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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b><br/> <b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br/> <b>File: 1-1 Title and Authority</b></p> | <p><b>Last Reviewed: 8-9-10</b><br/> <b>Next Review: 7-1-12</b></p> |
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Each public school district in West Virginia, including Preston County, is under the supervision and control of a five-member board of education. Its power and authority is derived from state law, state board policy, and local board policies.

The Board, consistent with state and federal laws and regulations, has the authority to control and regulate all schools and all school interests and activities upon all school property whether that property is owned or leased by the district.

To promote school board effectiveness, individual policies and regulations contained in this Policy Manual shall be updated and amended annually to keep pace with changes in West Virginia School Laws, State Board of Education Policies and court cases that impact the efficient operation of the school system. The Policy Manual will undergo a complete review biannually.

The school board is a corporate body whose official title shall be "The Board of Education of the County of Preston" and is referred to in this manual as the "Board."  
**(WVC §18-5-1; §18-5-13 and §18-5-14)**

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Adopted: January 24, 1983  
Amended/Revised: August 9, 2010

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| <b>PRESTON COUNTY BOARD OF EDUCATION</b><br><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br><b>File: 1-2 Board of Education Operational Goals</b> | <b>Last Reviewed: 8-9-10</b><br><b>Next Review: 7-1-12</b> |
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Public education is a function of the state, and that the state has delegated the local control of education to county boards of education.

The Preston County Board of Education’s primary responsibility is to establish those purposes, programs, and procedures, which will best produce the educational achievement needed by students. It is charged with accomplishing this while also being responsible for wise management of the resources available to the district. The Board must fulfill these responsibilities by functioning primarily as a legislative body to formulate and adopt policy, by selecting an executive officer to implement policy, and by evaluating the results. Further, it must carry out its functions openly, while seeking the involvement and contributions of the public, students, and staff in its decision-making processes. In accordance with these principles, the Board pledges to:

- ❖ Concentrate its collective effort on its policy-making and planning responsibilities;
- ❖ Formulate Board policies which best serve the educational interests of the school district;
- ❖ Provide the Superintendent with sufficient and adequate direction for implementing Board policies;
- ❖ Maintain effective communication with the public it serves and with staff and students in order to maintain a mutual awareness of the attitudes, opinions, desires, and ideas that impact the school system;
- ❖ Conduct Board business openly, soliciting and encouraging broad-based involvement of all stakeholders in the Board's decision-making processes;
- ❖ Achieve financial stability in the district through responsible management and planning; and
- ❖ Provide quality facilities through the implementation of a comprehensive facilities plan.

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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b></p> <p><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b></p> <p><b>File: 1-3 Election of Board Members, Term of Office, Resignations, Vacancies and Oath of Office</b></p> | <p><b>Last Reviewed: 8-9-10</b></p> <p><b>Next Review: 7-1-12</b></p> |
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Members of the Board are elected at large from the entire county without reference to political party affiliation. They are elected for four-year terms at the spring primary election and they take office on the first day of July following their election.

**R 1-3-1 Declaring Candidacy**

Persons who are eligible to hold office as a member of the Board of Education may file a certificate with the Clerk of the Circuit Court of the county, declaring candidacy for office. On the certificate, the candidate affirms s/he is a candidate for office, is a legally qualified voter of Preston County, is eligible to hold office, and is a candidate in good faith. The certificate of announcement shall be filed no earlier than the second Monday in January preceding the primary election day, and not later than the last Saturday in January preceding the primary election day, and must be received before midnight, eastern standard time, of that day, or if mailed, shall be postmarked by the United States postal service before that hour.  
(WVC §18-5-1b; §3-5-6 and §3-5-7)

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**R 1-3-2 Eligibility and Qualification Standards for Board Members**

The eligibility and qualification standards for membership on a school board are set forth in §18-5-1a. A person who is a member of a county board:

- ❖ Shall be a citizen and resident in the county in which s/he serves on the county board. Also, a person who is a candidate for membership on a county board or who is a member-elect of a county board shall be a citizen and resident in the county in which he or she seeks to serve on the county board;
- ❖ May not be employed by the county board on which s/he serves, including employment as a teacher or service person;
- ❖ May not engage in the following political activities:
  - Become a candidate for or hold any other public office, other than to succeed him or herself as a member of a county board subject to the following:
    - A candidate for a county board, who is not currently serving on a county board, may hold another public office while a candidate if s/he resigns from the other public office prior to taking the oath of office as a county board member.
    - The term "public office" as used in this section does not include service on any other board, elected or appointed, profit or nonprofit, under the following conditions: The person does not receive compensation and the primary scope of the board is not related to public schools.

- Become a candidate for, or serve as, an elected member of any political party executive committee;
- Become a candidate for, or serve as, a delegate, alternate or proxy to a national political party convention;
- Solicit or receive political contributions to support the election of, or to retire the campaign debt of, any candidate for partisan office;
- ❖ May engage in any or all of the following political activities:
  - Make campaign contributions to partisan or bipartisan candidates;
  - Attend political fund raisers for partisan or bipartisan candidates;
  - Serve as an unpaid volunteer on a partisan campaign;
  - Politically endorse any candidate in a partisan or bipartisan election; or
  - Attend a county, state or national political party convention.

To be eligible for election or appointment as a member of a county board a person shall possess at least a high school diploma or a general educational development (GED) diploma. This provision does not apply to members or members-elect who have taken office prior to May 5, 1992, and who serve continuously from that date forward.

Every Board member shall take the oath prescribed by Article IV, Section 5, of the Constitution, before performing any of the duties of his office. The oath shall be filed with the Secretary of the Board.

No more than two members may be elected from the same magisterial district. If any magisterial district has one holdover member, only one member may be elected from that district. In Board elections, those persons receiving the highest number of votes district-wide shall be elected. However, if the candidates receiving the most votes would result in a magisterial district being represented by more than two board members, only the person having the highest vote total, who does not make the aggregate number of board members from that magisterial district more than two, shall be declared elected. **(WVC §3-5-6; §18-5-1; §18-5-1a and §18-5-1b)**

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### **R 1-3-3 Resignation or Removal**

A member of the Board of Education may resign from the Board for any reason. A letter directed to the President of the Board should be submitted as early as possible. The Board shall have the authority to act upon this letter.

A member of the Board of Education shall be removed from office upon conviction of bribery or a felony, as defined in WVC §61-5A-3. A member of the Board of Education may be removed from office for official misconduct, incompetence, neglect of duty, or gross immorality. **(WV Con IV, 6 and WVC §61-5A-2, 3, 9)**

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#### **R 1-3-4 Filling Vacancies**

Vacancies may occur on the Board of Education due to death, resignation, removal, or failure of a Board Member to meet the eligibility terms as defined in *R 1-3-2 Qualifications of Board Members*. Vacancies shall be filled by appointment by the Board of Education within 45 days of any vacancy that occurs in its membership. In the event the Board does not act within 45 days, the State Superintendent of schools shall appoint a person to fill the vacancy. Vacancies are filled in the following manner:

- ❖ If a vacancy occurs after the 84<sup>th</sup> day before a general election, and the unexpired term of office ends on June 30 following the next primary election, the appointee shall continue in office until the completion of the term.
- ❖ If a vacancy occurs after the 84<sup>th</sup> day before a general election, but prior to the close of candidate filing for the next primary election, and the unexpired term does not end on June 30 following the next primary election, an election for the unexpired term shall be held at the next primary election. The appointee to the unexpired term shall serve until June 30 following the primary election, and the duly elected candidate shall take office on July 1 and continue to serve until the expiration of the original term of office.
- ❖ Vacancies that occur after the close of candidate filing for the primary election, but not later than 84 days before the general election, shall be filled in the general election. The appointee shall serve until a successor is elected and certified.

The person with the highest number of votes may be declared elected to an unexpired term notwithstanding the fact that the person's magisterial district has two representatives serving on the Board at the time of election. However, such election is valid only if the number of representatives from that magisterial district will be less than two as of the first day of July following the primary.  
**(WVC §3-5-6 and §18-5-2)**

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**PRESTON COUNTY BOARD OF EDUCATION****FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION****File: 1-4 Authority of Board Members****Last Reviewed: 8-9-10****Next Review: 7-1-12**

Local school boards possess no inherent powers of any kind. Such powers as they possess are conferred upon them by the state. In interpreting the laws, the courts have confirmed that boards of education may exercise the following powers:

- ❖ Those expressly granted by statute;
- ❖ Those that may be fairly implied in the powers expressly granted, and;
- ❖ Those essential to the accomplishment of the purposes for which the school district was created.

These powers are delegated to the Board as a body. Board members shall have authority only when acting as a Board officially in session or when the Board specifically delegates a temporary assignment to an individual member. The Board shall not be bound by any statement or action by any individual board member except when the statement or action is pursuant to specific instruction or policies of the Board.

The Board is primarily a policy-making body; therefore, it shall concern itself primarily with broad questions of policy rather than with the administrative details. The application of policy is an administrative task to be performed by the Superintendent and staff, which shall be held responsible for the effective administration and supervision of the entire school system.

Delegating administrative functions makes the Board responsible for evaluating the effectiveness of the execution of Board policies. Evaluation by the Board requires a continuous appraisal of the results of its educational policies, as well as the effectiveness of the general administration.  
(WV Con Art XII, Sections 1.2 and WVC §18-2-1 and §18-5-5)

**Board Powers and Duties**

The Preston County Board of Education, functioning within the framework of laws, court decisions, Attorney General's opinions and similar mandates from the state and national levels of government, fulfills its mission as the governing body of a school district by:

- ❖ Selecting a competent Superintendent and supporting him/her in the discharge of his/her duties;
- ❖ Enacting policies by which the school system shall be governed;
- ❖ Approving the budget, financial reports, audits, expenditures, payment of obligations;
- ❖ Considering recommendations for capital outlay, adopting plans for such improvement, and determining the sources of finance;
- ❖ Estimating and seeking to provide funds for the operation, support, maintenance, improvement and extension of the school system;

- ❖ To control and manage all of the schools and school interests for all school activities and upon all school property, whether owned or leased by the county, including:
  - Requiring schools to keep records regarding funds connected with the school or school interests, including all receipts and disbursements of all funds collected or received by:
    - Any principal, teacher, student or other person in connection with the schools and school interests;
    - Any program, activity or other endeavor of any nature operated or conducted by or in the name of the school; and
    - Any organization or body directly connected with the school.
  - Allowing schools to expend funds for student, parent, teacher and community recognition programs. A school may use only funds it generates through a fund-raising or donation-soliciting activity. Prior to commencing the activity, the school shall:
    - Publicize the activity as intended for this purpose; and
    - Designate the funds generated for this purpose.
  - Auditing the records and conserving the funds, including securing surety bonds by expending Board moneys. The funds described in this subsection are quasipublic funds, because the moneys were received for the benefit of the school system as a result of curricular or non-curricular activities.
- ❖ Establish:
  - Schools, from preschool through high school;
  - Vocational schools; and
  - Schools and programs for post-high school instruction, subject to approval of the State Board.
- ❖ Close any school which is unnecessary and assign the students to other schools. The closing shall occur pursuant to official action of the Board. Except in emergency situations when the timing and manner of notification are subject to approval by the state superintendent, the Board shall notify the affected teachers and service personnel of the Board's action not later than the first Monday in April. The Board shall provide notice in the same manner as set forth in section four of this article.
- ❖ To consolidate schools;
- ❖ Close any elementary school whose average daily attendance falls below 20 students for two consecutive months. The Board may assign the students to other schools in the district or to schools in adjoining districts. If the teachers in the closed school are not transferred or reassigned to other schools, they shall receive one month's salary.
- ❖ Provide transportation according to rules established by the county board, as follows:
  - To provide at public expense adequate means of transportation:

- For all children of school age who live more than two miles distance from school by the nearest available road;
  - For school children participating in county board-approved curricular and extracurricular activities;
  - Across county lines for students transferred from one district to another by mutual agreement of both county boards; and
  - Within available revenues, for students within two miles distance of the school.
- To provide transportation for participants in projects operated, financed, sponsored or approved by the Bureau of Senior Services. This transportation shall be provided at no cost to the county board. All costs and expenses incident in any way to this transportation shall be borne by the Bureau or the local or county affiliate of the Bureau;
- ❖ To provide at public expense appropriate insurance;
  - ❖ Employ teacher aides; to provide in-service training for the aides pursuant to rules established by the State Board; and, prior to assignment, to provide a four-clock-hour program of training for a service person assigned duties as a teacher aide in an exceptional children program. The four-clock-hour program shall consist of training in areas specifically related to the education of exceptional children;
  - ❖ To employ legal counsel;
  - ❖ To provide appropriate uniforms for school service personnel;
  - ❖ Adopting textbooks and instructional materials for each subject and grade.
  - ❖ To provide at public expense the reimbursement of traveling expenses;
  - ❖ To allow or disallow employees to use publicly provided carriage to travel from their residences to their work place and return;
  - ❖ Provide at public expense adequate public liability insurance, including professional liability insurance, for county board employees;
  - ❖ Enter into cooperative agreements with other county boards to provide improvements to the instructional needs of each district.
  - ❖ Any other power prescribed by law.

**(WVC § 18-2-5; §18-2A-1; §18-2A-2; §18-2A-3; §18-5-1 through §18-5-39 and SBP 2445.40)**

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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b><br/> <b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br/> <b>File: 1-5 Board Members’ Compensation and Expenses</b></p> | <p><b>Last Reviewed: 8-9-10</b><br/> <b>Next Review: 7-1-12</b></p> |
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Board members may receive compensation at a rate not to exceed \$160 per meeting attended. They shall not receive pay for more than 50 meetings in any one fiscal year. Board members, who serve on the administrative council for a multi-county vocational center, may also receive compensation for up to 12 meetings at the same rate as for meetings of the Board. Board members serving on the Regional Educational Services Agency (RESA) may receive compensation at a rate not to exceed \$100 per meeting attended, not to exceed 15 meetings per year.  
**(WVC §18-2-26 and §18-5-4)**

Members shall also be paid, upon presentation of a sworn statement, for all necessary travel expenses incurred on official business at the order of the Board. The rate of reimbursement shall be at least the lesser of, and not more than the greater of, the federal standard mileage rate or the rate authorized by the Travel Management Office.

- ❖ **Board Meetings and Board Business:** Travel reimbursement forms shall be completed by board members for the use of private vehicles in attending meetings of the Board and when conducting other official business of the Board.
- ❖ **Educational Meetings, Conventions, and Institutes:** Members of the Board shall be reimbursed for expenses and fees involved in attending educational meetings, conventions, and institutes when the members are attending as official representatives of the Board.  
**(WVC §18-2-26 and §18-5-4)**

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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b><br/> <b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br/> <b>File: 1-6 Orientation of New Board Members</b></p> | <p><b>Last Reviewed: 8-9-10</b><br/> <b>Next Review: 7-1-12</b></p> |
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A person elected to a county board may not assume the duties of county board member unless he/she has first attended and completed a course of orientation relating to boardsmanship and governance effectiveness which shall be given between the date of election and the beginning of the member's term of office under the following conditions:

- ❖ A portion or portions of subsequent training such as that offered in orientation may be provided to members after they have commenced their term of office;
- ❖ Attendance at the session of orientation given between the date of election and the beginning of the member's term of office permits the member-elect to assume the duties of county board member, as specified in WVC §18-5-1a;
- ❖ Members appointed to the county board shall attend and complete the next orientation course offered following their appointment; and
- ❖ The provisions of this subsection relating to orientation do not apply to members who have taken office prior to July 1, 1988, and who serve continuously from that date forward.

Annually, each member of a county board shall receive seven clock hours of training in areas relating to boardsmanship, governance effectiveness, and school performance issues including, but not limited to, pertinent state and federal statutes such as the "Process for Improving Education" set forth in WVC §18-2E-5 and the "No Child Left Behind Act" and their respective administrative rules.

The orientation and training sessions shall be approved by the State Board and conducted by the West Virginia School Board Association or other organization or organizations approved by the State Board.

In the final year of any four-year term of office, a member shall satisfy the annual training requirement before January 1.

Failure to attend and complete the approved course of orientation and training relating to boardsmanship and governance effectiveness without good cause as determined by the State Board by duly promulgated legislative rules constitutes neglect of duty under WVC §6-6-7.  
**(WVC §18-5-1a)**

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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b></p> <p><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b></p> <p><b>File: 1-7 Board Officers: Elections, Duties, Filling Vacancies and Annual Self-Assessment</b></p> | <p><b>Last Reviewed: 8-9-10</b></p> <p><b>Next Review: 7-1-12</b></p> |
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The Board shall meet the first Monday in July following each biennial primary election. The purpose of the meeting is to elect, by secret ballot, a president and vice-president from its own membership to serve a two-year term. The member with the greatest seniority shall preside at this meeting until officers have been elected.

The Board shall conduct no other business until a president and vice-president are elected. The name of the member elected as board president shall be promptly reported to the State Superintendent of schools. The Board shall, at this meeting, also set a time for the regular monthly meetings. The newly elected president shall assume his/her duties immediately upon election. (WVC §18-4-10, §18-5-1c, §18-5-4, §18-5-25 and §18-9-6)

**R 1-7-1 Duties of Elected Officers**

**President**

The president shall preside at all meetings of the school board, shall appoint committees when authorized by the Board, shall serve as an ex officio member of all committees, shall sign the records of the school board, and shall perform other duties prescribed by law or by action of the Board.

- ❖ S/he shall decide, at Board meetings, questions of order;
- ❖ S/he shall have the same right as other members to offer resolutions, to make motions or second motions, to discuss questions and to vote thereon;
- ❖ S/he shall call special meetings of the Board;
- ❖ S/he shall sign official district documents that require the signature of the President's office.
- ❖ S/he shall be an ex-officio member of all committees serving the school system.

**Vice-President**

The Vice-President shall be elected from the membership of the Board. S/he shall preside in the absence of the President. In this capacity, s/he is empowered to act and carry out all duties of the president during any period that the President is absent or incapacitated.

**Secretary**

As prescribed in the State statutes, the County Superintendent of Schools shall be the secretary for the Board of Education. The secretary shall:

- ❖ Take the oath prescribed in the Constitution before performing any of the duties of his/her office;
- ❖ Attend all Board meetings except when his/her administration or employment is under consideration, and record its official proceedings in a book kept for that purpose;

- ❖ Record the number of each order issued, the name of the payee, the purpose for which the order was issued, and the amount thereof. Every order must be signed by the Secretary and the President of the Board;
- ❖ Care for and keep all papers belonging to the Board, including evidences of title, contracts and obligations in the Secretary's office;
- ❖ Record and keep on file all papers and documents pertaining to the business of the Board;
- ❖ Keep the accounts and certify the reports required by law or requested by the Board;
- ❖ Administer oaths to school officers, teachers, and others making reports;
- ❖ Deliver in proper condition to his successor all records and property pertaining to the office; and
- ❖ Exercise such other duties as are prescribed by law or the Board of Education.  
(WVC §18-5-25)

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#### **R 1-7-2 Filling Vacancies**

Should the office of the president be vacated, the vice-president of the Board shall assume the duties of the president. Should the office of the vice-president be vacated, at the next regular meeting of the Board, a new vice-president shall be elected.

In the event the president and vice-president are absent, the Board member with seniority shall preside for that particular meeting or segment thereof.

#### **R 1-7-3 Annual Self-Assessment**

The Preston County Board of Education shall complete a self-assessment of its performance annually using an instrument approved by the State Board. The evaluation instrument selected shall focus on the effectiveness of the Board in the following areas:

- ❖ How effectively the Board deals with its various constituency groups and with the general public;
- ❖ How the Board provides a proper framework and the governance strategies necessary to monitor and approve student achievement on a continuing basis; and
- ❖ Enhancing the effective utilization of the policy approach to governance.

At the conclusion of the evaluation, the Board shall make a summary of the evaluation results, including areas in which it concludes improvement is warranted, to the public.  
(WVC §18-5-1c)

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Adopted: January 24, 1983  
Amended/Revised: July 10, 2000; August 9, 2010

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

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#### **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)

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### **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.

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## **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.*

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### **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)

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#### **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)

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#### **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)

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### **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)

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#### **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)**

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Adopted: August 9, 2010  
Amended/Revised:

**PRESTON COUNTY BOARD OF EDUCATION****FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION****File: 1-9 School Board Meetings****Last Reviewed: 8-9-10****Next Review: 7-1-12**

The Preston County Board of Education is composed of the duly elected representatives of the citizens of the county charged with the responsibility of fulfilling the citizens' education expectations. Consequently, official business of the Board shall be conducted only in legally called open sessions, and shall comply with the open meeting legislation which may be found in WVC §6-9A-1 thru §6-9A-12. The Board agrees with the Legislature that open government allows the public to educate itself about government decision-making through individuals' attendance and participation at government functions, distribution of government information by the press or interested citizens, and public debate on issues deliberated within the government. Every effort shall be made to keep the public informed about its schools.

**R 1-9-1 Statutory Meeting**

The Board shall hold its statutory meeting on the first Monday in July following each biennial primary election. The Board shall at this meeting do the following.

- ❖ Elect one of its members as president;
- ❖ Elect one of its members as vice-president;
- ❖ Fix the time and place for holding regular meetings for the ensuing year; and
- ❖ To transact other business that properly comes before the Board or that may be required by law.

(WVC §18-5-1c)

**R 1-9-2 Annual Meetings**

The Board shall meet on the first Monday in July and between March 7 and 28 to fix the estimated tax levy rates and report the same to the State Tax Commissioner. This meeting adjourns to the third Tuesday in April.

(WVC §18-5-1c and §18-5-4)

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**R 1-9-3 Regular Meetings**

Regular meetings of the Preston County Board of Education shall be held on the 2<sup>nd</sup> and 4<sup>th</sup> Monday of each month. Normally, all meetings will be held at the Preston County Board of Education Board Room unless the location is changed by vote of the Board.

From time to time it may be necessary for the Board to meet at other locations for such purposes as to visit schools, view property for sale or purchase or meet jointly with other public bodies. In these cases, the Board shall not take any formal action until it returns to its regular meeting place and it shall convene and/or adjourn any such meeting from the regular meeting place. A member of the Board's staff shall remain at the Board's regular meeting place during their absence to inform the public of the Board's whereabouts.

In its efforts to inform the public of the Board's operation, the Board may from time to time choose to hold a regular Board meeting at a location other than the Preston County Board Offices. Any such change in the location of a Board meeting shall be ordered by a resolution adopted by the Board in regular session at least thirty (30) days prior to the date of meeting. The location of the meeting shall be announced by appropriate releases to the news media, by notice carried in both county newspapers during the two weeks preceding the meeting and by posting on the door of the Board Offices at least three (3) days preceding the meeting.

All meetings shall begin at 7:00 p.m., unless otherwise announced by the Board of Education.  
(WVC§6-9A-3 and §18-5-4)

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#### **R 1-9-4 Special Meetings**

The president or any three members of the Board may call a special meeting. The only business that can be transacted at the special meeting is that designated in the call. Each board member shall be given a 24 hour notice of all special meetings, and advance notice of the time, place, and purpose of the special meeting shall be made available to the public and news media. The only exception to advance notification to the public and media shall be in the event of an emergency meeting requiring immediate official action.

In the event of an emergency requiring immediate official action, the Board president may post an emergency meeting notice at any time prior to the meeting stating the date, time, place and purpose of the meeting and the circumstances of the emergency. The Superintendent shall immediately post a notice of this emergency meeting on-line to the office of the Secretary of State. Said notice shall also be posted to the Board's website.  
(WVC §6-9A-3 and §18-5-4)

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#### **R 1-9-5 Adjourned Meetings**

Any meeting adjourned for the purpose of continuing that meeting in a subsequent session is known as an adjourned meeting. The annual meeting between March 7th and 28th to fix the estimated tax levy rates and report the same to the State Tax Commissioner adjourns until the third Tuesday in April. Following the laying of the levy and the adjournment of the budget meeting, the Board may then immediately convene a special meeting for which members may be paid. A subsequent session of an adjourned meeting is not a separate meeting. Therefore, a Board member may not receive compensation for both the original meeting and the adjourned session.  
(WVC §6-9A-3; §11-8-9; §11-8-12a; §18-5-1c and §18-5-4)

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## **R 1-9-6 Meeting Procedures**

### **Generally**

Board meetings shall be conducted in an organized and efficient manner. Although the meeting may be held in an informal atmosphere, it is the responsibility of each board member to observe the procedures of the Board and to respect the rights and integrity of fellow board members and persons appearing before the Board. Items of discussion shall be limited to the question at hand.

### **Voting Procedures**

All official actions of the Board shall be decided by vote of the membership present. A majority of the Board shall be in attendance to have a quorum.

Except where required by the Code of West Virginia or the Board's adopted bylaws, the majority of the members voting shall be sufficient to carry a motion. In votes not unanimous, individual votes shall be recorded.

Under voting procedures, Robert's Rule of Order shall be followed unless otherwise specified by the Code of West Virginia or Board policy.

### **Presiding Officer**

The member presiding shall be responsible for enforcing the bylaws of the Board, controlling the flow of the Board's business, maintaining order and ensuring that each member has an opportunity to express his/her views.

The chair shall have the right to make and second motions, to vote on all questions before the Board, to speak on motions before the Board, and to rule on disputes concerning Board procedures.

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## **R 1-9-7 Agenda Preparation**

As secretary of the Board, the Superintendent shall prepare and deliver a proposed agenda for the forthcoming meeting together with the available minutes of previous meetings to members of the board no later than three (3) working days preceding the time of the meeting except in case of emergency or special meeting(s) which must be a minimum of twenty-four (24) hours in advance.

Accompanying those agendas will be well organized memorandums, correspondence and other documents as may be necessary for the Board to give adequate consideration of the agenda items. The Superintendent shall distribute agendas and such supporting documents as s/he deems appropriate to members of the school system staff, news media, service personnel and teacher organization representatives, candidates for the Board of Education, and board members-elect; and s/he shall place in an appropriate location a copy of said agenda for the public to review prior to each meeting.

In addition to the above, the agenda will be available on the Preston County Schools' website at <http://www.prestonboe.com>

In extenuating circumstances, the Superintendent will make reasonable effort to provide an agenda by mail when other means of dissemination are unavailable to the interested party.

The Board, in keeping with advances in technology, shall be trained in the use of computers as a means of receiving agendas of board meetings and supporting documents. Until such time that the training is completed, the agendas may be mailed to board members or hand-delivered.

Unless by law or suspension as previously stated, only items on the agenda shall be discussed. In order to allow the Superintendent time to prepare necessary background materials, a board member who wishes to have an item placed on the agenda for discussion shall discuss the request with the Superintendent at least five (5) working days before said meeting.

Citizens of the county who wish to suggest items to be included in writing on the regular board meeting agenda or who wish to appear before the Board of Education shall submit a written request, along with the nature of the topic, to the Superintendent of Schools at least five (5) working days prior to the day of the meeting. When feasible, an exception to this would be matters dealing with the suspension or expulsion of student(s) from school.

Citizens of the county who wish to suggest items to the Board and do not wish to be listed on the printed board agenda of a regular board meeting may do so by registering on the sign-in sheet at the location of the Board meeting fifteen (15) minutes prior to the starting time of the board meeting. Neither board members nor staff is expected to necessarily respond in cases when no prior notice is given.

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#### **R 1-9-8 Public Notification of Board Meetings**

To assure the opportunity for public participation, the date, time, location, and agenda of all regularly scheduled meetings shall be submitted to the local news media for announcement and publication five days prior to the meeting. Special meetings, including time, place, and purpose, shall also be announced in the news media, except in the cases of emergency meetings, in which case media notification may be waived. In addition, the agenda of all regular and special meetings stating the time, date and location of the meeting, shall be posted on the school system's web site and at appropriate locations at the Board of Education offices and the Annex.

(WVC §6-9A-3)

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## **R 1-9-9 Board Minutes and Recording Votes**

The secretary of the Board shall see that accurate minutes of the deliberations and actions of the Board are true and accurate. These minutes shall be a permanent record of the official actions of the Board of Education. The minutes shall become official upon approval of the Board and shall be maintained in the safe keeping of the secretary, who shall see that they are available for general public examination during the hours that the office is open.

### **Content and Style**

In content and style, the official minutes shall be as brief and simple as possible and still retain the essential facts of each meeting. A record of all motions and amendments thereto that are offered, the disposition thereof and the vote thereon shall be recorded. All matters required by law, including accounts and bills acted upon and approved by the board shall be properly recorded.

Persons making a presentation before the board and the subject of their presentation shall be noted in the minutes.

### **Procedure for Approval**

At each regularly scheduled meeting, the Board shall approve, after correction if any, minutes of previous meeting(s). Since minutes are official records, board members shall thoroughly review before voting minutes which are to be acted on and approved.

### **Signature by Presiding Officer and Secretary**

After approval by the Board, the minutes shall be signed by the presiding officer of the meeting and the secretary of the board.

### **Recording Votes**

The minutes will state how board members voted. Board members shall vote according to one of three (3) ways following motions presented before the board: (1) Yes, (2) No, or (3) Abstain.

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## **R 1-9-10 Executive Sessions**

Upon a majority vote of the members present at any meeting the Board may adjourn to executive session. The motion to adjourn to executive session shall include the purpose or purposes for this meeting as permitted by state law. The Board may consider in executive session only the general areas stated in the motion to adjourn. The minutes of the Board shall reflect the general subject area of discussion held in executive session.

Reasons for which an executive session may be called include but are not limited to the following:

- ❖ The appointment, employment, retirement, promotion, demotion, disciplining, resignation, discharge, dismissal or compensation of any public officer or employee, or other personnel matters, or for the purpose of conducting a hearing on a complaint against a public officer or employee, unless such public officer or employee requests an open meeting;
- ❖ The disciplining, suspension or expulsion of any student in any public school, unless such student requests an open meeting;
- ❖ The physical or mental health of any person, unless such person requests an open meeting;
- ❖ Matters which if discussed in public would be likely to affect adversely the reputation of any person;
- ❖ Any official investigation on matters relating to crime prevention or law enforcement;
- ❖ Matters involving or affecting the purchase, sale or lease of property, advance construction planning, the investment of public funds or other matters involving competition which, if made public, might adversely affect the financial or other interest of the State or School District; or
- ❖ Conducting a hearing on a complaint, charge or grievance against a public officer or employee, unless that person requests an open hearing.

At the conclusion of the executive session, the Board shall reconvene in regular session. At this time, the president will state generally the matter of discussion in executive session.

Except when his tenure, salary or administration is under consideration, the Superintendent shall be present in executive sessions, as specified by law.

The board shall take official action upon a resolution, rule or formal action of any kind only in an open meeting.  
(WVC §6-9A-4)

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### **R 1-9-11 Citizen Participation**

Employees and citizens may address the Board at any of its meetings during the portion set aside for “DELEGATIONS” or “COMMENTS FROM THE PUBLIC.” Speakers may sign up no earlier than 15 minutes prior to the meeting.

A person or group or representative thereof who wishes to address the Board and also have their names appear on the agenda shall make his/her request, in writing, at least 10 working days, prior to the date of the scheduled board meeting. The request shall be made to the Superintendent and shall specify the subject of the presentation.

Individuals or groups wishing to appear before the Board shall discuss items with the Superintendent or his designee before said meeting in an attempt to answer questions and/or resolve issues and/or problems.

The Board cannot take action on any item of discussion presented if it does not appear on the agenda.

### **Addressing the Board**

Each speaker who has signed up prior to the meeting shall be allotted five (5) minutes of time. A speaker may elect to “pass” his/her time to another speaker.

A total of 45 minutes shall be allowed for all speakers at each meeting. Those persons who are not heard in the allotted time will be placed on the next board agenda.

The Board may agree to waive or revise the speaking time at the beginning of the meeting to better accommodate the agenda.

Upon recognition by the president, a speaker making a presentation should clearly state his/her name and the subject of his/her remarks and shall address himself to the president. If at the conclusion of the speaker's remarks, any Board member desires further information, the member may address the speaker. The courtesy of the Board shall be extended to the speaker, and the speaker shall respect the privileges extended by the Board or shall be ruled out of order by the president.

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### **R 1-9-12 Request for Advisory Opinions from the West Virginia Ethics Commission Concerning Open Governmental Meetings**

The Preston County Board of Education or any member of the Board subject to the provisions of open governmental meeting statutes may seek advice and information from the executive director of the West Virginia ethics commission or request in writing an advisory opinion from the West Virginia ethics commission committee on open governmental meetings as to whether an action or proposed action violates the provisions of the open government statutes. The executive director may render oral advice and information upon request. The ethics commission committee shall respond in writing and in an expeditious manner to a request for an advisory opinion. The opinion shall be binding on the parties requesting the opinion.

The Board or any member that seeks an advisory opinion and acts in good faith reliance on the opinion has an absolute defense to any civil suit or criminal prosecution for any action taken in good faith reliance on the opinion unless the committee was willfully and intentionally misinformed as to the facts by the Board or its representative.

The Board or any member that acts in good faith reliance on a written advisory opinion sought by another person or governing body has an absolute defense to any civil suit or criminal prosecution for any

action taken based upon a written opinion of the West Virginia ethics commission committee, as long as underlying facts and circumstances surrounding the action were the same or substantially the same as those being addressed by the written opinion.

(WVC §6-9A-11)

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### **R 1-9-13 Meeting by Telephone Conference or Other Electronic Means**

West Virginia Code §6-9A-2 of the Open Governmental Proceedings Act grants governing bodies such as a county board of education the authority to conduct meetings via telephone conference and other suitable electronic means. The Preston County Board of Education's main interest in availing itself of this option for conducting business meetings is to provide a means for individual Board Members or the Superintendent to participate in regular or special meetings of the Board when unusual circumstances prevent their presence at said meetings. Special circumstances may include, but are not limited to, unexpected personal or family illness, acts of God that prevent attendance at a meeting, delays in transportation plans and other personal and professional obligations deemed acceptable by the majority of board members.

Meetings of the Board which include participation by one or more members via telephone conferencing or other electronic means shall be conducted in accordance with all aspects of the Open Governmental Proceedings Act. The meeting room shall be equipped in a manner that permits the public in attendance to hear and/or see the absent member's interaction with the Board Members present.

While it is unlikely that the Preston County Board will find it necessary to hold a meeting with all five members participating by electronic means, nothing in these procedures precludes such an occurrence. In the event of such a meeting, all provisions of the Open Governmental Proceedings Act shall be followed.

Such meeting shall not be utilized when the Board is dealing with disciplinary matters involving an employee or student.

(WVC §6-9A-2; West Virginia Ethics Commission Advisory Opinion #99-08)

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### **R 1-9-14 Cancellation of Board Meetings**

In cases where inclement weather or other calamitous causes may prevent Board of Education members and the public from attending a regular or special meeting of the Board, the President or any three members may cancel the meeting and call a special meeting to consider the items that appear on the agenda for the meeting canceled.

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Adopted: January 24, 1983  
Amended/Revised: January 24, 1998; August 09, 1999; October 10, 2002, August 9, 2010

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| <b>PRESTON COUNTY BOARD OF EDUCATION</b><br><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br><b>File: 1-10 Board Committees</b> | <b>Last Reviewed: 8-9-10</b><br><b>Next Review: 7-1-12</b> |
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The Board shall operate without standing committees. The president may appoint temporary committees from the Board membership as may be expedient to gather information, to conduct surveys, or to perform such other tasks as may be assigned. These special committees shall be temporary and shall terminate upon the presentation of the final report to the Board or at the discretion of the president.

The work of special committees shall be confined to their specific assignments, and they have only such authority as the Board directs. They shall make their reports to the Board as a whole.

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Adopted: January 24, 1983  
Amended/Revised: August 9, 2010

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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b></p> <p><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b></p> <p><b>File: 1-11 Development, Adoption, Amendment and Dissemination of School Board Policy</b></p> | <p><b>Last Reviewed: 8-9-10</b></p> <p><b>Next Review: 7-1-12</b></p> |
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The policy making body of the Preston County School District is the Board of Education. The Board shall adopt, and from time to time, amend and repeal policy statements and administrative regulations written to implement those policies. As prescribed by law, the Board shall delegate to the Superintendent the function of specifying required actions and the detailed arrangements under which the schools will operate. These rules and detailed arrangements shall constitute the administrative regulations governing the schools. They must be consistent in every respect with the policies adopted by the Board and they shall be presented to the Board for consideration as a part of any policy up for consideration by the Board.

All employees are expected to know and shall be held responsible for following state laws, state Board Policy, local board policy and implementing administrative regulations. It is imperative that all new and veteran school district employees are instructed about district-wide policies on a regular basis.

In adopting this policy manual, the Board is directing that all employees review and study it. Suggestions as to additions, revisions, or deletions should be submitted to the Superintendent for review and possible action by the Board.

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**R 1-11-1 Adopting, Amending, and Repealing County Policies**

Proposals for new policies, policy revisions, or the repeal of existing policies must be submitted in writing to the Superintendent for consideration and review at least two weeks prior to their submission to the Board for consideration.

- ❖ Proposed changes to the Policy Manual will be made available for public review for at least 20 school/work days via the School Systems’ webpage and at the Superintendent’s office.
- ❖ At a regularly scheduled meeting the Board will review and discuss the proposal (**first reading**).
- ❖ The proposal shall be placed on the agenda and discussed at the next regular meeting of the Board (**second reading**).
- ❖ At the conclusion of the second reading, the Board may, upon proper motion, vote on the matter or it may direct additional changes to the policy which will be discussed at future regular or special meetings prior to a final vote on the matter.
- ❖ A majority vote of the membership of the Board shall be required for the adoption, amendment, or repeal of a policy or bylaws.

- ❖ When it is in the best interest of the school system (such as an emergency situation), the Board may suspend the two-reading rule by a unanimous vote of the five Board members and take immediate action to adopt, amend or repeal a policy. The Board may also forego public review guidelines in emergency situations.
- ❖ Unless otherwise specified, all policy changes shall take effect on the date of their adoption and shall supersede the previous policies on the subject. Unless otherwise specified, the repeal of a policy or bylaw shall take effect on the date of the action by the Board.
- ❖ To promote school board effectiveness, individual policies and regulations contained in this Policy Manual shall be updated and amended annually to keep pace with changes in West Virginia School Laws, State Board of Education Policies and court cases that impact the efficient operation of the school system. The Policy Manual will undergo a complete review biannually.
- ❖ Public comments on proposed new policies or amendments to existing policies may be made at the board meetings scheduled for discussing said proposals or through the Superintendent's office.

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#### **R 1-11-2 Suspension of Policy**

From time to time the Board may find it in the best interest of the school system to take action contrary to existing policy and in those circumstances it may suspend specified policy statements for only one meeting at a time and in the following manner:

- ❖ Upon a majority vote of the membership of the Board at a meeting in which the agenda includes the call for the proposed suspension has been described; or
- ❖ Upon a unanimous vote of ALL members of the Board when no such notice has been given prior to a regularly scheduled meeting.

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#### **R 1-11-3 Policy Manual Distribution**

The policies that have been approved by the Board have been codified and compiled in this manual. Central office and building level administrative regulations must be consistent with these officially adopted policies. This policy manual is not now complete, nor will it ever be. As new policies are adopted and old policies changed, updates will be sent to the custodians of the manual and electronic copies of the manual will be updated.

A minimal number of manuals shall be placed strategically throughout the District. Placement shall include: one copy at each of the following sites - central administrative offices, principals' offices, and a summary of selected policies will be placed on the Board's web site.

Board members and employees cannot be urged too strongly to study carefully the Policy Manual and administrative bulletins directed to them. These policies represent the guidelines, parameters, and constraints within which the school district operates.

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Adopted: January 24, 1983  
Amended/Revised: August 9, 2010

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| <b>PRESTON COUNTY BOARD OF EDUCATION</b><br><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br><b>File: 1-12 Superintendent’s Authority in the Absence of Policy</b> | <b>Last Reviewed: 8-9-10</b><br><b>Next Review: 7-1-12</b> |
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It is the policy of the Preston County Schools that in situations where action must be taken within the school system where the Board has provided no guidelines, statements, or regulations the Superintendent or his/her designated representative shall have the power to take prudent action. The decisions shall be subject to review by and/or action by the Board at its next regularly scheduled meeting or at a special meeting for the express purpose of reviewing said action of the Superintendent. It shall be the duty of the Superintendent of Schools to inform the Board promptly of any such actions and of the need for policy to govern such situations.  
**(WVC §18-4-10)**

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Adopted: January 24, 1983  
Amended/Revised: August 9, 2010

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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b><br/> <b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br/> <b>File: 1-13 Promoting School Board Effectiveness</b></p> | <p><b>Last Reviewed: 8-9-10</b><br/> <b>Next Review: 7-1-12</b></p> |
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The Preston County Board of Education recognizes its responsibility to provide broad guidelines for the school district, including the establishment of specific oversight procedures, the development and implementation of standards of accountability, and the development of long-range plans to meet the future needs of the school system. To meet its responsibilities the Board shall establish strategies for direct linkages with School improvement Councils, Faculty Senates and the community at large.

A record shall be kept of all suggestions made by Local School Improvement Councils, faculty senates, and the community at large regarding broad guidelines for oversight procedures, standards of accountability, and planning for future needs. The suggestions will be reviewed annually by the Board to identify those worthy of further consideration. Additionally, the Board reaffirms that its existing policies and resolutions regarding the school district's vision, mission, planning procedures, and goals shall, until withdrawn or amended, be interpreted and applied as specific oversight procedures, standards of accountability, and long-range plans to meet future needs.

The Board shall use school-based accreditation and performance data provided by the State Board of Education, as well as other available data, in making decisions about the educational program and to meet the educational goals of the State of West Virginia and such other goals the Board may establish. To that end, the Superintendent shall compile and share with the Board, at least annually, the education goals of the State of West Virginia.

The Board will annually discuss individual school Report Card results, results of the District Report Card, Electronic Strategic Improvement Plan, Electronic Strategic School Improvement Plans, and all other information and findings relating to performance based accreditation of relevance to the district. **(WVC §18-2E-8b and SBP 2320)**

Per the requirements of WVC §18-5-14, the Board will at least annually review the procedures of all policies that promote school board effectiveness and a summary of those policies shall be refiled with the State Board of Education when modifications are made.

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**R 1-13-1 Links with Local School Improvement Councils**

In accordance with WVC §18-5-14, §18-5A-2, and §18-5A-3, and to enable the Board to receive information, comments, and suggestions directly from School Improvement Councils regarding broad guidelines for oversight procedures, standards of accountability, and planning for future needs, the following direct links are established between the Board and its school Improvement Councils:

- ❖ The Board shall meet at least annually with a quorum of members from each School Improvement Council. The meetings shall be scheduled by the Superintendent and approved by the Board at its second meeting in August. The Superintendent shall prepare a calendar of such meetings and publicize it within the county. Other meetings may be scheduled on an as needed basis upon recommendation of the Board President or Superintendent.

- ❖ At least 30 days before the annual meeting the Board shall develop and submit to the council an agenda for the meeting. The council chair or a member designated by the chair shall address items the Board has designated in the agenda and one or more of the following issues:
  - School performance;
  - Curriculum;
  - Status of the school in meeting the unified school improvement plan; and/or
  - Status of the school in meeting the county plan.
- ❖ A record shall be kept by the Superintendent of all suggestions made at any meetings between the Board and School Improvement Councils regarding broad guidelines for oversight procedures, standards of accountability, and planning for future needs. The record shall be considered, at least annually, by the Board to identify suggestions worthy of further consideration.
- ❖ School Improvement Council chairs or designees will be provided the opportunity to examine, comment upon, and make suggestions concerning any proposed policy under consideration by the Board.
- ❖ Surveys, town meetings, and other activities will be used as appropriate with councils to provide additional linkages.
- ❖ All local waiver requests and waiver requests of state promulgated rules will be reviewed and acted upon by the superintendent or Board as appropriate.
- ❖ The Board may, with reasonable advanced notice, schedule additional meetings with the council for any low performing schools.
- ❖ At the conclusion of each school year, but no later than September 1, the Superintendent shall prepare, for adoption by the Board, a report concerning the meeting or meetings held with the School Improvement councils during the previous school year. Upon approval by the Board, the report shall be promptly submitted to the State Board of Education. The report shall become an indicator in the performance accreditation process for the county. Members of the council may assist the Board in compiling this report.

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#### **R 1-13-2      Links with Faculty Senates**

In accordance with WVC §18-5-14 and §18-5A-5, each school will establish a Faculty Senate, and to enable the Board to receive information, comments, and suggestions directly from Faculty Senates regarding board guidelines for oversight procedures, standards of accountability, and planning for future needs, the following links are established between the Board and Faculty Senates:

- ❖ The Superintendent or designee will meet with Faculty Senate Chairs or designees on a schedule to be established by the Superintendent at the beginning of the school term.

- ❖ Faculty Senate Chairs or designees will be provided the opportunity to examine, comment upon, and make suggestions concerning any proposed policies under consideration by the Board.
- ❖ As fully participating members of the School Improvement Councils, faculty who are appointed to those councils will provide linkage between the Faculty Senate, council and the Board, and convey information and action from the board and local council to the Faculty Senate.
- ❖ Additional activities that may be undertaken by the Board, as appropriate, including surveys of Faculty Senates, meetings with Faculty Senate Chairs, participation of Faculty Senate Representatives at town meetings, and whatever community wide linkages the Board develops in the interest of local school improvement.
- ❖ A record shall be kept by the Superintendent of all suggestions made at any meetings between the Board and Faculty Senates regarding broad guidelines for oversight procedures, standards of accountability, and planning for future needs. The record shall be considered, at least annually, by the Board to identify suggestions worthy of further consideration.

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### **R 1-13-3 Community at Large**

In accordance with West Virginia Code 18-5-14, the Board will develop direct links between itself and the community at large, allowing for community involvement at regular Board meetings, and regularly communicate with the public regarding important issues, including, but not limited to:

- ❖ Survey of the community at large;
- ❖ Hearings;
- ❖ Forums;
- ❖ Town meetings;
- ❖ News releases; and/or
- ❖ A record shall be kept by the Superintendent of all suggestions made at any meetings between the Board and the community at large regarding broad guidelines for oversight procedures, standards of accountability, and planning for future needs. The record shall be considered, at least annually, by the Board to identify suggestions worthy of further consideration.

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#### **R 1 -13-4 Review of Personnel Policies**

In accordance with West Virginia Code §18-5-14, the Board will periodically review personnel policies to determine their effectiveness by:

- ❖ Systematically reviewing personnel policies as a part of its regularly scheduled meetings for the purpose of evaluating the degree to which they meet specified Board personnel objectives. The Board may choose to have select policies further reviewed by a committee established by the Board and/or Superintendent.
- ❖ Reviewing grievance information as decisions are received to identify needed policy revision.
- ❖ Adopting or revising all personnel policies after reviewing each policy in the full context of all other policies.

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#### **R 1-13-5 Use of School-Based Accreditation and Performance Data**

In accordance with the education goals of the State of West Virginia and the Board, school-based accreditation and performance data provided by the State Board of Education, as well as other data, will be used in Board decision making as follows:

- ❖ The Board will devote a portion of a February meeting to a presentation of individual school report card results and results of the district report card. The Board will also receive reports of other performance data including ACT and SAT information, Advanced Placement information and the college going rate.
- ❖ Other information, including but not limited to STEP testing results, attendance rates and WVEIS reports as requested by the Board will be utilized for goal setting and decision making.

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#### **R 1-13-6 County Steering Committee**

Pursuant to *SBP 2510 - Assuring Quality of Education: Regulations for Education Programs*, the Preston County Board of Education shall appoint and maintain a County Steering Committee. Membership of the committee shall include: Parents and representatives from business, labor, higher education, economic development; local school improvement councils (one member from each programmatic level of Pre-K-4, 5-8, 9-12); faculty senate (one teacher from each programmatic level of Pre-K-4, 5-8, 9-12); students (one from each programmatic level of 5-8, 9-12) and other organizational entities in the county at the discretion of the Board. The duties of the Steering Committee shall include the following:

- ❖ The county steering committee will act as a partner with the Board in developing and implementing high quality preparation of youth for college, other post-secondary education and gainful employment;
- ❖ The membership or designated representatives may serve, to the extent appropriate, on the community technical college district consortia committee as established in WVC §18B-3-3a;

- ❖ The committee may also advise the board of education in developing the county five-year Electronic County Strategic Improvement Plan; and
- ❖ The committee may also act as the Council on Productive and Safe Schools if it meets the stipulations for membership outlined in WVC §18-5-42.  
**(SBP 2510)**

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### **R 1-13-7 Local Government Flexibility (State Policy Waiver Process)**

The Preston County Board of Education may seek a waiver of any state policy or rule it believes is preventing it from carrying out its duties in the most efficient, effective, and timely manner. The Superintendent, with the approval of the Board, may file an application for a waiver with the Secretary of Commerce.

The application shall, at a minimum, provide the official citation of the policy, rule or regulation for which waiver is sought. If there is no official citation, a copy of the policy or letter from which a waiver is sought shall be attached to the application. The Superintendent shall describe in sufficient detail the problem created by the policy, rule or regulation for which waiver is sought and describe in sufficient detail how the waiver will allow the Board to carry out its duties in the most cost efficient, effective and timely manner.

The Secretary of Commerce has no authority to grant waivers, but s/he will review all waiver requests and make recommendations to the Governor who must work cooperatively with the leadership in the House of Delegates and the Senate in addressing changes which need to be made to existing laws.  
**(WVC §7-23-3)**

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Adopted: October 24, 1994  
Amended/Revised: July 26, 1999; August 9, 2010

**PRESTON COUNTY BOARD OF EDUCATION**

**FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION**

**File: 1-14 Public Relations**

**Last Reviewed: 8-9-10**

**Next Review: 7-1-12**

In order to promote unity of purpose and understanding among members of the Board, to prevent individual members from being subjected to community pressures, and to promote an environment in which it may conduct business in an orderly fashion, the Board resolves to adopt the following rules for individual and collective conduct relative to school problems both in and out of Board meetings.

**R 1-14-1 Board Members’ Procedures for Responding to Public Inquiries**

It is recognized that from time to time members of the public may have legitimate or justifiable complaints for which they seek redress. Complaints should be made in writing and signed by the complainant. The school official receiving the complaint shall forward a copy to all employees involved. Although Board members welcome the opportunity to discuss schools with any citizen, the Board believes that problems are most easily solved by people most involved. Therefore, solutions to complaints or grievances should be sought first at the lowest possible level in the organization.

Proper procedures for Board of Education members when individuals or pressure groups contact a member individually shall be to:

- ❖ Listen to the problem with due respect for all;
- ❖ Inform the individuals or group that no official action can be taken except in a legally constituted meeting of the Board, therefore no promises can be made;
- ❖ Direct the party or parties to take the problem to the principal or Superintendent for a solution on the basis of policies of the Board; and
- ❖ If the contacting parties are trying to secure a position, promise them nothing but tell them to file an application with the Superintendent.

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**R 1-14-2 Complaints Regarding Employees**

Any complaints against any employee that arises within the membership of the Board or comes to the attention of the Board, except through the Superintendent, shall be referred to the Superintendent for action.

Thus, a citizen who has a complaint about or with an employee should first seek to resolve the dispute with the applicable employee. If the problem is not resolved, the complainant then should seek redress from the immediate supervisor of the employee or his/her designee, the Superintendent and the Board of Education, in that order.

Complainants who first seek action from the Board or Superintendent shall be directed to seek a solution to their problem from the applicable employee or principal before the Superintendent or Board shall enter the case, except when the complainant charges a violation of WVC §18A-2-8. Immediate supervisors who receive a complaint regarding possible violations WVC §18A-2-8 shall submit a written report of the existence of the complaint to the Superintendent and the employee involved in the complaint. The complainant's original written complaint against the employee shall also be forwarded to the Superintendent.

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### **R 1-14-3 Board-Superintendent Relationship**

The Superintendent is the professional who becomes the bridge between the Board and the staffs of the schools, the public, students, and other constituents. S/he must translate into action the people's desires and needs for public education as mandated by law and expressed by the school board. The Superintendency is a complex and sensitive leadership position that requires the confidence of the Board and the respect of subordinates.

The close working relationship and loyalty which the Superintendent owes the Board clearly sets him/her apart from the teachers, and to a degree, from other members of the administrative team. Although the working relationship between the Superintendent and the Board must be close and sometimes confidential, it is critically important for the cause of their common goals that both parties respect their proper roles and retain their identity on the management team.

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### **R 1-14-4 Appeals Procedures for Citizens**

In the event that a member of the public believes the Board or one of its agents has violated a state law or state or county board policies, a formal grievance procedure is provided through *State Board Policy 7211 - Appeals Procedure for Citizens*.

#### **Definitions**

- ❖ **Appeal**. An "appeal" is a claim by one or more citizens of a violation of State law or the policies of the State or County Board of Education. The written appeal will identify the specific State law or Policy which is claimed to be violated, and shall include as much information as possible to describe the alleged violation. The term "appeal" shall not apply to any situation where the Board is without authority to act or where the method of appeal is specifically established by law. Additionally, the term "appeal" shall not apply when a citizen has a personal complaint about a school employee. In those cases, *R 1-14-2 Complaints Regarding Employees* shall be followed.
- ❖ **Days**. Days shall mean the days the business office is open. Concerns related to a single school should be brought to the attention of the school principal during the school term.
- ❖ **State law**. State law shall mean the constitutional principles, statutory provisions, judicial law, and administrative law of the State of West Virginia.

- ❖ **Days.** Days shall mean the days the business office is open. Concerns related to a single school should be brought to the attention of the school principal during the school term.
- ❖ **State law.** State law shall mean the constitutional principles, statutory provisions, judicial law, and administrative law of the State of West Virginia.

### **Procedures**

- ❖ **Distribution of Appeals procedure.** Copies of the appeals procedure shall be accessible to citizens at the Office of the State Superintendent of Schools, the Office of the Preston County Board of Education, and each public school.
- ❖ **Appeal form.** Forms shall be available at the Office of the State Superintendent of Schools, the Office of the Preston County Board of Education, and each public school.
- ❖ **Filing of appeals.** The citizen making the written appeal shall provide as much information as possible at the time the appeal is filed; however, additional information may be presented at any level. Once an appeal has been filed, the claim itself may not be altered greatly in content or wording. If such changes are necessary, a new appeal should be filed.
- ❖ **Time limits.** The number of days indicated at each level shall be considered the maximum. A time limit may be extended by mutual agreement.
- ❖ **Meeting, public/private.** All meetings and hearings shall be conducted in private except that hearings before the Preston County Board of Education or the State Superintendent of Schools may be open at the request of either party. The hearing may be closed if the hearing officer feels that either party is discussing matters of a personal nature.
- ❖ **Representation.** The citizen filing the appeal may have the assistance of as many as three representatives at conferences and meetings held at Levels I and II. Not more than three persons may represent the administration at Levels I and II. At Levels III and IV, any number of representatives may be present. If either party is to be represented by legal counsel, sufficient advance notice must be given the other party.
- ❖ **Written decisions.** All decisions rendered shall be in writing, setting forth the decision and the reasons therefore. The decision shall be transmitted promptly to all parties.

### **Processing of appeals**

Citizens will first informally discuss their concerns with the proper administrator prior to filing a formal appeal under this procedure. If the matter cannot be resolved informally, the administrator shall provide the citizen with the proper appeal form.

#### **Level I**

A formal written appeal may be filed with the principal or school administrator by the citizen or by a group of citizens in behalf of themselves and all others so affected. The appeal shall be on the prescribed form and will be signed by all persons filing this appeal.

Should the administrator be without authority to act on the appeal, it may be filed directly with the Superintendent of Schools. If, however, the Superintendent feels that the appeal can be resolved at Level I, it will immediately be referred to the proper administrator.

A written decision by the Level I administrator shall be made within ten days after receipt of the appeal. Should either party request a conference at this level, the Level I administrator will have five additional days to provide the written decision. When the decision is not in favor of the citizens, a copy of the Level II appeal form shall be included with the decision.

### **Level II**

Within 15 days after receiving the decision of the Level I administrator the aggrieved citizens may appeal the decision in writing on the prescribed form to the Superintendent of Schools. Within ten days there shall be a conference with the citizens in an attempt to resolve the appeal. The Superintendent or his/her designee shall issue a written decision within 10 days following this conference. When the decision is not in favor of the citizens, a copy of the Level III appeal form shall be included with the decision.

### **Level III**

Within 15 days after receiving the decision of the Superintendent, the aggrieved citizens may appeal the decision in writing on the prescribed form to the Board. The appeal shall be transmitted to the Superintendent who shall, within three days, provide a copy to each member of the Board. Copies of all prior decisions and all other written materials related to the grievance also will be provided.

For an appeals hearing held before the Board, the usual and customary procedures for administrative hearings will prevail, including proper notice of the hearing, the opportunity to be represented by counsel, the opportunity to present evidence and testimony, the opportunity to call witnesses, and the opportunity to cross-examine adverse witnesses. Either party may provide a court recorder.

When a hearing is held the decision of the Board will be made by a majority vote of those members participating in the hearing and shall rest solely upon the evidence properly presented at the hearing.

The Board shall render a decision within 25 days following receipt of the Level III appeal. The Board may affirm, modify, or reverse the Level II decision and require such remedial actions, as it deems necessary. When the decision is not in favor of the citizens, a copy of the Level IV appeal form shall be included with the decision.

### **Level IV**

If the aggrieved citizens are not satisfied with the decision of the Board, the decision may be appealed to the State Superintendent of Schools. The appeal shall be submitted to within 30 days of receiving the decision of the Preston County Board of Education.

***NOTE: An appeal cannot be heard at Level IV if a specific violation of state law or policy, rule or regulation of the State Board of Education has not been identified at Level I. Alleged violations of county policies will not be heard.***

At the request of party, the State Superintendent or a designated hearing officer appointed by the State Superintendent shall conduct a hearing if the appeal contains a hearable issue for which relief may be granted.

Both the citizens and representatives of the Preston County Board of Education shall be permitted to appear before the State Superintendent of Schools. The hearing shall be conducted in accord with the rules governing administrative hearings and shall be held at a place designated by the State Superintendent of Schools. Upon agreement of the parties, the State Superintendent, or his/her designated Department of Education employees may visit Preston County to secure additional facts and information.

The decision of the State Superintendent of Schools shall be issued within 30 days of receipt of the appeal by the impartial review officer. The decision shall be final unless altered or set aside by a court of competent jurisdiction. The decision of the State Superintendent may be appealed to the appropriate court of review.

**(SBP 7211)**

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Adopted: August 9, 2010  
Amended/Revised:

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| <b>PRESTON COUNTY BOARD OF EDUCATION</b><br><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br><b>File: 1-15 Board/Staff Communications</b> | <b>Last Reviewed: 8-9-10</b><br><b>Next Review: 7-1-12</b> |
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The intent of this section is that the Board and its members shall deal only with the Superintendent with respect to all matters for which s/he is responsible. All reports and recommendations to the Board from any officer or employee under the direction and supervision of the Superintendent shall be made through the office of the Superintendent except when otherwise specifically directed by the Board. All Board directives requiring or authorizing an action by an officer or employee or requiring any report shall be directed to the Superintendent.

This shall not preclude Board members from communicating with various staff members in areas for which they have been delegated the authority. Informal communication outside the context of Board meetings between staff and Board members will remain confidential. Recommendations made by staff members should be processed through administrative channels to the Board.

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Adopted: August 9, 1999  
Amended/Revised:

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| <b>PRESTON COUNTY BOARD OF EDUCATION</b><br><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br><b>File: 1-16 Board Attorney</b> | <b>Last Reviewed: 8-9-10</b><br><b>Next Review: 7-1-12</b> |
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The Prosecuting Attorney is required by law to advise, attend to, bring, prosecute, or defend, as the case may be, all matters, actions, suits, and proceedings in which the Board of Education is interested. He does not receive additional compensation for services provided the county Board of Education.

While the Prosecuting Attorney is by law the Board's primary attorney, the Board realizes that the need will arise from time to time for the Board to employ outside legal services in highly specialized fields such as bonding, constitutional law, school law or labor law. The Board also acknowledges that the Prosecuting Attorney's duties may be such that s/he may not be available to handle its routine legal matters. Therefore, the Board may exercise its discretion to retain an additional attorney or attorneys for legal counsel as the need may arise.

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Adopted: January 24, 1983  
Amended/Revised:

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| <b>PRESTON COUNTY BOARD OF EDUCATION</b><br><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br><b>File: 1-17 Recordings of Board Meetings</b> | <b>Last Reviewed: 8-9-10</b><br><b>Next Review: 7-1-12</b> |
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All meetings of the Preston County Board of Education, except executive sessions, shall be recorded electronically; and the recordings shall be kept in a safe place at least two years. These recordings will be available for review during the regular hours of the Board Office, and copies of the recordings shall be supplied to the public for the cost of the materials and labor required.

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Adopted: January 24, 1983  
Amended/Revised:

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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b><br/> <b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br/> <b>File: 1-18 School Board Public Records</b></p> | <p><b>Last Reviewed: 8-9-10</b><br/> <b>Next Review: 7-1-12</b></p> |
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Boards of education are quasi-municipal corporations carrying out the State delegated function of supervising educational matters at the local level. Their business is inherently public, and subsequently their records are public records. Any person has the right to inspect or copy any public record produced or retained on file by the Board.

**Procedures for Requesting Public Records**

A request to inspect any school district public record shall be made directly to the Superintendent of Schools who functions as the custodian of the school district records. The Superintendent shall provide proper and reasonable opportunities to inspect the records during normal working hours. The Superintendent shall see that the records are not removed from the Board Offices and that they are handled in such a manner so as not to become damaged, destroyed, defaced or lost.

Upon receipt of a written request to inspect specific public records the Superintendent shall within five days exclusive of Saturday, Sunday:

- ❖ Furnish copies of the requested information; or
- ❖ Advise the person making the request of the time and place at which s/he may inspect and copy the materials; or
- ❖ Deny the request stating in writing the reasons for such denial.

The cost per copy to a person requesting public records shall be sufficient to cover the cost of duplicating the records requested including the personnel cost involved in making the copies. The cost of the materials for making hard copies shall be .40 (cents) per copy. If the records requested exist in magnetic, electronic or computer form, the Superintendent shall provide copies of the records in these formats if requested. The cost of producing this type of record shall include the personnel and material costs.

Organizations that exist to support school programs such as the P.T.O. or booster groups shall be exempt from the charge for making copies when those copies are directly related to an ongoing school project.

The following categories of information are specifically exempt from disclosure under provisions of this policy:

- ❖ Information of a personal nature such as that kept in a personnel, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance: Provided, that nothing in this article shall be construed as precluding an individual from inspecting or copying his/her own personnel, medical or similar file;
- ❖ Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination;
- ❖ Information specifically exempted from disclosure by statute;

- ❖ Internal memoranda or letters received or prepared by any public body; and/or
- ❖ Information that may be related to the prevention of terrorist acts and other school security issues.

Any person denied the right to inspect the public records of the Board of Education may institute proceedings for injunctive or declaratory relief in the Preston County Circuit Court.  
**(WVC §29B-1-1 through §29B-1-6)**

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Adopted: August 9, 2010  
Amended/Revised:

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| <b>PRESTON COUNTY BOARD OF EDUCATION</b><br><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br><b>File: 1-19 School Board Association Membership</b> | <b>Last Reviewed: 8-9-10</b><br><b>Next Review: 7-1-12</b> |
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While membership in school board associations is deemed desirable, it must be executed by a majority vote of the County Board of Education. When so voted, the Board may join the West Virginia School Boards Association and the National School Boards Association, and may pay such dues as may be prescribed by the above named associations and approved by the Preston County Board of Education.

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Adopted: August 9, 2010  
Amended/Revised:

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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b></p> <p><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b></p> <p><b>File: 1-20 Authorizing the use of Electronic Signature and Electronic Postmarks</b></p> | <p><b>Last Reviewed: 8-9-10</b></p> <p><b>Next Review: 7-1-12</b></p> |
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The Preston County Board of Education may, by appropriate official action, authorize the acceptance of electronic signatures in lieu of original signatures on messages or filings requiring one or more original signatures, subject to the requirements and limitations of WVC §39A-3-2. The Board may also elect to use authorize electronic postmarks.

If the Board elects to participate in and utilize the Secretary of State’s digital signature authority and registry, its electronic transactions are bound to the regulation of the authority and registry and the rules promulgated there under. The Board is not required to participate, but if it elects to participate, it may withdraw from the program at any time upon the notification of the Secretary of State and all others who utilize that entity’s digital signature program.

The Board may adopt, in the manner provided by law, official policy designating the documents on which electronic signatures, electronic postmarks or both are authorized and the type or types of electronic signatures which may be accepted for each type of document. The Board must give at least 30 day’s public notice of the proposed policy to use electronic signatures and postmarks.

In the event the Board intends to extend, modify or revoke the authority to accept electronic signatures, it shall do so by the same means and with the same notice as required for adoption.

**Definitions:**

- ❖ Certificate" means a computer-based record that:
  - Identifies the certification authority issuing it;
  - Names or identifies its subscriber;
  - Contains the subscriber’s public key; and
  - Is digitally signed by the certification authority issuing it.
- ❖ "Certification authority" means a person who issues a certificate.
- ❖ "Digital mark" consists of an electronic code indicating approval or confirmation which is entered into protected digital record following access protocols which identify the user and require a password, personal identification number, encrypted card or other security device which restricts access to one or more authorized individuals.
- ❖ "Digital signature" consists of a message transformed using an asymmetric cryptosystem so that a person having the initial message and the signer’s public key can accurately determine:
  - Whether the transformed message was created using the private key that corresponds to the signer’s public key; and
  - Whether the initial message has been altered since the message was transformed.

- ❖ "Electronic postmark" means an electronic service provided by the United States Postal Service that provides evidentiary proof that an electronic document existed in a certain form at a certain time and that an electronic document was opened or the contents of the electronic document were displayed at a time and date documented by the United States Post Office.
- ❖ "Federal certificate authority and repository program" means an official program established by an agency of the United States government for the issuance and authentication of digital signature certificates or other secure electronic authorizations to individuals for use in electronic transactions.  
(WVC §39A-31; §39A-3-2; §39A-3-3)

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Adopted: August 9, 2010  
Amended/Revised:

**PRESTON COUNTY BOARD OF EDUCATION****FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION****File: 1-21 Board of Education Student Advisor Position****Last Reviewed: 8-9-10****Next Review: 7-1-12**

The opinions and concerns of the students of the Preston County Schools are important to the Board. To increase Board awareness of the views of students, the Board of Education shall have a student representative. The student representative is not a member of the School Board but serves in a nonvoting, advisory capacity, representing the interests of the students of Preston County as authorized by WVC§18-5-14.

**Reasons for this Position:**

- ❖ Students will benefit from direct representation;
- ❖ Students will be provided an opportunity to experience actual, legal policymaking firsthand;
- ❖ Students will have an increased knowledge of local government systems;
- ❖ It teaches students that local government is often the level that has the most impact on daily lives;
- ❖ Students will learn the process that goes into improving education, thus encouraging further interaction between the community and the school board;
- ❖ By creating a direct dialogue between the student body of Preston County and the school board, parents and students will be better informed of important school policy decisions;
- ❖ School administrators will have a source of regular comprehensive feedback from the students affected by their policies.
- ❖ School board members are not as involved in all of the issues that face students every day, unlike students who sit in class for nearly 8 hours a day.
- ❖ Students often feel more comfortable sharing personal information with other students than with adults they may not know.

**Requirements and Responsibilities:**

The student representative shall:

- ❖ Be a resident of Preston County and a student in Preston High School;
- ❖ Be enrolled as a junior or senior at the start of the school year that the student is to serve;
- ❖ Be elected by the members of the Student Advisory Group on Education;
- ❖ Be known as the student representative to the School Board and not as a member of the Board;
- ❖ Begin service on July 1st of the year of his or her election through June 30th of the next calendar year or through the student's graduation date, whichever comes first;
- ❖ Respect and exhibit the integrity and ethical conduct representative of a School Board official in good standing;
- ❖ Serve as a liaison to the middle and high school groups;

- ❖ Attend a School Board orientation session developed by the Superintendent;
- ❖ Receive materials distributed to School Board members, with the exception of materials relating to individual students, individual employees, and other confidential matters exempt from disclosure by law;
- ❖ Receive services and support from the School Board office and staff members, with the prior approval of the School Board President or Superintendent;
- ❖ Be reimbursed for all expenses incurred while on School Board business, with the prior approval of the School Board President or Superintendent but will not be compensated for Board service;
- ❖ Sit with Board members at the Board table;
- ❖ Participate in Board discussion;
- ❖ Be eligible to propose resolutions for consideration. (The introduction of motions and formal resolutions is restricted to members of the Board.)

**Selection Process:**

The student representative to the School Board shall be elected by May 30th of the preceding school year that the student is to serve. The process will begin on February 15th with widespread publicity regarding the Board representative opportunity and through the availability of applications to be completed by interested rising juniors and seniors.

The high school principal, or his/her designee, will select a panel of not less than nine students (representative of each grade level, the school leadership, range of extracurricular activities, and school demographics) to review the applications from the interested students in their school based on the following criteria: minimum grade point average (2.5), attendance record, student conduct, evidence of leadership, and extracurricular and community activities. The students who meet the criteria will be given the opportunity to present a speech to their school panel on why they would like to serve as the student representative on the School Board followed by a question and answer session. Members of the school panel will then elect a representative to fill the seat on the School Board no later than April 15.

The student elected to be the student representative shall serve on the Board for the next school year beginning July 1 and continuing through June 30 of the following year or through the elected student's graduation date, which ever comes first.

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Adopted: August 9, 2010  
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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b></p> <p><b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b></p> <p><b>File: 1-22 Requests for the Waiver of State Board of Education Policies and Regulations</b></p> | <p><b>Last Reviewed: 8-9-10</b></p> <p><b>Next Review: 7-1-12</b></p> |
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The purpose of this Policy is to establish a mechanism, which allows local school level initiatives to be designed and implemented to meet local school needs and circumstances. The Local School Improvement Council, as established by West Virginia Code, may propose alternatives to the operation of the local school providing those alternatives will meet or exceed the high quality standards established by the State Board and will increase administrative efficiency, enhance the delivery of instructional programs, promote community involvement in the local school system or improve the educational performance of the school in general.

An Innovation Zone may also request exception for any state or county policy, rule, statute, or interpretation except from an assessment program administered by the West Virginia Department of Education; any provision of law or policy required by the No Child Left Behind Act of 2001, Public Law No. 107-110 or other federal law; W.Va. Code §§18A-2-7; 18A-4-7A, 18A-4-7B, 18A-4-8 and 18A-4-8B, except as provided in W.Va. Code §18-5B-8 described in §126-75-5 of this rule; or any other information the state board requires. Additional information regarding Innovation Zones may be found in *File: 3-36 School Innovation Zones*.

**Procedures for Requesting the Waiver of Policies and Regulation**

All waiver requests must be based upon a proposed alternative to the standard operation of the school for one of the following purposes: increased efficiency, enhanced delivery of instructional programs, increased community involvement, and/or improved educational performance. The procedural steps for requesting waivers are described below.

- ❖ Procedures for requesting waivers to Board of Education Policies and Regulations:
  - Faculty Senates may request waivers by completing a Waiver Request/Notification Form that must be approved by the School Improvement Council prior to submission to the County Board of Education;
  - School Improvement Councils may request waivers to any county policy or regulation by completing a Waiver Request/Notification Form, submitting the original to the County Board of Education, and sending a copy to their School Principal and Faculty Senate Chairperson; and
  - Any proposed alternative program and related waiver must be approved by at least two-thirds vote of the council members. In those cases where the requested waiver affects employees, a majority of the affected employees at the school must agree prior to proposing the alternative or requesting a waiver.
- ❖ Requests for waivers shall be carefully reviewed by the Preston Board of Education which shall have the prerogative to:
  - Request any and all additional information and documentation it may deem necessary in order to render a decision as to the granting of such waiver;

- Request a meeting between the petitioning group and the Board of Education to secure additional information; and
- Request an impact study to be conducted by the office of the Superintendent and recommendations as to the outcomes of such waiver request.
- ❖ Requests for waivers may be reviewed at any time. However, in preserving the best interest of consistent county operations, the Board shall reserve the right to consider all requests on a bi-yearly basis. Approval of requests will usually be implemented during the next immediate full school year, and/or prior to the beginning of the next school semester.
- ❖ Submissions for waivers must be received at least 90 days prior to the expected date of implementation. Decisions shall be made within 30 days of the expected implementation date.  
(WVC §18-5A-3)

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Adopted: August 9, 2010  
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| <p><b>PRESTON COUNTY BOARD OF EDUCATION</b><br/> <b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b><br/> <b>File: 1-23 Endnotes</b></p> | <p><b>Last Reviewed: 8-9-10</b><br/> <b>Next Review: 7-1-12</b></p> |
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**ENDNOTES**

**File: 1 -- School Board Bylaws and Organization**

**West Virginia Constitution:**

**Article XII, Section 1.2** – Places the general supervision of the free schools of the state in the hands of the West Virginia Board of Education.

**Article IV** – Provision for removal of officials for misconduct, incompetence, and other defined reasons.

**West Virginia Codes:**

| <b><u>Code</u></b>       | <b><u>Topic of the Code</u></b>   |
|--------------------------|---|
| § 3-5-6-----             | Election of county board of education members at primary elections.   |
| § 3-5-7-----             | Filing announcements of candidacy.  |
| § 6-9A-1 thru 6-9A-6--   | Open governmental proceedings.  |
| § 6-9A-3-----            | Proceedings to be open; public notice of meetings.  |
| § 6-9A-5-----            | Minutes of board meetings.  |
| § 6-9A-11-----           | Request for advisor opinions from the Ethics Committee.   |
| § 7-4-1-----             | Duties of prosecuting attorney; further duties upon request of attorney general.  |
| § 7-23-2-----            | Flexibility for county commissions, municipalities and county boards of education.  |
| § 11-8-9-----            | Meetings of local levying bodies.   |
| § 11-8-26-----           | Unlawful expenditures by local fiscal body.   |
| § 11-8-29-----           | Personal liability of officials participating in unlawful expenditure.  |
| § 11-8-30-----           | Recovery of unlawful expenditure from participating official by action; costs.  |
| § 11-8-31a-----          | Recovery of attorneys’ fees authorized  |
| § 11-8-9-----            | Meetings of local levying bodies.   |
| § 11-8-12a-----          | Adjourned session of board of education to hear objections to proposed levies.  |
| § 18-2-1-----            | Creation; composition; appointment, qualification, terms and removal of members; offices.   |
| § 18-2-26-----           | Establishment of RESA’s   |
| § 18-2E-8b-----          | Audit of state board policies; legislative oversight commission; required plan of improvement; exemptions from determination of accreditation status. |
| § 18-4-10-----           | Duties of county superintendent.  |
| § 18-5-1 thru 18-5-39 -- | Supervision and control of county school districts; number, nomination and election of members; general powers and duties.                            |
| § 18-5-1a-----           | Eligibility of county board members.  |
| § 18-5-1b-----           | Election; term of office.   |
| § 18-5-1c-----           | County boards of education; training in prevention of child abuse and neglect and child assault; regulations; funding.                                |
| § 18-5-2-----            | Filling vacancies.  |

- § 18-5-3 ----- Oath of members.
- § 18-5-4 ----- Meetings; employment and assignment of teachers; budget hearing; compensation of members; affiliation with state and national associations.
- § 18-5-5 ----- Corporate character and general powers of board; exemption of school property from legal process and taxes.
- § 18-5-6 ----- Validation of titles to land in possession of board.
- § 18-5-7 ----- Sale of property at public auction; rights of grantor of lands in rural communities; oil and gas leases; disposition of proceeds.
- § 18-5-10 ----- Approval by state board of plans and specifications for buildings.
- § 18-5-13 ----- Authority of boards generally.
- § 18-5-14 ----- Policies to promote school board effectiveness.
- § 18-5-25 ----- Duties of superintendent as secretary of board.
- § 18-5-39 ----- Establishment of summer school programs; tuition.
- § 18-5A-2 ----- Local school improvement councils; election.
- § 18-5A-3 ----- Authority of the LSIC to request waivers.
- § 18-5A-5 ----- Public school faculty senates established; election of officers; powers and duties.
- § 18-9-6 ----- Transfer of monies; appointment of treasurer; bonding of treasurer; approval of bank accounts; authority to invest; security for funds invested.
- § 18A-2-12a ----- Minimizing disagreements and misunderstandings between the board and its employees.
- § 29-12-5a ----- Liability insurance for county boards of education, their employees and members the county superintendent of schools, and for employees and officers of the state department of corrections.
- § 29B-1-1 thru 29B-1-7 ----- Freedom of information regarding public records
- § 39A-3-1; §39A-3-2;
- § 39A-3-2 ----- Electronic signatures and electronic postmarks.
- § 55-7-18a ----- Qualified immunity for disclosing adverse job-related employee information.
- § 61-5A-2 ----- Definitions of bribery and corrupt practices.
- § 61-5A-3 ----- Bribery in official and political matters.
- § 61-5A-9 ----- Penalties; disqualification to hold office; statute of limitations for misdemeanor offenses.
- § 61-10-15 ----- Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.

**State Board Policies:**

| <b><u>Policy</u></b> | <b><u>Topic of the Policy</u></b>   |
|----------------------|---|
| SBP 2320 -----       | Performance Based Accreditation System.   |
| SBP 2445.40 -----    | Groupings for Textbook Adoption for Early Childhood Education, Middle Childhood Education, and Adolescent Education |
| SBP 2510 -----       | Assuring Quality of Education: Regulations for Education Programs   |
| SBP 3232 -----       | Establishment Procedures and Operating Policies for Multi-county Career and Technical Education Centers             |
| SBP 7211 -----       | Appeals Procedure for Citizens  |

### Relevant Court Cases:

**B.O.E. County of Taylor v. B.O.E. County of Marion, 578 S.E.2d 376 (2003)** – A county may unilaterally establish bus stops within another county to provide transportation for students who have received proper authorization from both county school boards to attend school in the county providing the transportation.

**Longwell v. B.O.E of Marshall County, 583 S.E.2d 109 (2003)** –When a county is in need of legal services, it may exercise its own discretion in determining whether to utilize the services of the county prosecuting attorney or to hire its own legal counsel.

**McComas v. Board of Education, 475 S.E.2d 280 (1996)** – All meetings of any governing body must be open to the public. The plaintiff does not have to show intent to violate the code in order to show a violation has occurred. Another important aspect of this case is that it established that a board of education has the authority to close and/or consolidate schools, and the courts may not interfere with the decisions of the board without strong evidence justifying such interference.

**Pell v. Board of Education, 426 S.E.2d 510 (1992)** – Decisions of county boards of education concerning closings and consolidations may be rejected when they fail to comply with statutory provisions and state board regulations.

**Adkins v. Smith, 408 S.E.2d 60 (1991)** – Candidates for the board of education must meet residency requirements at the time they file for candidacy.

**Bowers v. Bowyer, 310 S.E.2d 474 (1989)** – The state superintendent of schools may review a decision by a county board of education on appeal by an employee.

**Ohio Valley Contractors v. Board of Education, 293 S.E.2d 437 (1982)** – Local boards of education do not have state constitutional immunity or common-law governmental immunity from suit.

**Hall v. Pizzino, 263 S.E.2d 886 (1980)** – County superintendents are not merely subject to the control of the board of education, but exercise a multitude of powers and duties independent of the board.

**Pinson v. Varney, 96 S.E.2d 72 (1956)** – Upholds the legislation that calls for the election of board members on the same date as primary elections.

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