: Chief Administrator

1. Within fifteen (15) days following the occurrence of the event upon which the grievance is based, or within fifteen (15) days of the date upon which the event became known to the employee, or within fifteen (15) days of the most recent occurrence of a continuing practice giving rise to a grievance, an employee may file a written grievance with the chief administrator stating the nature of the grievance and the relief requested and request either a conference or a hearing. The employee shall also file a copy of the grievance with the Board.
2. Conference – Upon timely request by the grievant, the chief administrator shall hold the conference within twenty (20) days of receiving the grievance. A conference is a private, informal meeting between the grievant and the chief administrator to discuss the issues raised by the grievance, exchange information and attempt to resolve the grievance. The chief administrator may permit other employees and witnesses to attend and participate in a conference to reach a resolution. The chief administrator shall issue a written decision within twenty (20) days of the conference.
3. Level One Hearing – Upon timely request by the grievant, the chief administrator shall hold a level one hearing within twenty (20) days of receiving the grievance. A level one hearing is a recorded proceeding conducted in private in which the grievant is entitled to be heard and to present evidence; the form rules of evidence and procedure do not apply, but the parties are bound by the rules of privilege recognized by law. The parties may present and cross-examine witnesses and produce documents, but the number of witnesses, motions and other procedural matters may be limited by the chief administrator. The chief administrator shall issue a written decision within twenty (20) days of the level one hearing.

4. An employee may proceed directly to level three upon the agreement of the parties or when the grievant has been discharged, suspended without pay, demoted or reclassified resulting in a loss of compensation or benefits. Level one and level two proceedings are waived in these matters.

B. Level Two: Alternative Dispute Resolution

Within fifteen (15) days of receiving an adverse written decision at level one, the grievant shall file a written request for mediation, private mediation or mediation or private-arbitration.

1. Mediation - The Board shall schedule the mediation between the parties within twenty (20) days of the request. Mediation shall be conducted by an administrative law judge pursuant to standard mediation practices and Board procedures at no cost to the parties. Parties may be represented, and the representative shall have the authority to resolve the dispute. The report of the mediation shall be documented in writing within twenty (20) days. Agreements are binding and enforceable in this state by a writ of mandamus.
2. Private Mediation – The parties may agree in writing to retain their choice of a private mediator and share the cost. The mediator shall schedule the mediation within twenty (20) days of the written request and shall follow standard mediation practices and any applicable Board procedures. Parties may be represented and the representative shall have the authority to resolve the dispute. The report of the mediation shall be documented in writing within twenty (20) days. Agreements are binding and enforceable in this State by a writ of mandamus.
3. Private-Arbitration – The parties may agree in writing, to retain their choice of a private arbitrator and share the cost. The arbitrator shall schedule for arbitration within twenty (20) days of the written request and shall follow standard arbitration practices and any applicable Board procedures. The Arbitrator shall render a decision in writing to all parties, setting forth findings of fact and conclusions of law on the issues submitted within thirty (30) days following the arbitration. An arbitration decision is binding and enforceable in this State by a writ of mandamus. The arbitrator shall inform the Board, in writing, of the decision within fifteen (15) days.

C. Level Three Hearing:

1. Within ten (10) days of receiving a written report stating that level two was unsuccessful, the grievant may file a written appeal with the employer and the Board requesting a level three hearing on the grievance.
2. The administrative law judge shall conduct all proceedings in an impartial manner and shall ensure that all parties are accorded procedural and substantive due process.
3. The administrative law judge shall schedule the level three hearing, and any other proceedings or deadlines, within thirty (30) days of receipt of the appeal from a lower-level decision in consultation with the parties. The location of the hearing and whether the hearing is to be made public are at the discretion of the administrative law judge. Hearings may be rescheduled at the request of either party for good cause shown or by the administrative law judge.
4. The administrative law judge may issue subpoenas for witnesses, limit witnesses, administer oaths and exercise other powers granted by rule or law.
5. Within thirty (30) days following the hearing or the receipt of the proposed findings of fact and conclusions of law, the administrative law judge shall render a decision in writing to all parties setting forth findings of fact and conclusions of law on the issues submitted.
6. The administrative law judge may make a determination of bad faith and in extreme instances allocate the cost of the hearing to the party found to be acting in bad faith. The allocation of costs shall be based on the relative ability of the party to pay the costs.

Enforcement and Appeal

- A. The decision of the administrative law judge is final upon the parties and is enforceable in the circuit court of ~~Kanawha County~~ situated in the judicial district in which the grievant is employed.
- B. ~~A party may appeal the decision of the administrative law judge on the grounds that the decision~~An appeal of the decision of the administrative law judge shall be to the Intermediate Court of Appeals in accordance with State law and the Rules of Appellate Procedure.

1. ~~is contrary to law or a lawfully adopted rule or written policy of the employer~~
 2. ~~exceeds the administrative law judge's statutory authority;~~
 3. ~~is the result of fraud or deceit;~~
 4. ~~is clearly wrong in view of the reliable, probative and substantial evidence on the whole record; or~~
 5. ~~is arbitrary or capricious or characterized by abuse or discretion or clearly unwarranted exercise of discretion.~~
- C. ~~A party shall file the appeal in the circuit court of Kanawha County within thirty (30) days of receipt of the administrative law judge's decision. The decision of the administrative law judge is not automatically stayed upon the filing of an appeal, but a stay may be granted by the circuit court upon a separate motion for a stay.~~
- D. ~~The court shall review the entire record that was before the administrative law judge, and the court may hear oral arguments and require written briefs. The court may reverse, vacate or modify the decision of the administrative law judge, or may remand the grievance to the administrative law judge or the chief administrator for further proceedings.~~

Allocation of Expenses and Attorney's Fees

- A. Any expense incurred relative to the grievance procedure at levels one, two or three shall be borne by the party incurring the expenses.
- B. In the event a grievant or employer appeals an adverse level three decision to the Intermediate Court of Appeals, or an adverse Intermediate Court of Appeals decision to the Supreme Court of Appeals of West Virginia, and the appellant substantially prevails upon the appeal, the appellant may recover court costs and reasonable attorney's fees for the appeal to be set by the court: Provided, That the provisions of this subsection shall only allow the discretionary recovery of court costs and reasonable attorney's fees from a grievant if s/he has not substantially prevailed at any level of the grievance process or in any appeal to the Intermediate Court of Appeals or the Supreme Court of Appeals of West Virginia.

Mandamus Proceeding

Any employer failing to comply with the provisions of this policy may be compelled to do so by a mandamus proceeding and may be liable to a prevailing party for court costs and reasonable attorney's fees to be set by the court.

Data Collection and Reporting Requirements

Each employer involved in a grievance matter shall maintain the forms and all records created in the grievance process, and shall provide this information to the Board in the form and manner prescribed by the Board.

Communication or Information the Labor Organization or Agent Received or Acquired in Confidence from an Employee

Except as otherwise provided by WV Code 6C-2-8, an employee organization or an agent of an employee organization may not be compelled to disclose any communication or information the employee organization or agent received or acquired in confidence from a public employee, while the employee organization or agent was acting in a representative capacity concerning a public employee grievance or an investigation of a potential public employee grievance, regardless of whether the public employee is a member of the employee organization provided that the confidentiality established by WV Code 6C-2-8 does not apply to written communications between the employee and the employee organization.

The confidentiality applies only to the extent that the communication or information is germane to a grievance or potential grievance of the employee.

The confidentiality, once established in WV Code 6C-2-8, continues after termination of:

- A. The employee's employment; or
- B. The representative relationship of the employee organization or its agent with the public employee.

The confidentiality established in WV Code 6C-2-8 protects the communication or information received or acquired by the employee organization or its agent, but does not protect the employee from being compelled to disclose, to the extent provided by law, the facts underlying the communication or information.

The protection for confidential communications established in WV Code 6C-2-8 only extends to proceedings under the public employees grievance procedure. Nothing established in WV Code 6C-2-8 may be construed to extend the confidentiality to circuit court, appellate proceedings, or other proceedings outside of the public employees' grievance procedure.

An employee organization or its agent shall disclose to the employer, as soon as possible, a communication or information, otherwise confidential as established in WV Code 6C-2-8, to the extent the employee organization or its agent reasonably believes:

- A. it is necessary to prevent certain death or substantial bodily harm;
- B. it is necessary to prevent the employee from committing a crime, fraud, or any act that is reasonably certain to result in substantial injury to the financial interests or property of another or to rectify or mitigate ~~any such~~ the action after it has occurred;
- C. the communication or information constitutes an admission that the employee has committed a crime; or
- D. it is necessary to comply with a court order or other law.

An employee organization or its agent may disclose an otherwise confidential, as established in WV Code 6C-2-8, communication or information in order to:

- A. secure legal advice about the compliance of the employee organization or its agent with a court order or other law;
- B. establish a claim or defense on behalf of the employee organization or its agent in a controversy between the employee and the employee organization or its agent;
- C. establish a defense to a criminal charge or civil claim against the employee organization or its agent based on conduct in which the employee was involved;
- D. respond to allegations in any proceeding concerning the performance of professional duties by the employee organization or its agent on behalf of the employee; or
- E. an employee organization or its agent may disclose an otherwise confidential communication or information, as established in ~~WV Code 6C-2-8~~, WV Code 6C-2-8, without regard to whether the disclosure is made within the public employees' grievance procedure, in the following circumstances:
 - 1. The employee organization has obtained the express written or oral consent of the employee.
 - 2. The employee has, by other act or conduct, waived the confidentiality of the communication or information.
 - 3. The employee is deceased or has been adjudicated incompetent by a court of competent jurisdiction and the employee organization has obtained the written or oral consent of the personal representative of the employee's estate or of the employee's guardian.

If there is a conflict between the application of WV Code 6C-2 and any Federal or State labor law, the provisions of the Federal or other State law shall control.

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Legal WV 6C-2-1 through 8, 6C-3-1 et seq.