WEST VIRGINIA CODE CHAPTER 18 ARTICLE 9E

WV Legislature

§18-9E-1. Short title.

This article is titled and may be cited as the "Air Quality in New Schools Act of 1998."

WV Legislature

§18-9E-2. Definitions.

For the purposes of this article, "new school building" means any public school in the state for which design and construction begin after January 1, 1998, for the education of students in grades kindergarten through twelfth.

WV Legislature

§18-9E-3. Air quality in new schools.

(a) In an effort to create well-ventilated school environments and notwithstanding any other provision of this code to the contrary, any new school building designed and constructed in the state by a county board, regardless of the funding source, shall be designed and constructed in compliance with the current standards of the American society of heating, refrigerating and air conditioning engineers handbook (ASHRAE), the national fire protection association code (NFPA) and the code of the building officials and code administrators (BOCA).

(b) Upon notice from the School Building Authority that a new public school building is occupied, the division of health shall perform radon testing in the school within the first year after occupancy and at least every five years thereafter. The county board shall provide any reasonable assistance to the division of health that is necessary to perform the radon testing. The radon testing shall include all major student-occupied areas at or below grade level. If it is determined that radon is present in amounts greater than the amount determined to be acceptable by the rules promulgated by the School Building Authority, pursuant to subsection (d) of this section, any industry accepted mitigation technique shall be used to reduce the radon level to the level or below the level determined acceptable by the School Building Authority.

(c) If the School Building Authority determines that it is feasible to test for radon prior to the construction of a school building, the School Building Authority may cause preconstruction site testing for radon to be performed.

(d) The School Building Authority shall promulgate rules pursuant to article three-a, chapter twenty-nine-a of this code to ensure that any new school building designed after the effective date of this article is designed and constructed in accordance with the current ASHRAE, NFPA and BOCA standards. The School Building Authority shall promulgate rules, pursuant to article three-a, chapter twenty-nine-a of this code, that establish standards for safe levels of radon for public school buildings. The rules shall include the requirement that county boards submit all new school designs to the School Building Authority for review and approval for compliance with current education standards and design efficiencies prior to preparation of final bid documents.

(e) On or before July 1, 2002, the School Building Authority shall promulgate rules to establish a process for independent testing, adjusting and balancing (TABS) heating, ventilation and air conditioning (HVAC) systems in new school buildings or renovated schools when the HVAC system has been replaced prior to occupancy. The process shall be consistent with current ASHRAE standards and shall include, but not be limited to, the following:

(1) Requiring HVAC designers to be professional engineers registered in this state in the specific discipline associated with the system being designed;

WV Legislature

(2) Requiring a process to ensure that the HVAC system has been installed in the prescribed manner and will operate within the performance guidelines as designed;

(3) Requiring participation of the design engineer who designed the system to verify the intent of the design;

(4) Requiring the TAB agent to be qualified to perform the desired services and perform testing and balancing procedures, or qualified to perform other School Building Authority-approved certification according to the procedures contained in the associated air balance council (AABC) national standards, the national environmental balancing bureau (NEBB) procedural standards and the environment engineering consultants (EEC) standards for testing, adjusting and balancing of environmental systems;

(5) Requiring that the independent TAB agent directly represent the building owner and is under contract with the building owner and paid from project funds;

(6) Requiring that sufficient documentation is provided to the owner to facilitate control and maintenance of the systems in accordance with the manufacturer's requirements;

(7) Requiring that sufficient training is provided by the equipment manufacturer or an agent of the manufacturer to those persons who will operate and maintain the systems prior to occupation of the facility, including at least one full day follow-up training between six and eight months after the facility has been occupied; and

(8) Requiring certification upon successful completion of the TAB process by the independent TAB agent.

(f) To ensure proper maintenance and operation of new and replacement HVAC equipment, the Department of Education, using existing staff, shall provide county maintenance personnel additional training on the equipment and its controls at the site of the installation. The training shall occur within one year after student occupation of any new school facility or at any existing school facility where the HVAC system has been replaced or generally rehabilitated. Additionally, the Department of Education's facility staff shall provide on-site training to the county maintenance staff on the county's HVAC equipment at any facility that has been determined to have problematic indoor air quality as identified through the complaint procedure set forth in state board policy 6202.

(g) Upon completion of the required training, the Department of Education's facility staff shall provide the county board a report summarizing the training that was completed and a plan for continuing education of the county's HVAC staff. If sufficient staff is not available to the county to perform maintenance on HVAC systems, the Department of Education's staff shall assist the county in the development of an immediate and long range maintenance plan to ensure that HVAC systems are maintained and operated according to the manufacturer's recommendations.

WVLegislature

(h) Beginning July 1, 2002, and every three months thereafter, the Department of Education shall forward to the School Building Authority copies of any complaints received by the Department of Education of indoor air quality problems which require system repair or replacement and are identified through the complaint procedure established in state board policy 6202.

(i) The state board shall promulgate rules, pursuant to article three-b, chapter twenty-nine-a of this code, in consultation with the division of health, that authorize the use of any appropriate floor covering in public school buildings, based on user needs and performance specifications.

WV Legislature

§18-9E-4. Heating, ventilation, and air-conditioning technicians.

(a) Subject to appropriation by the Legislature therefor, the state board, in consultation with the division of health, shall promulgate rules pursuant to article three-b, chapter twenty-nine-a of this code that will address servicing public school buildings by heating, ventilation and air-conditioning (HVAC) technicians. The rules shall set forth a job description for the HVAC technician. At the discretion of the state board, HVAC technicians may be employed by the county board of education, by the regional educational service agency servicing the county or by the Department of Education using the funds allocated pursuant to this section. The hiring entity shall set a salary for the HVAC technician that is competitive with other employers of HVAC technicians in the region after accounting for annual leave, sick leave, insurance benefits, retirement benefits and any other benefits provided. Existing employees who have advanced HVAC skills or existing employees who receive appropriate HVAC training may be utilized as HVAC technicians. The rules also shall provide for sufficient continuing education training for HVAC technicians to maintain proficiency in the changing technologies in the field. The rules shall be submitted to the Legislative Oversight commission on educational accountability prior to September 1, 1999.

(b) County boards, regional educational service agencies and the Department of Education shall have the option to contract for HVAC services from prequalified vendors if this option is more cost effective than using existing employees or creating a new position: Provided, That an existing employee may not be displaced by contracting for HVAC technician services: Provided, however, That HVAC services that have been performed in the past or which require knowledge and experience the employer does not have access to, may be contracted out to a prequalified vendor.

(c) Funds appropriated for the purpose of hiring HVAC technicians shall be appropriated originally to the Department of Education. The Department of Education then may allocate the funds to the regional educational service agencies or to the counties, depending upon which entity employs the HVAC technician as specified by rule.

WV Legislature

§18-9E-5. Investigation of indoor air quality complaints in existing schools and schools subsequently constructed.

(a) The state board, in consultation with the division of health, shall promulgate rules pursuant to article three-b, chapter twenty-nine-a of this code which require each county board to investigate all reports of indoor air quality problems within the county. The rules shall set forth a designated official or officials within the county school system to be responsible for addressing, pursuant to this section, any indoor air quality complaints. The rules also shall set forth a procedure for any party to file a complaint with the designated official or officials. Any indoor air quality complaint found to be valid by the designated official or officials shall be addressed by forming a plan of correction. Any county board that addresses an indoor air quality complaint is encouraged to seek any available assistance from local, state and federal agencies in both investigating the complaint and in forming the plan of correction. A county board shall consider any documented plans of closure of a school building when forming any plan of correction for that school building. The rules shall be submitted to the Legislative Oversight commission on education accountability prior to September 1, 1999. Additionally, the rules shall set an appropriate cost for a plan of correction over which all such plans of correction shall be reported to the Legislative Oversight commission on education accountability. Based upon the Legislative Oversight commission on education accountability's experience in receiving the complaints, the commission shall submit a recommendation for funding the plans of correction.

(b) Furthermore, each plan of correction shall be incorporated into each county board's ten-year county-wide major improvement plan set forth in section sixteen, article nine-d of this chapter. Also pursuant to section sixteen, article nine-d of this chapter, the state board may restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the Legislature for those purposes set forth in section nine, article nine-a of this chapter: Provided, That nothing in this subsection shall be interpreted as requiring that a county board make addressing an air quality complaint a priority over other projects in the county board's ten-year county-wide major improvement plan.

www.legislature.wv.gov