

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</p> <p>File: 1-8 School Board Members’ Standards of Conduct and Responsibilities</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------

Election to the Board of Education is an expression of trust and support of the citizens of Preston County; therefore, the members of this Board shall conduct the people’s business in a manner that meets the high legal, ethical and moral standards of the office.

R 1-8-1 Code of Ethics for Board Members

Members of the Board of Education, representing all the citizens of the county must recognize that:

- ❖ Their fellow citizens have entrusted them with the educational development of the children and youth of this county;
- ❖ The public expects their first and greatest concern to be in the best interest of each and every one of these young people without distinction as to who they are or what their background may be;
- ❖ The future welfare of this county, of this state, and of the nation depends in the largest measure upon the quality of education provided in the public schools to fit the needs of every learner;
- ❖ Board members must take the initiative in helping all the people of this county to have all the facts about their schools all the time, to build the trust necessary to provide the finest possible school program, school staff, and school facilities;
- ❖ Legally the authority of the Board is derived from the State which ultimately controls the organization and operation of the county school board and which determines the degree of discretionary power left with the Board and the people of this county for the exercise of local autonomy; and
- ❖ Board members must never neglect their personal obligation to the county and their legal obligation to the state, nor surrender these responsibilities to any other person, group, or organization. Beyond that, they have a moral and civic obligation to the nation which can remain strong and free only so long as public schools in the United States of America are kept free and strong.

In view of the foregoing considerations, it shall be each Board member’s constant endeavor to:

- ❖ Devote time, thought, and study to the duties and responsibilities of a school board member so that s/he may render effective and creditable service;
- ❖ Work with fellow board members in a spirit of harmony and cooperation in spite of differences of opinion that arise during the vigorous debate of a point or issue;
- ❖ Base personal decision upon all available facts in each situation, to vote his/her honest conviction in every case, uninfluenced by partisan bias of any kind, thereafter to abide by and uphold the final majority decision of the Board;

- ❖ Remember at all times that as an individual s/he has no legal authority outside the meetings of the Board, and to conduct his/her relationships with the school staff, the local citizenry, and all representatives of the media on the basis of this fact;
- ❖ Resist every temptation and outside pressure to use his/her position as a school board member to benefit either himself/herself or any other individual or agency apart from the total interest of the school district;
- ❖ Recognize that it is as important for the Board to understand and evaluate the educational program of the schools as it is to plan for the business of school operation;
- ❖ Bear in mind under all circumstances that the primary function of the Board is to establish the policies by which the schools are to be administered, but that the administration of the educational program and the conduct of school business shall be left to the Superintendent of schools and his professional and non-professional staff;
- ❖ Welcome and encourage active cooperation by citizens, organizations, and the media of communication in the district with respect to establishing policy on current school operation and proposed future developments;
- ❖ Support the State and National School Boards Association; and
- ❖ Strive toward the ideal conditions required for effective school board service to his/her county, in a spirit of teamwork and devotion to public education as the greatest instrument for the preservation and perpetuation of our representative democracy.
(WVSBA)

[Home](#)

R 1-8-2 Conflict of Interest (Pecuniary Interest)

The Pecuniary Interest codes of West Virginia make it unlawful for a member of the Preston County Board of Education or any employee of the system to be or become directly or indirectly, pecuniarily interested in the proceeds of any contract or service, if as such member, s/he may have any voice, influence or control over the awarding of the contract or the purchase of services or supplies. The penalty for conviction in violation of this law is a fine of not less than \$50 or more than \$500, and possible imprisonment for a period not to exceed one year. In addition, any such member shall be removed from office. Exceptions to the law include:

- ❖ It is not unlawful for the Board to employ the spouse of a Board member, officer, secretary, supervisor, Superintendent, principal or teacher as a principal, teacher, or service employee of the School District.
- ❖ The penalties do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of the law if the employee, his or her spouse or child:
 - Is not a party to the contract;
 - Is not an owner, a shareholder, a director or an officer of a private entity under the contract;

- Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;
 - Does not participate in the deliberations or awarding of the contract; and
 - Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.
- ❖ The penalties do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a depository of funds for the county or board of education, as the case may be, if the person does not participate in the deliberations or any ultimate determination of the depository of the funds.
 - ❖ The provisions of the law do not apply to publications in newspapers required by law.
 - ❖ School employees or school officials who have an interest in the sale, proceeds or profits in any book or other thing used or to be used in the free school system of this state, as proscribed in section nine, article XII of the constitution of West Virginia, may qualify for the exceptions set forth above.
 - ❖ The provisions of the Ethics Code do not apply to any person who has a pecuniary interest in a public utility which is subject to regulation by the public service commission of this state.

The Board may make written application to the West Virginia Ethics Commission for an exemption to the Ethics Code in the following cases:

- ❖ Loss of a quorum of the Board;
- ❖ Excessive cost;
- ❖ Undue hardship; or
- ❖ Substantial interference with the operation of the Board.
(WVC §61-10-15)

[Home](#)

R 1-8-3 Ethics Act

The West Virginia Governmental Ethics Act established a code of conduct to guide public officials and public employees and help them avoid conflicts between their personal interests and their public responsibilities. The Ethics Act tells public servants what is expected of them and gives official approval to their conduct if it complies with the standards of the Act. (See WVC §6B-1-1, et seq. See also Legislative Rules Title 158, Series 6-12)

The code of conduct established by the Act applies to all public servants [public employees, elected public officials, and appointed public officials] whether full-time or part-time, who serve in the legislative, judicial, and executive branches of state, county, and municipal governments and the boards, commissions and the agencies of each of those levels.

[Home](#)

R 1-8-4 Minimum Ethical Standards Established by the Ethics Act

Private Gain

The basic principle underlying the standards or code of conduct created by the Ethics Act is that those in public service should use their positions for the public benefit and not for their own private gain or the private gain of another. For example:

- ❖ You may not use your agency's supplies or equipment for personal projects or activities.
- ❖ Public employees and full-time appointed officials may not work on personal projects or activities during work hours for which they are paid by their employer.
- ❖ You may not use subordinates to work on your personal projects or activities during work hours or compel them to do so on their own time.

Gifts

You may not solicit a gift unless it is for a charitable purpose from which you and your immediate family members derive no direct personal benefit. You may not solicit a subordinate for any gift - not even a gift for a charitable purpose.

The Ethics Act's prohibition against solicitation of gifts does not apply to solicitation of political contributions. However, WVC §3-8-12(h) dealing with regulation and control of elections provides "No person shall solicit any [political] contribution from any non-elective salaried employee of the state government or of any of its subdivisions." You may not accept gifts from lobbyists, or from "interested persons", unless it fits into one of the following exceptions:

- ❖ meals and beverages;
- ❖ unsolicited gifts of a value of \$25 or less;
- ❖ ceremonial gifts or awards of insignificant value;
- ❖ reasonable expenses incurred in appearing at a speaking engagement;
- ❖ reasonable honoraria (check the Commission's rules);
- ❖ free tickets to political, charitable, or cultural events customarily given as a courtesy to the office;
- ❖ purely private and personal gifts; or
- ❖ lawful political contributions

Note: "interested persons" are those who do or seek to do business with, are regulated by, or are otherwise financially interested in the activities of your governmental agency.

Selling to Subordinates

Although they may choose to buy from you, you may not personally solicit (in person, by phone, or personal letter) private business from subordinates you direct, supervise or control. Solicitations directed to the public at large or for property of a kind you are not regularly engaged in selling are permitted.

Private Interests in Public Contracts, Purchases & Sales

The Ethics Act says you may not have a financial interest in any contract, purchase or sale over which your public position gives you control; nor may your spouse, your dependent parents, your dependent children, or any business in which you or they have an ownership interest greater than 10%, or a creditor's interest greater than 10% of the indebtedness of the business.

This provision applies only to (1) those contracts your job gives you authority to award or control and (2) those purchases and sales you are authorized to make or direct others to make. The Ethics Commission can grant your agency a hardship exemption from this provision of the Ethics Act.

Note: Part-time appointed officials may avoid the prohibition by recusing themselves from considering and acting on such matters.

Confidential Information

You may not during or after government service, knowingly and improperly disclose confidential information acquired through your public position or use it to further personal interests of yourself or another person.

Rules Which Apply to County Public Servants only (WV Code §61-10-15)

Certain county personnel (designated below) are also subject to a criminal statute which contains a similar, but more comprehensive public contract prohibition from which exemptions are not permitted.

- ❖ WVC §61-10-15 applies to: (1) elected county officials [such as sheriff, county commissioners and school board members], (2) appointed county officials [those who serve on county boards, commissions, authorities and agencies], and (3) public school superintendents, principals, and teachers. It does not apply to other county employees.
- ❖ WVC §61-10-15 prohibits these designated county personnel from having personal financial interests, directly or indirectly, in a contract, purchase or sale over which their public position gives them "voice, influence or control." The prohibition extends to their spouses, those they support, and businesses in which they have an ownership interest or by which they are employed.

Note: As a result of an amendment to the law in 2002, agency transactions with businesses which employ these designated personnel or their spouses may be legitimized, if the public servant is recused from agency action in regard to the transaction and other specific requirements are met.

[Home](#)

R 1-8-5 Unlawful Expenditures by a Fiscal Body

Except as provided in WVC §11-8-14b; §11-8-25a and §11-8-16a, the Preston County Board of Education shall not expend money or incur obligations:

- ❖ In an unauthorized manner;
- ❖ For an unauthorized purpose;

- ❖ In excess of the amount allocated to the fund in the levy order; or
- ❖ In excess of the funds available for current expenses.

Notwithstanding the foregoing and any other provision of law to the contrary, the Board or its duly authorized officials shall not be penalized for a casual deficit which does not exceed its approved levy estimate by more than three percent, provided such casual deficit is satisfied in the levy estimate for the succeeding fiscal year: Provided, however, That in calculating a deficit for purposes of this section, account shall not be taken of any amount for which the local fiscal body may be liable for the unfunded actuarial accrued liability of the West Virginia Retiree Health Benefit Trust Fund or any amount allocated to the local fiscal body as an employer annual required contribution that exceeds the minimum annual employer payment component of the contribution.

(WVC §11-8-26)

[Home](#)

R 1-8-6 Personal Liability of Board Members Who Participate in Unlawful Expenditures

Persons who in their official capacity, negligently participates in an illegal expenditure may face legal action for the recovery of the amount illegally expended. The school district, a taxpayer of the school district, the State Tax Commissioner, or a person prejudiced may bring the proceedings.

If any person, in official capacity, participates in an illegal expenditure and, in so doing, acts in accordance with and upon the advice of an attorney, which advice was asked for, received, and given in good faith, such person shall not be deemed guilty of gross negligence. However, that person may ultimately be found to have acted in a negligent manner and an action may be brought for the recovery of the amount illegally or improperly expended, both personally and upon his/her official bond.

(WVC §11-8-29 through 31a)

[Home](#)

R 1-8-7 Board of Education and Employee Liability Insurance

The West Virginia State Board of Risk and Insurance Management, consistent with West Virginia Code, provides appropriate professional liability insurance for all of the Preston County Board of Education members and its employees. The insurance covers any claim, demand action, suit or judgment by reason of alleged negligence or other acts resulting in bodily injury or property damage to any person within or without any school building if at the time of the alleged injury the Board member or employee was acting in the discharge of his/her duties, within the scope of his/her office, position or employment, under the direction of the Board of Education or in an official capacity as a school board member. The insurance policy includes:

- ❖ Comprehensive coverage;
- ❖ Malpractice coverage;

- ❖ Corporal punishment coverage;
- ❖ Legal liability coverage; and
- ❖ Provisions for the payment of attorney's fees in connection with any claim, demand, action suit or judgment arising from such alleged negligence or other act resulting in bodily injury under conditions described above.

The law requires that the minimum amount of liability insurance provided must be at least one million dollars for each occurrence. In addition, each county board of education shall purchase through the Board of Risk excess coverage of at least five million dollars for each occurrence.
(WVC §29-12-5a)

[Home](#)

R 1-8-8 Tort Liability

Except as identified below, the Board is not liable for damages in a civil action for injury, death, or loss to persons or property allegedly caused by an act of omission of the Board or an employee of the Board in connection with a governmental or proprietary function.

The Board is liable for injury, death, or loss to persons or property caused by:

- ❖ The negligent operation of any vehicle by its employees when the employees are employed within the scope of their employment and authority;
- ❖ The negligent performance of acts of its employees while acting within the scope of employment;
- ❖ Its negligent failure to keep the public roads, alleys, sidewalks, or school district-owned grounds in repair or free from nuisance; and
- ❖ The negligence of its employees which occurs within or on the grounds of buildings that are used by the school district; and
- ❖ Injury, death, or loss to persons or property when liability is expressly imposed upon it by state law. Liability shall not be construed to exist under another section of law merely because a responsibility is imposed upon the Board or because of a general authorization that the Board of Education may sue and be sued.

The Board of Education is immune from liability if a loss or claim results from:

- ❖ Legislative or quasi-legislative functions;
- ❖ Judicial or quasi-judicial or prosecutorial functions;
- ❖ Adoption or failure to adopt a law, including but not limited to, any statute, resolution, rule, regulation or written policy;
- ❖ Execution or enforcement of the lawful orders of any court;
- ❖ Snow or ice conditions or temporary or natural conditions on any public way or other public place due to weather conditions, unless the condition is affirmatively caused by the negligent act of a political subdivision

- ❖ Natural conditions of unimproved property of the political subdivision;
- ❖ Any claim covered by any worker's compensation law or any employer's liability law; or
- ❖ Misrepresentation, if unintentional.

An employee of the Board of Education is immune from liability unless one of the following applies;

- ❖ His or her acts or omissions were manifestly outside the scope of employment or official responsibilities;
- ❖ His or her acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner; or
- ❖ Liability is expressly imposed upon the employee by a provision of this code.

The immunity conferred upon an employee by the code does not affect or limit any liability of a political subdivision for an act or omission of the employee.
(WVC §29-12A-4 and §29-12a-5)

[Home](#)

R 1-8-9 Board Immunity from Liability: Disclosure of Information Regarding Former Employees

The Board or any of its designated agent who discloses job-related information that may be reasonably considered adverse about a former or current employee to a prospective employer of the former or current employee is presumed to be acting in good faith and is immune from civil liability for the disclosure or its consequences: Provided, that the disclosure of such information pursuant to WVC §55-7-18a shall be in writing and a copy of any such disclosure shall be provided to the former or current employee at the time of disclosure.

The presumption of good faith is rebutted upon a showing, by a preponderance of the evidence, that the information disclosed was:

- ❖ Knowingly false;
- ❖ Disclosed with reckless disregard for the truth;
- ❖ Deliberately misleading;
- ❖ Rendered with malicious purpose toward the former or current employee; or
- ❖ Disclosed in violation of a nondisclosure agreement or applicable law.

"Job-related information" means information concerning a person's education, training, experience, qualifications, conduct and job performance which is offered for the purpose of providing criteria to evaluate the person's suitability for employment.

If the Board should inadvertently disclose job-related information to a prospective employer of a former or current employee that was false or misleading, and if the current or former employee requests, then the employer shall give corrected information to every person or entity that is in the employer's records as having received the original information, with a copy thereof to the former or current employee.

(WVC §55-7-18a)

[Home](#)

Adopted: August 9, 2010
Amended/Revised: