

**IN THE CIRCUIT COURT OF PUTNAM COUNTY, WEST VIRGINIA**

**WILLIAM B. HARTMAN,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO: \_\_\_\_\_**

**JUDGE: \_\_\_\_\_**

**PUTNAM COUNTY BOARD OF EDUCATION,**

**Defendant.**

**COMPLAINT**

NOW COMES the Plaintiff, William B. Hartman, and for cause of action against the Defendant, hereby avers the following:

1. This is a proceeding pursuant to Chapter 6, Article 9A of the West Virginia Code commonly referred to as the "Open Governmental Proceedings Act" ("the Act").

2. The Plaintiff is a citizen and resident of Putnam County, West Virginia and has been so during all times relevant hereto.

3. The Defendant is a county board of education which supervises and controls the Putnam County, West Virginia school district.

4. The Defendant is a public agency authorized by law to exercise some portion of executive or legislative power.

5. The governing body of the Defendant is composed of five members, nominated and elected by the voters of Putnam County, West Virginia.

6. The five members who compose the governing body of the Defendant are Bruce Knell, sworn to office on July 1, 2016; Sam Sentelle, sworn to office on July 1, 2016; R. Calvin

Damron, sworn to office on July 1, 2018; G. Robert Cunningham, sworn to office July 1, 2014; and Wade Neal, sworn to office on July 1, 2018.

7. A majority of the members of the Defendant constitute a quorum necessary for the transaction of official business.

8. In accordance with the Act, the Defendant exists for the singular purpose of representing citizens of Putnam County, West Virginia in governmental affairs, and it is, therefore, in the best interests of the people of Putnam County for the proceedings of public agencies to be conducted openly, with only a few clearly defined exceptions. Further, the citizens of this state do not yield their sovereignty to the governmental agencies that serve them. The people in delegating authority do not give their public servants the right to decide what is good for them to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments of government created by them. 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. Public access to information promotes attendance at meetings, improves planning of meetings, and encourages more thorough preparation and complete discussion of issues by participating officials. The government also benefits from openness because better preparation and public input allow government agencies to gauge public preferences accurately and thereby tailor their actions and policies more closely to public needs. Public confidence and understanding ease potential resistance to government programs. Accordingly, the benefits of openness inure to both the public affected by governmental decision-making and the decision makers themselves. W.Va. Code § 6-9A-1.

9. During the regular session of the 2019 West Virginia state legislature, a bill was introduced commonly referred to as the "Omnibus Education Bill" which was subject to vigorous debate and openly opposed by labor organizations representing public school teachers and service personnel.

10. Regardless of the position of labor organizations referenced hereinabove, a large number of Putnam County public school teachers, service personnel, parents and concerned

citizens opposed the Omnibus Education Bill (“the Bill”) and sought passage of a resolution by the Defendant which expressed opposition to the Bill.

11. The Defendant conducted a regularly scheduled open board meeting on Monday, February 18, 2019 where many in the audience expressed concern over the Defendant’s refusal to pass the resolution referenced hereinabove. Board member Cunningham spoke at length expressing policy considerations and personal opinions about the Bill and the proposed resolution before the Defendant adjourned the meeting without a public vote or debate between the members of the governing body regarding this matter of great public concern.

12. On February 18, 2019, the labor organizations and their members decided to conduct a work stoppage effective February 19, 2019 for the purpose of demonstrating opposition to the Bill.

13. The Defendant was aware of the imminent work stoppage as early as 6:36 p.m. and prior to the board meeting on February 18, 2019.

14. Prior to the start of the public school day on February 19, 2019, every county school district in the state of West Virginia decided to close their public schools but for the Defendant. The county school districts which closed schools cited insufficient personnel to safely transport, supervise and provide other basic services to students.

15. The work stoppage continued through February 20, 2019 and, again, every county school district in the state of West Virginia decided to close their public schools but for the Defendant.

16. The decision to keep the Putnam County public school district “open” was a largely political decision to demonstrate the Defendant’s opposition to the labor organizations. (See texts between politician State Senator Eric Tarr and Putnam County Schools Superintendent Hudson. Also, the phone log demonstrating a call between Senator Tarr and Superintendent Hudson on February 19, 2019 at 7:12 a.m. attached hereto collectively as Exhibit 1.)

17. The Defendant conducted a meeting or meetings in order to make a decision or deliberate toward a decision on the matter of keeping schools “open” on both February 19 and February 20, 2019.

18. Because the matter was of great public concern and there was not a public meeting held to address the issue, media organizations and concerned citizens attempted to pose questions or otherwise investigate why the Defendant made the decision to keep schools “open” during the work stoppage when the Defendant knew it would have inadequate personnel to operate a proper instructional school day.

19. On February 22, 2019, the Superintendent of the Defendant participated in an interview on a statewide radio broadcast hosted by Hoppy Kercheval on WVMetronews which included the following colloquy:

Kercheval: Obvious question is when 54 superintendents decided to close, you decided to try to have school, what was your rationale?

Hudson: Well first of all Hoppy, um let me say that **we** believed and I believed um and **in consultation with our board and the majority of our board** that **we** have an obligation to uphold the rule of law which is actually that work stoppages are not permitted under West Virginia law and **we** think **we** have that obligation to our students um it is a decision that was not entered into lightly but one that **we** felt was for the best decision for Putnam County Schools and the students we serve.

20. On March 18, 2019, board member Wade Neal provided a short statement to a WCHSTV news reporter as follows:

Reporter: Why did you stay open this year but close last year, was that a school board decision?

Neal: We didn’t get to vote on it that, that was the superintendent call.

Reporter: **So, it was purely just the superintendent’s call? No others?**

Neal: **We had conversation amongst ourselves and the biggest point that was made out was the strike was illegal.**

Reporter: But last year the school district decided to close?

Neal: I wasn’t a member then.

21. In a text conversation between board members Cunningham, Neal, Knell and assistant superintendent of the Defendant, Brad Hodges, which took place on February 14, 2019, the quorum of board members discussed the proposed resolution and a potential work stoppage. This text conversation included a text from Knell stating “We are together with Rob, boys they will anything lying to cover there lack of support[.]” (See text conversation attached hereto as Exhibit 2.)

22. On February 18, 2019, beginning at 8:56 p.m., a text conversation between board members Neal, Cunningham, Knell, Damron, Brad Hodges and John Hudson occurred regarding, in part, whether to close school for the work stoppage. (See text conversation attached hereto as Exhibit 3.)

23. State Superintendent of Schools Steven L. Paine, Ed.D. issued a memorandum to all county school superintendents regarding “Work Stoppages” which was utilized by the Defendant for guidance. The Memorandum contains a series of numbered paragraphs. Paragraph number 6 states as follows:

6. Open Meeting Discussions

In discussing the possible ramification of a work stoppage, a county board may hold an emergency meeting. The notice of an emergency meeting must state the date, time, place and specific purpose of the meeting, as well as the facts and circumstances constituting the emergency. The minutes of the emergency meeting must explain the facts and circumstances constituting the emergency. Discussions regarding steps a county may take in reaction to a work stoppage are considered general personnel policy issues and may not be discussed in executive session. West Virginia Code §6-9A-4(b)(2)(B)

In the left hand margin adjacent to and referencing paragraph number 6 of the Memorandum is handwriting which states as follows: “I would not recommend that action. JH.” (See Memorandum attached hereto as Exhibit 4.)

24. The Defendant held a meeting or meetings to make a decision or deliberate toward a decision regarding the official action of potentially closing Putnam County public schools during

the 2019 work stoppage which were not open to the public in violation of the express terms and the purpose of the Act.

25. The Defendant held a private meeting or meetings with the intention of transacting public business, thwarting public scrutiny and making decisions that eventually become official action.

26. The Plaintiff has incurred, and will incur in the future, reasonable attorney's fees and costs in connection with litigating the issue of whether the Defendant acted in violation of the Act.

WHEREFORE, the Plaintiff requests the following relief:

1. A finding that the Defendant violated the Act;
2. Injunctive relief or order requiring the Defendant to conduct an open meeting in accordance with the Act regarding the Defendant's decision whether to "open" or "close" Putnam County public schools during the two-day 2019 teacher and school personnel work stoppage;
3. An award of attorney's fees and costs for the Plaintiff; and
4. Any further relief this Court deems just and proper.

THE PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE HEREIN.

WILLIAM B. HARTMAN

BY COUNSEL



Thomas H. Peyton, Esquire  
West Virginia State Bar No. 8841  
Peyton Law Firm, PLLC  
2801 First Avenue, P.O. Box 216  
Nitro, WV 25143  
Telephone: (304) 755-5556  
Telefax: (304) 755-1255  
*Counsel for the Plaintiff*

# EXHIBIT

1

New iMessage

Cancel

To: Eric Tarr

Wed, Feb 20, 1:53 PM

Just got this from school employee. Can you verify if it is accurate? Thank you sir.

From hhs nurse, nicole Hudson: This is the school nurse.  
For those that don't know, my husband's name is John Hudson. This morning, Eric Tarr mistakenly called my husband and gave him a "pep talk" for lack of a better word. He said "you're doing the right thing" "I'm behind you 100%" "if you need anything today let me know" and "Putnam is making history today". My John was a little confused at first and didn't respond. Tarr said "John, are you there?" My John said you have the wrong John Hudson. Tarr was a little rattled when he realized what he had done.



iMessage





New iMessage

Cancel

To: Eric Tarr

Wed, Feb 20, 2:58 PM

I did call him by mistake but did not say Putnam County is making history. I said, "Putnam County is on the right side of history and I'm behind you 100%."

Thank you for the update. Apparently it is being shared by our employees in here in PCS.

Here in\*

They have spread lie after lie after lie



iMessage



New iMessage

Cancel

To: Eric Tarr

So sad

Delivered



WV Senator: Teachers  
Strike built upon lies,  
misinformation | The  
Tom Roten Morning...

Q/Amy...theart.com



iMessage



Back to usage

Data, text & talk logs

Device: John Hudson | 304.687.

Billing period: Jan 25, 2019 - Feb 24, 2019  
Showing details for Talk usage

View details by: Talk

Totals for this billing period: 621 calls 2413 minutes \$0.00

Date / Time	Contact	Location	Call Type	Minutes	Charge (\$)
-------------	---------	----------	-----------	---------	-------------

02/19/2019 07:12AM	304.638	HUNTINGTON	DT	3	0.00 Tarr
--------------------	---------	------------	----	---	-----------

# **EXHIBIT**

## **2**

6

2:15



4 People >

Wow

Thanks for sharing Brad

Brad Hodges



yw

Bruce Knell

We are together with Rob, boys they will anything lying to cover there lack of support



Thanks Brad

I do believe that Sam called her though. Don't you?

Brad Hodges



yw - also Kanawha County told teachers and service yesterday if strike happened Kanawha would have school and if they didn't come to work they wouldnt be paid.



Text Message



7

2:15



4 People >



Brad Hodges

Kanawha superintendent plans to keep schools open if strike comes

Kanawha County's public schools superintendent said yesterday he plans to try to keep schools open if a strike happens this year.

Superintendent Ron Dunning, along with the superintendents of West Virginia's 54 other countywide school systems, officially closed schools before a vote of an AEA school craft for a 2017-18 year's work stoppage.

It was the first time a public school system strike in state history. School employees, who gathered by the thousands in the state capital for days on end, don't have to form picket lines around schools in their home counties because the schools were closed.

When counties announced these closures last year, several specifically indicated they were shutting because they didn't think enough workers would be there to safely operate schools.

Kanawha school system Communications Director Brenda Warner wrote in an email Wednesday that this is being planned for so that we can keep our students in school learning, if possible.

"Every step will be taken to keep students safe and secure," Warner said. "If we cannot ensure the



Text Message

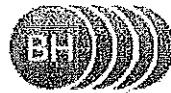


# EXHIBIT

3

39

10:02



5 People >

Text Message

Mon, Feb 18, 8:56 PM

Gentlemen

I just received a call that suggests that the strike may be a one day event tomorrow if the bill gets defeated. Also that several counties have cancelled school for tomorrow and there are plans for others from closed counties to come and picket at non-closed schools.

Wade Neal



I was told that other county's will be coming to PC to help picket.

John Hudson



I will call Mark Sorsaia and let him know. He will assist.



Text Message





40

10:02



5 People

Rob Cunningham

That's what they said last year and it went 9 days



I honestly believe that it would be best to close tomorrow only and see what happens in Charleston. I believe it's puts a lot of good people in very tough situations... But I do stand behind whatever you decide Mr Hudson.

Wade Neal

Thanks for the leadership tonight. Tough crowd...



Yes sir. Thanks Rob

My daughter says that the WVDE website shows 54/55 counties are closed now. We're the only county open apparently



Text Message



41

10:02



5 People >

Mon, Feb 18, 11:18 PM

Rob Cunningham

I wish it would of gone better, but when they figured. Out I wasn't going say what they wanted, the wheels fell off.



Yes sir. I am really concerned about tomorrow.

Wade Neal

Some of those folks didn't want to hear what anyone else had to say. Unfortunate.



Bruce Knell

There minds were made up before they got in the meeting. A bunch of grandstanding the girl who attack me I promise you would never do that if we were one one.



Text Message



42

10:03



5 People >

were one one.

They are brave in that environment



Tue, Feb 19, 1:46 PM

Wade Neal

I heard that there is an injunction coming. True?



John Hudson

Not sure. Have a conference call for all superintendents at 3:00. Also the Bill was postponed indefinitely meaning it was just a death-knell for this legislation.



Rob Cunningham

I believe it's dead too, but wouldn't be surprised if in order for the Governor to get a teacher pay raise in, that an education special



Text Message



43

10:03



5 People >

Rob Cunningham

I believe it's dead too, but wouldn't be surprised if in order for the Governor to get a teacher pay raise in, that an education special session will be called in March. Like I've said all along, we don't control it, we'll see what ultimately comes of it.



Wade Neal



Thu, Feb 21, 3:32 PM

Bruce Knell



Text Message



# **EXHIBIT**


**4**



1900 Kanawha Boulevard, East, Building 6 • Charleston, WV 25305  
wvde.us

## MEMORANDUM

TO: County Superintendents

FROM: Steven L. Paine, Ed.D.   
State Superintendent of Schools

RE: Work Stoppages

DATE: January 31, 2018

At our recent meeting in Bridgeport, a number of you asked me for information regarding the legal issues pertaining to teacher and/or service personnel work stoppages. This memo is a summary of the relevant statutes and other law for your consideration and use.

Because teachers and service personnel are employed by county boards of education, not by the State Superintendent or the West Virginia Board of Education, each county board of education and its superintendent will need to develop its own plan of action to deal with any potential work stoppage. I have included, below, legal resources to assist counties in navigating potential problems that may arise if a work stoppage is threatened or comes to fruition.

As you continue to monitor the ongoing potential of a work stoppage, communication with employees and parents is of paramount importance. Accurate information flow between employees and school administrators is necessary for both groups to make accurately informed decisions about their actions. Likewise, timely communication with parents is essential to ensure that they are informed of any disruptions to transportation or student instruction. Whatever the circumstances, student safety must remain at the forefront of any action taken.

1. Work stoppages are not permitted under West Virginia law.

Both the West Virginia Supreme Court of Appeals and the West Virginia Attorney General, in prior written opinions, have confirmed that public employees have no right to participate in work stoppages. This includes teachers and service personnel. See, *Jefferson County Bd. of Educ. v. Jefferson County Educ. Ass'n*, 183 W.Va. 15, 393 S.E.2d 653 (1990). The possible ramifications for employees participating in a work stoppage will be determined at the county level.

2. No personal leave may be used during a work stoppage.

In referring to leave without cause, West Virginia Code §18A-4-10 provides that "such leave shall not be used in connection with a concerted work stoppage or strike."

Steven L. Paine, Ed.D.  
State Superintendent of Schools

Thomas W. Campbell  
President, West Virginia Board of Education

*add legitimate*

\* Accordingly, when a work stoppage is threatened, a county may choose to announce that no personal leave will be permitted on the designated stoppage day(s) unless the employee can produce documentation of a legitimate reason to be absent from work. A county board of education also may require any employee calling in sick on the stoppage day to provide some type of written confirmation for the need to use sick leave, such as a doctor's excuse. These actions may be taken by a county board even when the county's usual policy on sick/personal leave does not require an excuse for one day of leave. If a county proceeds in this way, the directives should be communicated to employees in advance of the day planned for work stoppage activities.

\* 3. (No seniority is earned during a work stoppage.)

\* West Virginia Code §18A-4-8g(a) provides, in pertinent part, that "[s]eniority of a regular or substitute employee shall continue to accumulate except during the time when an employee is willfully absent from employment duties because of a concerted work stoppage or strike or is suspended without pay." See also, West Virginia Code §18A-4-8g(d), regarding the calculation of seniority for service personnel who have had a break in accumulation of seniority as a result of a work stoppage. Though not specifically addressed in statute, this same rule applies to professional personnel. See, *Lafon v. Cabell County Bd. of Educ.*, Docket No. 91-06-334 (Feb. 18, 1992).

4. Violent or threatening behavior by picketers cannot be tolerated.

In the event that employees form a picket line outside of a school, it is the duty of the school principal to take reasonable steps to ensure that the assembly is peaceable and devoid of any actual threat or intimidation. If it appears that the picketers are attempting to prevent other employees and/or students from accessing school grounds or become violent or overly confrontational, I advise requesting assistance from law enforcement.

Employees who are prevented from working due to actual physical threats, intimidation and violence and who can provide substantiation of the same should be paid as though they had reported to work. However, the mere presence of a picket line is not sufficient to excuse an employee from reporting to work. See, *Prince v. Wayne Co. Bd. of Educ.*, Docket No. 90-50-281 (Jan. 28, 1990).

5. Rescheduling Lost Instructional Time

If the county superintendent has reasonable confirmation that the number of employees who will be absent from school due to a work stoppage is so great that students cannot be safely supervised, he or she may be forced to close schools at individual schools or countywide. If this becomes necessary, the lost days of instruction must be rescheduled by the county board in accordance with W. Va. Code §18-4-45(e) on any available noninstructional day, regardless of the purpose for which the day originally was scheduled, or an out-of-calendar day. Because there is no legal authority permitting a work stoppage by school personnel, neither accrued equivalent time nor reimagined instructional days may be used to make up instructional time or employment

days lost due to work stoppages. (Please note: a county cannot reschedule an OSE day to replace a regularly-scheduled-instructional-day that is cancelled due to a work stoppage.)

6. Open Meeting Discussions

In discussing the possible ramifications of a work stoppage, a county board may hold an emergency meeting. The notice of an emergency meeting must state the date, time, place and specific purpose of the meeting, as well as the facts and circumstances constituting the emergency. The minutes of the emergency meeting must explain the facts and circumstances constituting the emergency. Discussions regarding steps a county may take in reaction to a work stoppage are considered general personnel policy issues and may not be discussed in executive session. West Virginia Code §6-9A-4(b)(2)(B).

Work stoppage issues are always difficult, but I am confident that you will consider this information carefully and make informed and responsible decisions for your counties. Above all, I know that each of you is committed to making decisions that are in the best interest of our students.

SLP/HLH:mp

*I will  
not  
recommend  
this action.  
JH.*



## John Hudson

---

**From:** John Hudson  
**Sent:** Monday, February 18, 2019 8:41 PM  
**To:** Ashworth, Lisa; Barker, Kristi; Black, Barbara; Casto, Tonya; Cox, Jill; Dillon, Martica; Fowler, Val; Hatifield, Candi; Hoh, Elizabeth; Huston, Colleen; Isaacs, Melissa; Laukoter, Wendy; Lewis, Lisa; Melton, Twyla; Raines, Lisa; Roberts, Monica; Scott, Beth; Tichenell, Marlene; Allen, Mary Ann; eskolny@k12.wv.us; Fisher, Kensie; McGinnis, Jana; Paugh, Dennis; Pauley, Derek; Rooper, Sarah; Shock, Matt; Slack, Tiauna; Baldwin, Carolyn; Caldwell, C. D.; Caldwell, Josh; Harper, David; Hawes, Heather; Johnson, Michelle; McClanahan, P.E.; McGrew, Bruce; Mowery, Nichole; Pritchard, Dewana; Richardson, Sonjia; Schoolcraft, Cathy; Tawny Stilianoudakis (tstilian@k12.wv.us); Campbell, Chris; Campbell, Jennifer; Clark, Pat; Cook, Gary; Cross, Doug; Gessel, Dawn; Gillispie, Danielle; Gobel, Craig; Griffith, Sharla; Gunter, Tracy; Leighton, Shanna; Linda Rumbaugh (lrumbaugh@k12.wv.us); Meadows, Becky; Miller, Jennifer; Osborne, Micah; Parkins, David; Rinick, Dan; Shrewsbury, Debbie; Young, Stella  
**Cc:** John Hudson; Penny Fisher; Brad Hodges; Sonya Shue  
**Subject:** Strike Guidance  
**Attachments:** Memorandum Strike 2.18.19.pdf; Work Stoppage and Guidance Document 2.18.19.pdf

### Tracking:

Recipient	Read
Ashworth, Lisa	
Barker, Kristi	
Black, Barbara	
Casto, Tonya	
Cox, Jill	
Dillon, Martica	
Fowler, Val	
Hatifield, Candi	
Hoh, Elizabeth	
Huston, Colleen	
Isaacs, Melissa	
Laukoter, Wendy	
Lewis, Lisa	
Melton, Twyla	
Raines, Lisa	
Roberts, Monica	
Scott, Beth	
Tichenell, Marlene	
Allen, Mary Ann	
eskolny@k12.wv.us	
Fisher, Kensie	
McGinnis, Jana	
Paugh, Dennis	
Pauley, Derek	
Rooper, Sarah	

**Recipient****Read**

Shock, Matt  
Slack, Tiauna  
Baldwin, Carolyn  
Caldwell, C. D.  
Caldwell, Josh  
Harper, David  
Hawes, Heather  
Johnson, Michelle  
McClanahan, P.E.  
McGrew, Bruce  
Mowery, Nichole  
Pritchard, Dewana  
Richardson, Sonjia  
Schoolcraft, Cathy  
Tawny Stilianoudakis (tstilian@k12.wv.us)  
Campbell, Chris  
Campbell, Jennifer  
Clark, Pat  
Cook, Gary  
Cross, Doug  
Gessel, Dawn  
Gillispie, Danielle  
Gobel, Craig  
Griffith, Sharla  
Gunter, Tracy  
Leighton, Shanna  
Linda Rumbaugh (lrumbaugh@k12.wv.us)  
Meadows, Becky  
Miller, Jennifer  
Osborne, Micah  
Parkins, David  
Rinick, Dan  
Shrewsbury, Debbie  
Young, Stella  
John Hudson  
Penny Fisher  
Brad Hodges  
Sonya Shue  
'Rob Cunningham'  
'Bruce Knell'

Read: 2/18/2019 9:12 PM

Read: 2/18/2019 9:13 PM

Read: 2/18/2019 9:11 PM

Recipient	Read
'Sam Sentelle'	
'Wade Neal'	
'Calvin Damron'	
Warren Rinick	
Micah Osborne	
Rebecca Meadows	Read: 2/18/2019 8:42 PM
Monica Roberts	Read: 2/18/2019 8:42 PM
Colleen Huston	Read: 2/18/2019 8:42 PM
Derek Pauley	Read: 2/18/2019 8:42 PM
Kristi Barker	Read: 2/18/2019 8:42 PM
Doug Cross	Read: 2/18/2019 8:42 PM
Barbara Black	Read: 2/18/2019 8:42 PM
Valerie Fowler	Read: 2/18/2019 8:42 PM
Sara Rooper	Read: 2/18/2019 8:42 PM
Tiauna Slack	Read: 2/18/2019 8:42 PM
Joshua Caldwell	Read: 2/18/2019 8:42 PM
Jill Cox	Read: 2/18/2019 8:43 PM
Paul McClanahan	Read: 2/18/2019 8:42 PM
Martica Dillon	Read: 2/18/2019 8:43 PM
Matt Shock	Read: 2/18/2019 8:43 PM
Tawny Stilianoudakis	Read: 2/18/2019 8:43 PM
Kensie Fisher	Read: 2/18/2019 8:43 PM
Melissa Isaacs	Read: 2/18/2019 8:43 PM
Dawn Gessel	Read: 2/18/2019 8:44 PM
Lynda Rumbaugh	Read: 2/18/2019 8:45 PM
Wendy Laukoter	Read: 2/18/2019 8:45 PM
bruce mcgrew	Read: 2/18/2019 8:46 PM
David Harper	Read: 2/18/2019 8:47 PM
Catherine Schoolcraft	Read: 2/18/2019 8:48 PM
Beth Scott	Read: 2/18/2019 8:50 PM
Lisa Ashworth	Read: 2/18/2019 8:51 PM
Chris Campbell	Read: 2/18/2019 8:53 PM
Debbie Shrewsbury	Read: 2/18/2019 8:53 PM
Sharla Griffith	Read: 2/18/2019 8:53 PM
Sonjia Richardson	Read: 2/18/2019 8:54 PM
Candi Hatfield	Read: 2/18/2019 8:59 PM
Pat Clark	Read: 2/18/2019 9:08 PM
Lisa Lewis	Read: 2/18/2019 9:09 PM
Nichole Mowery	Read: 2/18/2019 9:11 PM
Gary Cook	Read: 2/18/2019 9:25 PM

Recipient	Read
C.D. Caldwell	Read: 2/18/2019 9:35 PM
Carolyn Baldwin	Read: 2/18/2019 9:41 PM
Danielle Gillispie	Read: 2/18/2019 10:04 PM
Stella Young	Read: 2/19/2019 5:18 AM
Jennifer Miller	Read: 2/19/2019 7:30 AM
Shanna Leighton	Read: 2/19/2019 7:59 AM
Jennifer Campbell	Read: 2/19/2019 8:10 AM
Tracy Gunter	Read: 2/19/2019 8:31 AM

School Administrators,

Earlier this evening a state-wide strike was called by three organizations (AFT, WVEA, WVSSPA). I was notified by one of our organization leaders right after the announcement. In light of the decision to strike, a Memorandum and Guidance Document is being provided to you.

Please review the attached Memorandum dated February 18, 2019 carefully. **Share the attached Memorandum** to all employees you supervise once you receive my School Messenger announcement to employees scheduled around 9:30pm. The **Guidance Document**, also attached, is for your reference only and **is not to be distributed**. It is the intent of PCS that we will be OPEN for all students tomorrow regardless of the number of buses that may be running routes. We have worked with Stella Young, Food Service Director regarding serving students tomorrow. I have communicated with Mark Sorsaia, Prosecutor, and he will assist us with law enforcement where needed. Hopefully we do not need any.

I know each of you will be leaders in this most difficult situation for the students we serve.

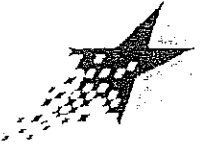
*John G. Hudson, Superintendent*

Putnam County Schools  
77 Courthouse Drive  
Winfield, WV 25213

304-586-0500 ext. 1104

Fax 304-586-0553

[jghudson@k12.wv.us](mailto:jghudson@k12.wv.us)



PUTNAM COUNTY SCHOOLS  
*Achieving Excellence*

John G. Hudson, Superintendent

77 Courthouse Drive Winfield, West Virginia 25213 phone: (304) 586-0500 fax: (304) 586-0553  
www.putnamschools.com

MEMORANDUM

TO: School Administrators  
FROM: John Hudson, Superintendent *JH*  
RE: Work Stoppages  
DATE: February 18, 2019

As we monitor the ongoing potential of a work stoppage/strike communication with employees and parents is of paramount importance. Accurate information flow between employees and school administrators is necessary for both groups to make accurately informed decisions about their actions. Whatever the circumstances, student safety must remain at the forefront of any action taken.

1. **Work stoppages are not permitted under West Virginia law.**

Both the West Virginia Supreme Court of Appeals and the West Virginia Attorney General, in prior written opinions, have confirmed that public employees have no right to participate in work stoppages. This includes teachers and service personnel. See, *Jefferson County Bd. Of Educ. v. Jefferson County Educ. Ass'n*, 183 W. Va. 15, 393 S.E.2d 653(1990).

2. **No personal leave may be used during a work stoppage.**

In referring to leave without cause, West Virginia Code §18A-4-10 provides that "such leave shall not be used in connection with a concerted work stoppage or strike."

Accordingly, when a work stoppage is threatened, no personal leave will be permitted on the designated stoppage day(s) unless the employee can produce documentation of a legitimate reason to be absent from work. Putnam County Schools will require any employee calling in sick on the stoppage/strike days (s) to provide written confirmation for the need to use sick leave, such as a doctor's excuse with verification from the doctor of a previously scheduled appointment. No vacation or OS days can be used unless previously scheduled on the extended work calendar. These actions may be taken by a county board even when the county's usual policy on sick/personal leave does not require an excuse for one day of leave. These directives should be communicated to employees in advance of the day planned for work stoppage activities.

3. **No seniority is earned during a work stoppage.**

West Virginia Code §18A-4-8g(a) provides, in pertinent part, that "[s]eniority of a regular or substitute employee shall continue to accumulate except during the time when an employee is willfully absent from employment duties because of a concerted work stoppage or strike or is suspended without pay." See also, West Virginia Code §18A-4-8g(d), regarding the calculation of seniority for service personnel who have had a break in accumulation of seniority as a result of a work stoppage. Though not specifically addressed in statute, this same rule applies to professional personnel. See, *Lafon v. Cabell County Bd. Of Educ.*, Docket No. 91-06-334(Feb. 18, 1992).

Putnam County Board of Education

G. Robert Cunningham, President

Bruce Knell, Vice President

R. Calvin Dawson, II

Wade Neal

Dr. Sam Sontelle

4. **Violent or threatening behavior by picketers cannot be tolerated.**

In the event that employees or others form a picket line outside of a school, it is the duty of the school principal to take reasonable steps to ensure that the assembly is peaceable and devoid of any actual threat or intimidation. If it appears that the picketers are attempting to prevent other employees and/or students from accessing school grounds or become violent or overly confrontational, I advise requesting assistance from law enforcement. Employees or others picketing are not permitted on school property during a work stoppage/strike nor can they block entrance or exits.

Work stoppages/strikes are always difficult, but I am confident that each employee will consider this information carefully and make informed and responsible decisions. Above all, I know that each of you is committed to making decisions that are in the best interest of our students.