



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

6/14/2013 2:46:53 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 5 -- NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE OR
A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY **Education**

RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **126-**

RULE NAME **Issuance of the State of West Virginia High School Equivalency Diploma** **032**

CITE AUTHORITY **W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)**

RULE IS LEGISLATIVE EXEMPT

Yes

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler, 180 W. Va. 451; 376 S.E.2d 839 (1988)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS

Monday, July 15, 2013

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Charles K Heinlein -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 126-032



Rule Id: 8982



Document: 24931

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 32
ISSUANCE OF THE STATE OF WEST VIRGINIA HIGH SCHOOL EQUIVALENCY
DIPLOMA (2444.4)

§126-32-1. General.

1.1. Scope. -- The purpose of the State of West Virginia High School Equivalency Diploma is to provide appropriate recognition of educational attainment to those individuals who have demonstrated that they have attained academic skills equivalent to those at the high school completion level by satisfactorily passing the high school equivalency assessment approved by the West Virginia Department of Education.

1.1.a. The West Virginia Department of Education approved high school equivalency assessment mirrors the common core standards and performance standards reflected at the national and state levels and demonstrate the attainment of developed abilities acquired through completion of a four-year high school program of study.

1.2. Authority. -- West Virginia Constitution, Article XII, Section 2; W. Va. Code §18-2-5 and §18-8-6.

1.3. Filing Date. -- June 14, 2013.

1.4. Effective Date. -- July 15, 2013.

1.5. Repeal of Former Rule. This legislative rule amends W. Va. 126CSR32, West Virginia Board of Education (WVBE) Policy 2444.4, Issuance of the State of West Virginia High School Equivalency Diploma, filed March 13, 2008 and effective July 1, 2008.

§126-32-2. State of West Virginia High School Equivalency Diploma.

2.1. The West Virginia Department of Education, hereinafter State Department, issues a State of West Virginia High School Equivalency Diploma based upon satisfactory scores earned on an approved high school equivalency assessment.

2.2. West Virginia provides the Option Pathway. Approved testing sites are authorized to test a selected population of students sixteen (16), seventeen (17) and eighteen (18) years of age, enrolled in an accredited school and engaged in an appropriate Option Pathway program. The student may earn a State of West Virginia High School Equivalency Diploma or a high school diploma, according to the completion level of the program.

§126-32-3. Applying for Testing.

3.1. First time applicants are required to take and pass an approved practice test with the minimum score as determined by the State Department (WV passing standard may exceed national minimum passing standard).

3.2. A valid and current state-issued photo identification, i.e., driver's license, state alternative identification, military identification or a valid passport, with current name, birth date, and preferably a Social Security number will be required prior to and during all testing sessions. Option Pathway students may use photo identification issued by the high school. Failure to present applicable photo identification will result in a loss of testing privilege until such identification is presented. (See also Section 7.1.)

§126-32-4. Basis for Granting the State of West Virginia High School Equivalency Diploma.

4.1. The State Department requires that applicants taking the approved high school equivalency assessment achieve a minimum passing score as determined by the State Department.

4.2. Prior to taking the high school equivalency assessment, individuals must provide documentation from an Adult Basic Education (ABE) instructor or an Option Pathway instructor of taking and passing an approved practiced test by achieving the minimum score as determined by the State Department (WV passing standard may exceed national minimum passing standard).

4.3. Individuals passing the high school equivalency assessment will receive a State of West Virginia High School Equivalency Diploma. Students enrolled in the Option Pathway and passing the approved high school equivalency assessment may receive a State of West Virginia High School Equivalency Diploma and/or a high school diploma according to the completion level of the program.

§126-32-5. Testing of Individuals Eighteen (18) Years of Age and Younger.

5.1. For the purposes of admission to take the high school equivalency assessment, the official dropout date shall be defined as, "the school day after the student's last day of attendance," as outlined in W. Va. 126CSR81, West Virginia Board of Education Policy 4110, "Attendance."

5.2. Individuals who are eighteen (18) years of age are eligible to test by qualifying under any of the following categories:

5.2.a. The candidate has been officially withdrawn from a regular high school, i.e., officially withdrawn or home-schooled prior to test registration as evidenced by documentation from the last school/system attended or by documentation from the county attendance director for the home-schooled student. Documentation must include the withdrawal date as indicated in Section 5.1. or home-school dates, and the original class graduation date. The candidate must also provide documentation from an ABE instructor of taking and passing an approved practice test by achieving the minimum score as determined by the State Department (WV passing standard may exceed national minimum passing standard).

5.2.b. The candidate is enrolled in the Option Pathway.

5.3. Individuals who are seventeen (17) years of age are eligible to test by qualifying under any of the following categories:

5.3.a. The candidate's original high school class has graduated before the candidate makes application for testing as evidenced by documentation from the last school/system attended. Documentation must include the withdrawal date as indicated in Section 5.1. and the original class graduation date. The candidate must also provide documentation from an ABE instructor of taking and passing the approved practice test by achieving the minimum score as determined by the State Department (WV passing standard may exceed national minimum passing standard).

5.3.b. The candidate has been officially withdrawn from a regular high school, i.e., officially withdrawn or home-schooled for a period of one month prior to test registration as evidenced by documentation from the last school/system attended or documentation from the county attendance director for the home-schooled student. Documentation must include the withdrawal date as indicated in Section 5.1., or home-school dates, and the original class graduation date. The seventeen (17) years of age candidate must also provide documentation from an ABE instructor of taking and passing the practice test by achieving the minimum score as determined by the State Department (WV passing standard may exceed national minimum passing standard); or

5.3.c. The candidate is enrolled in the Option Pathway.

5.4. Individuals who are sixteen (16) years of age are eligible to test by qualifying under the following categories:

5.4.a. The candidate is enrolled in the Option Pathway.

§126-32-6. Testing of Individuals Enrolled in the Option Pathway.

6.1. Examinees, at least sixteen (16) years of age, who are enrolled in the Option Pathway program may take the high school equivalency assessment without withdrawing from high school provided that the following conditions are met:

6.1.a. The school, government program or institutional facility was approved by the State Department to implement the Option Pathway.

6.1.b. The course content must be rigorous enough to support passage of the approved high school equivalency assessment and align with the academic expectations of the high school. Option Pathway classes should be structured as closely as possible to an ABE classroom providing a very comprehensive program of study for mathematics, writing, social studies, reading, science and workforce readiness.

6.1.c. The Option Pathway student must be recommended to the Option Pathway program by a member of the school, government program or institutional facility's professional staff.

6.1.d. The Option Pathway student receives counseling prior to entering the program, while participating in the program and upon exiting the program.

6.1.e. A parent/guardian, unless the student is placed in an institutional facility, must give written consent for the student to participate in the Option Pathway.

6.1.f. The candidate must also provide documentation from the Option Pathway instructor of taking and passing the approved practice test by achieving the minimum score as determined by the State Department (WV passing standard may exceed national minimum passing standard).

6.1.g. The Option Pathway student may begin taking the approved high school equivalency assessment at the age of sixteen (16).

6.2. The Option student may receive a State of West Virginia High School Equivalency Diploma or a high school diploma according to the completion level of the program.

6.2.a. A high school diploma is earned and the student is counted as a graduate if the student meets the following requirements:

6.2.a.1. Attends Option Pathway preparation classes for the high school equivalency assessment;

6.2.a.2. Passes the approved practice test and the high school equivalency assessment;

6.2.a.3. Completes a 21st Century job preparation “soft skills” curriculum;

6.2.a.4. Completes the four (4) required core courses in a Career Technical Education (CTE) skilled pathway concentration or any program of study resulting in a certification;

6.2.a.5. Meets the standards on the WorkKeys® job skills assessments; and

6.2.a.6. Reaches or exceeds the cut score set by the State Department on the End-of-Concentration Performance Assessments if applicable.

6.2.a.7. A student who successfully completes the Option Pathway has a compelling reason to attend school for fewer than four full years and/or be scheduled for courses for less than the full instructional day. For example, a student successfully passes the Option Pathway high school equivalency assessment and completes the career and technical concentration. At that point they have completed the requirements for graduation even though their graduation cohort may not yet have graduated. Another example would be when a student has successfully passed the Option Pathway high school equivalency assessment but has not yet completed their career and technical concentration. That student may only need to attend school during the part of the day for the career and technical courses. In both examples, the students would not need to be enrolled for the four full years or for the full instructional day. The county or school would not acquire a penalty for graduation rate or attendance rate in either scenario.

6.2.b. A high school diploma is earned and the student is counted as a graduate if the student meets the following requirements:

6.2.b.1. Is a senior and will not graduate with ninth grade cohort;

6.2.b.2. Receives preparation classes for the high school equivalency assessment in the deficient content area;

6.2.b.3. Passes the content area practice test and the high school equivalency assessment by achieving the minimum score as determined by the State Department (WV passing standard may exceed national minimum passing standard); and

6.2.b.4. Continues attending and maintaining passing grades in all other classes.

6.2.c. The State of West Virginia High School Equivalency Diploma is earned and the student is counted as a completer but not a dropout or a graduate if the student passes the high school equivalency assessment prior to leaving the regular high school.

§126-32-7. Testing of Individuals Participating in a Government Program.

7.1. Examinees, at least sixteen (16), seventeen (17) or eighteen (18) years of age, who are participating in a residential government program, i.e., Job Corps, and/or other approved career focused federal residential programs, may be tested provided that the following conditions are met:

7.1.a. The candidate at least sixteen (16) years of age has been officially withdrawn from a regular high school as evidenced by documentation from the last school/system attended, or

7.1.b. If the program is approved as an Option Pathway program and the candidate is enrolled in the program, the candidate sixteen (16), seventeen (17) or eighteen (18) years of age must follow the Option Pathway guidelines.

7.1.c. The candidate has taken and passed the practice test for the approved high school equivalency assessment (WV passing standard may exceed national minimum passing standard) as evidenced by documentation from an instructor at the facility.

7.2. Individuals who are sixteen (16), seventeen (17) or eighteen (18) years of age and are residents of a West Virginia state-operated institutional facility may take the tests while the examinee is under the control of the facility.

7.3. Adjudicated youth sixteen (16), seventeen (17) or eighteen (18) years of age, who are under the control of a court, detention center, group care facility, or probation office may be admitted to testing by qualifying under any of the following categories:

7.3.a. Adjudicated youth with a court order from a judge or an order from a magistrate designated as a juvenile referee is to be admitted for testing, even if the individual is still enrolled in school; or

7.3.b. Upon entering the control of a detention center or group care facility, an assessment that addresses the educational needs of the child is to be conducted by qualified personnel of the facility. If it is determined that there is no reasonable expectation of graduation from the high school of origin and if the possibility of being placed at a long-term in state facility is very unlikely, the youth may be admitted to testing:

7.3.b.1. Prior to testing, the candidate sixteen (16), seventeen (17) or eighteen (18) years of age must be officially transferred from the public school system to the detention center or group care facility as evidenced by documentation from the last school/system attended.

7.3.b.2. Must pass the practice test for the approved high school equivalency assessment (WV passing standard may exceed national minimum passing standard) as evidenced by documentation from an instructor at the facility.

7.3.b.3. If the program is approved as an Option Pathway program and the candidate is enrolled in the program, the candidate sixteen (16), seventeen (17) or eighteen (18) years of age must follow the Option Pathway guidelines. Students, who are enrolled in the Option Pathway and are no longer a resident of the West Virginia state-operated institutional facility or are no longer adjudicated, upon release are eligible to continue completion of the Option Pathway at the high school of origin.

7.4. All youth who have taken the approved high school equivalency assessment as per section 7.1.-7.3. but did not pass the test and are no longer a resident of a government program or are no longer a resident of a West Virginia state-operated institutional facility or are no longer adjudicated are eligible to

continue testing upon completion of the program or upon release by presenting state issued photo identification and qualifying under either of the following categories:

7.4.a. A copy of a court order from a judge or an order from a magistrate, designated as a juvenile referee, is provided for the Examiner. The order must state that the individual will take the high school equivalency assessment. Such an order allows an individual, sixteen (16), seventeen (17) or eighteen (18) years of age, to test even if the individual is still enrolled in school; or

7.4.b. The candidate's previous scores are located in the databank indicating to the Examiner that the previous Examiner obtained all necessary documentation needed for testing.

§126-32-8. Testing of Option Pathway Students Enrolled in Mountaineer ChalleNGe Academy.

8.1. Mountaineer ChalleNGe Academy is approved by the State Department to implement the Option Pathway.

8.2. Examinees, at least sixteen (16), seventeen (17) or eighteen (18) years of age, who are participating in the Mountaineer ChalleNGe Academy may take the high school equivalency assessment without withdrawing from a West Virginia high school.

8.3. The sixteen (16) seventeen (17) or eighteen (18) years of age student currently enrolled in a West Virginia high school participating in the Option Pathway shall be awarded a high school diploma from their high school of origin by Mountaineer ChalleNGe Academy and be counted as a graduate if the student meets the following requirements:

8.3.a. Attends preparation classes for high school equivalency assessment;

8.3.b. Passes the high school equivalency assessment;

8.3.c. Completes the 22 week Mountaineer ChalleNGe Academy Program;

8.3.d. Successfully completes the competencies in the four (4) National Guard Youth Challenge Program Courses, a career technical education (CTE) skilled pathway concentration; and

8.3.e. Meets a level 4 on the WorkKeys[®] job skills assessments.

8.4. The Mountaineer ChalleNGe Academy students who successfully complete the Option Pathway have a compelling reason to attend school for fewer than four full years while a resident and during the post residential phase. For example, students successfully pass the Option Pathway high school equivalency assessment and complete the career and technical concentration while at the Academy. At that point they have completed the requirements for graduation even though their graduation cohort may not yet have graduated. Another example, students complete competencies in the four (4) National Guard Youth Challenge Program Courses, a career technical education (CTE) skilled pathway concentration but did not pass the high school equivalency assessment. The students may return to the home high school to complete the high school equivalency content areas where the passing scores were not achieved at the Academy. Upon completion of the high school equivalency assessment, at that point the students have completed the requirements for graduation even though their graduation cohort may not yet have graduated. The county or school would not acquire a penalty for graduation rate or attendance rate in either scenario.

8.5. The high school diploma is earned and the student is counted as a graduate of their school of origin for the purposes of calculating the graduation rate after successfully mastering standards of the Mountaineer Challenge Program.

8.6. The Mountaineer Challenge Academy student who does not complete the Option Pathway while a resident of the program, may return to the high school of origin during the post residential phase, which lasts one year from Mountaineer Challenge Academy graduation date, to complete only the deficient areas of study.

8.7. A Mountaineer Challenge Academy student who does not pass the high school equivalency assessment while in the Academy may retest during the post-residential phase and may use the Mountaineer Challenge Academy's photo identification if documentation reflecting the cadet's graduation date is presented to the Examiner.

§126-32-9. Testing of Option Pathway Students in West Virginia State Correctional or Residential Facilities for Custody and Treatment.

9.1. Examinees, at least sixteen (16) seventeen (17) or eighteen (18) years of age, who are participating in an educational program designated by the WVBE as a state correctional or residential facility for custody and treatment shall have the opportunity to complete the State Department approved Option Pathway and earn a high school diploma if the following conditions are met:

9.1.a. Attends preparation classes for high school equivalency assessment;

9.1.b. Passes the practice test and the high school equivalency assessments following guidelines in 7.2.;

9.1.c. Successfully completes the competencies in the four (4) core courses in an approved Career Technical Education skilled pathway concentration;

9.1.c.1. Virtual;

9.1.c.2. Career-Integrated Experiential Learning (CIEL); or

9.1.c.3. State approved program of study; and

9.1.d. Meets a required level for the WorkKeys[®] job skills assessments.

9.2. The students in a state correctional or residential facility who successfully complete the Option Pathway have a compelling reason to attend school for fewer than four full years while a resident and during the post residential phase. For example, students successfully pass the Option Pathway high school equivalency assessment and complete the career and technical concentration while at the institution. At that point they have completed the requirements for graduation even though their graduation cohort may not yet have graduated. Another example, students complete competencies in the four (4) core courses of a career technical education (CTE) skilled pathway concentration but did not pass the high school equivalency assessment. The students may return to the home high school to complete the high school equivalency content areas where the passing scores were not achieved at the institution. Upon completion of the high school equivalency assessment, at that point the students have completed the requirements for graduation even though their graduation cohort may not yet have graduated. The county or school would not acquire a penalty for graduation rate or attendance rate in either scenario.

9.3. The high school diploma is earned and the student is counted as a graduate of their school of origin for the purposes of calculating the graduation rate after successfully mastering standards of the state correctional or residential facility.

9.4. The student in a state correctional or residential facility who does not complete the Option Pathway while a resident of the program may return to the high school of origin to complete only the deficient areas of study.

§126-32-10. Residence.

10.1. Persons meeting all criteria and demonstrating themselves eligible under the State of West Virginia High School Equivalency Diploma guidelines shall be admitted to testing for the purpose of securing a State of West Virginia High School Equivalency Diploma. The candidate must present clear, current, state-issued photo identification, i.e., driver's license, state alternative identification, military identification or a valid passport. The Examiner may request further proof or other pertinent documentation as evidence of identity, i.e., birth certificate, Social Security card, etc.

§126-32-11. Transcripts of Scores.

11.1. The fact that a person has or has not taken the high school equivalency assessment is confidential information since disclosing participation in the program is tantamount to reporting the absence of a traditional high school diploma. Therefore, no name of a credential recipient will be released unless an individual candidate has signed written permission to release the information. Nevertheless, the candidate when registering for the high school equivalency assessment agrees that information will be shared with necessary West Virginia public school systems and the State Department. Information for data sharing purposes only may be shared with other agencies.

11.2. The original copy of the transcript and diploma shall be issued at no cost. Persons requesting a transcript and/or a replacement copy of their State of West Virginia High School Equivalency Diploma as evidenced by passing the high school equivalency assessment must do so in writing to the State Department. The request must originate from the graduate and include the name under which testing occurred, Social Security number, date of birth, place and year of testing, daytime phone number, a copy of a current and valid state-issued photo identification, an original signature and designation as to whom the copy is to be sent. In addition, a check or money order for the research/printing fee, which is determined by the State Department, must be included for each transcript requested. No requests, including those for correctional purposes, military enlistment, job placement, or test verification, will be honored without the research/printing fee. All requests must be submitted to the West Virginia Department of Education, Office of Adult Education and Workforce Development, Capitol Complex, Building 6, Room 728, 1900 Kanawha Boulevard, East, Charleston, WV 25305.

§126-32-12. Falsification of GED Tests Information and/or Center Violations.

12.1. Falsification of Test Information or Personal Security Violations.

12.1.a. Any falsification of information and/or cheating on the high school equivalency assessment will result in penalties as outlined in the West Virginia Examiners' Manual.

12.2. Security Compromises in Centers.

12.2.a. Testing center violations will be processed according to the procedures outlined in the West Virginia Examiners' Manual.

§126-32-13. Testing Fees.

13.1. Testing fees shall be established by the State Department.

§126-32-14. All correspondence regarding this policy should be directed to:

14.1. Office of Adult Education and Workforce Development.

Office of Adult Education and Workforce Development
West Virginia Department of Education
Capitol Complex, Building 6, Room 728
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330
(304) 558-6315.

§126-32-15. Severability.

15.1. If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this rule.