

State of West Virginia\_  
County of Nicholas to wit:

The Nicholas County Board of Education of the County of Nicholas, West Virginia met in a special session on Thursday, June 23, 2022, beginning at 10:00 a.m. The purpose of the meeting was to discuss the FEMA Funded School Building Projects with Nicholas County Schools by WV State Superintendent, Clayton Burch and Director of WV School Building Authority, David Roach. Along with possible approval of the 22-23 Coaching Pay Scale and renumbering NCBOE Policy FGCBBB to NEOLA Policy 1520.01. The meeting was held at the Nicholas County Board Office, 400 Old Main Drive, Summersville, WV 26651.

**Educating and Preparing Students for Success After High School**

Present for the meeting were:

- Dr. Gus Penix, President
- Mr. Fred Amick, Vice-President
- Mr. Phil Berry, Member
- Mrs. Elizabeth Coffman, Member
- Mr. Roy Moose, Member

Dr. Donna Burge-Tetrick, Superintendent

Delegations will not be heard at this meeting. This is a special meeting to cover only the items listed on the agenda. Delegations will be heard at the next regular scheduled meeting.

1. Call to Order
2. Moment of Silent Reflection & Pledge of Allegiance
3. Action Item:
  - a. Approval of the 2022-2023 Coaching Pay Scale
  - b. Approval to renumber NCBOE Policy FGCBBB to NEOLA Policy 1520.01

Upon motion by Mr. Fred Amick, seconded by Mrs. Libby Coffman, the board unanimously consented to uphold the Superintendent's recommendations and approved action items as presented.

4. Consent:
  - a. Supplements and Transfers

Upon Motion by Mr. Phil Berry, seconded by Mr. Fred Amick, the board unanimously consented to uphold the Superintendent's recommendations and approved consent items as presented.

5. Work Session with guest speakers to discuss the FEMA Funded School Building Projects with Nicholas County Schools.

- a. WV State Superintendent, Clayton Burch  
Heather Hutchens, Office of Legal Services  
Micah Witlow, Director of School Facilities
- b. WV School Building Authority Director, Dave Roach  
Dana Womack, Director of Architectural Services  
Christina Dyess, FEMA Project Grants Monitor
- c. ZMM Architect, Mr. Dave Ferguson, and Mr. Chris Campbell

Board President, Dr. Gus Penix introduced everyone and explained that the questions were drafted and submitted by the Nicholas County Board of Education. Dr. Penix informed the audience that questions would be taken in a written form at the end of the meeting. **The School Building Authority’s answers are in bold. The WV State Department of Education’s comments are in red.**

“Our superintendent presented information stating, to remain in compliance with the Governor Sponsored Mediated Agreement, The State School Board of Education approved CEFPP Plan, West Virginia School Building Authority approved plan and the FEMA 428 Plan that the career center cannot stay in Craigsville. The career center must move to the new site location at Glade Creek to form the new Nicholas County High School as a comprehensive school. If the Nicholas County Board does not follow through with this plan, they will be in violation of the agreement and 42 million dollars would be de-obligated. Is this accurate?”

**“Both the mediated agreement and the scope of work agreed upon within the section 428 Agreement indicated that an Integrated Career and Technical Education Facility will be co-located with SMS and NCHS. This is the Glade Creek Facility. Failure to comply with legally binding mediation and the scope of work approved within the Section 428 Agreement and PW violates the requirements of the program and would result in loss of project funding for work not completed or work completed outside of the scope of work and applicable agreements.”** **“The 428 funding was specifically based on a comprehensive high school, not a stand-alone CTE center.”**

If the Nicholas County Board of Education wants to make a major change in the 428 plan scope of work such as:

- School grade configurations, making the Glade Creek Campus a k-8 instead of High School, Career Center and Middle School, or
  - School site location changes, relocating Richwood High School/Middle School off of the approved Cherry River Site.
1. Would this require a change in the Governor Sponsored Mediated Agreement, if so, what is involved in the process?

**Yes. The Mediated Agreement would be very difficult to change. This would require an amendment to the mediated document. This would require board**

**approval and an amendment to the CEF. FEMA was also asked, just to be clear, if the 428 Agreement could be amended. The answer to this question is no.**

- 2. Would this require a change in the WV State Board Approved CEF, if so, what is involved in this process? **Yes. Please see the answer to question 1.**
- 3. Would this require a change in the WV School Building Approval, if so, what is involved in this process? **Yes. Please see the answer to question 1.**
- 4. Would this require a change in the 428 Plan Scope of Work, if so, what is involved in the process? **Yes. Please see the answer to question 1.**

What are the potential financial obligations of the Nicholas County Board of Education if a major change in the 428 plan scope of work is to occur?

**FEMA funding would be de-obligated, no further reimbursements would be made, and all previous reimbursements made to the County would have to be returned.**

- Failure to meet adequate progress
- Failure to meet milestones
- Change in current architectural contracts

The superintendent has stated that the enrollment numbers that established the sizes of the new schools was based on policy 6200 current and projected enrollments that established a justification document that helped develop the Governor Sponsored Mediated Agreement, State approved CEF plan, West Virginia School Building Authority approved plan and the FEMA 428 Plan. The document called to allow student choice in school selection by open boundaries with bus transportation for secondary students.

- Can the Nicholas County Board of Education remove school choice options, necessitating the need for different school and grade configurations, while remaining in compliance with the Governor Sponsored Mediated Agreement, State approved CEF plan, West Virginia School Building Authority approved plan and the FEMA 428 Plan?

**The scope of work outlined in the agreement must be met to be compliant. School choice for families was specifically contemplated in the mediation agreement and approved CEF plan. Eliminating parent choice is contrary to the mediation and approved CEF and would prevent families from making choices that best meet the needs of their children.**

If the Nicholas County Board of Education is working outside the compliance of the agreements, what is the result?

**FEMA funding would be de-obligated, no further reimbursements would be made, and all previous reimbursements made to the County have to be returned.**

**Also:**

- **Potential litigation brought by affected families and citizens**
- **WVBE intervention (rejection of new CEFP, litigation, intervention)**

1. Can you talk about the WV School Building Authority being the applicant for the project?
2. Does the Nicholas County Board of Education have 177.5 million dollars in our account? Can you explain the draw down process?

**No. The FEMA 428 plan is a reimbursement-based project funding source. As payments are made by the County that are within the scope of work, they can be submitted for reimbursement.**

3. Can you talk about the reimbursement process of invoices from start to finish, listing all agencies involved?

**The County creates a Requisition Form and attaches invoices from vendors. This request for reimbursement is sent to the SBA. The SBA reviews these documents for compliance and completeness. The SBA then sends a Funding Request to WVEMD. This request is reviewed by WVEMD and the Governor’s office. After review by all parties, funds for the amount requested are deposited into the Oasis state financial system and a transfer is generated to the County in that amount. FEMA conducts their review of all documents for the project at closeout. This is when the final determination is made for the eligibility of reimbursement.**

4. Does the Nicholas County Board of Education have missing FEMA money?

**There is no knowledge of any missing FEMA funds.**

5. Can you discuss the audit process and the final audit at the conclusion of the projects?

**Upon project completion, FEMA does an audit and closeout process to determine the eligibility of all reimbursed funds. The County and FEMA reconcile expenditures. If any additional documentation required, it is requested by FEMA. If any costs are deemed to be un allowed under the PW, FEMA will notify the County. Further documentation can be provided, and appeals can be made for those costs.**

According to WV State purchasing 7.2.21 Negotiation, When All Bids Exceed Available Funds....That Government construction contracts, supplies, and materials are exempt from this negotiation method. This prohibits the Nicholas County Board of Education or it’s Superintendent from negotiating on bids that exceed their budget?

1. Is this accurate?

**Yes. FEMA requires that the strictest code be adhered to, whether it be state, county, or federal. State code advises that all bidders shall be afforded the opportunity to provide best final offers.**

FEMA does not pay for the same work twice. If FEMA pays for the first set of design document and the project focus is changed – requiring a second set of design documents; the second set of design documents would be at the expense of the Nicholas County Board of Education.

1. Is that accurate?

**Scope of work requests are determined on a case-by-case basis. This is too broad to answer. Generally, no, FEMA will not pay for the same cost twice.**

2. What would be the cost for a second set of design documents if the Glade Creek site is changed to a k-8 school, minus the career center?

**This question is for the architect.**

The following questions are for the Architects, the Executive Director of the WVSBA, and the State Superintendent of Schools.

The desire of some is to change the Scope of Work (SOW) from the current Glade Creek site from a new comprehensive Nicholas County High School with a new career center and a new Summersville Middle School (per Mediated Agreement) – change the site to a new Summersville Middle School and a new Summersville Elementary School, and leave the Career Center in Craigsville where it is currently located.

1. What would this mean in terms of a change in the SOW (redesign, cost, making adequate progress)? **A change in scope would violate the 428 Agreement. Please see the answer to question 1.**
2. How much time would it take for the redesign? **This greatly depends on the circumstances and would require specific details to determine.**
3. How much time would it take to complete the project beyond the 2025 date for the current design plan? **Current milestones submitted to FEMA by NCS project a final completion date for the Cherry River Site in March 2025 and the Glade Creek Site in August 2025.**
4. In regard to cost, how much would a redesign cost? **This greatly depends on the circumstances and would require specific details to determine.** And, who would pay for these changes, FEMA or the Nicholas County Board of Education? **If redesigns stay within the scope of work outlined in the 428 agreement, they could be included in current PW funding requests. Anything outside of that agreement would be the responsibility of the NCBOE.**

5. What consequences would the Nicholas County BOE face should a change in the SOW of this magnitude be pursued (loss of funding, repaying monies already spent, state takeover of the school system, etc.)? **FEMA funding would be de-obligated, no further reimbursements would be made, and all previous reimbursements made to the County have to be returned.**

**Also:**

- **Potential litigation brought by affected families and citizens.**
- **WVBE intervention (rejection of new CEFP, litigation, intervention).**
- **Loss of public trust and confidence.**

It was stated by a Public Broadcasting that the deadline is Dec. 2024. If the scope of work isn't completed by the deadline, all funds will need to be paid back to FEMA by Nicholas County. Is this accurate and can you explain? **Currently, there has been a conditional extension approved by FEMA. This extension is monitored, and the approval is granted in stages contingent upon milestones being met by the County.**

This question is for the State Superintendent.

The new comprehensive high school is being designed with a totally new concept of educating students – the Academy Approach. This approach moves from the traditional education of students to a focus on having all students prepared when they leave high school to be:

1. certified with job skills that meet the needs of businesses (cleaning, merchandising, etc.);
  2. credentialed/licensed to perform skilled trades;
  3. prepared for advanced training in higher education or specified skills trainings; and/or, Associate Degree completion.
1. What are your thoughts on this approach?  
**To the extent that funds are available, we support the approach. However, traditional CTE models at comprehensive high schools that do not use an academy approach have consistently been shown to be effective. There is no preference for one over the other.**
  2. Do you find it beneficial in moving WV forward and potentially creating opportunities for businesses to locate here and keep our kids here?  
**See response to number 1, above.**

Board President, Penix concluded his questions and asked for the written questions from the audience.

Not included:

Mr. Moose did not provide a written copy of his questions prior to the meeting, he asked questions during the meeting.

Three audience members, Gary Roberts, Caleb Hanna, and Chip Perrine asked questions during the meeting. Delegate, Heather Tully emailed her statement and question in prior to the meeting. Therefore, those are not a part of the written record. The audio and video recordings of this meeting is available on social media and at the central office.

6. Adjournment:

Upon motion by, Mr. Fred Amick, second by Mrs. Libby Coffman, the Board unanimously consented to adjourn this special meeting of the Nicholas County Board of Education. The meeting adjourned at 11:00 a.m.

The next meeting will be a regular meeting which will be held on Tuesday, July 5, 2022. The meeting will be held at the Nicholas County Board of Education Office, 400 Old Main Drive, Summersville, WV 26651, beginning at 5:00 p.m. The purpose of the meeting will be to conduct routine business.

Mr. Weldon "Chip" Perrine, President NCBOE

*Weldon "Chip" Perrine*

Dr. Donna Burge-Tetrick, Superintendent

*Dr. Donna Burge-Tetrick*

Kim Belletto, Recording Secretary Nicholas County Schools