



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

10/13/2016 1:06:37 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 **No** TITLE-SERIES **126-**

RULE NAME **Public School Support for the Mountaineer Challenge Academy (Policy 2446)** **038**

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, November 14, 2016

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

Yes

Jill M Newman -- 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: 126-038



Rule Id: 10268



Document: 32048

126CSR38

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

SERIES 38
PUBLIC SCHOOL SUPPORT FOR THE MOUNTAINEER CHALLENGE ACADEMY (2446)

§126-38-1. General.

1.1. Scope. -- This rule establishes the regulations for public school support of the operation of the National Guard Youth Challenge Program operated by the Adjutant General and known as the Mountaineer Challenge Academy. The Mountaineer Challenge Academy is designated as a special alternative education program pursuant to W. Va. Code §15-1B-24 and §18-2-6 for students who are at risk of not succeeding in the traditional school structure.

1.2. Authority. -- W. Va. Constitution, Article XII, §2; W. Va. Code §§18-1-1 and 4; 18-2-6; and 15-1B-24.

1.3. Filing Date. -- October 13, 2016.

1.4. Effective Date. -- November 14, 2016.

1.5. Repeal of Former Rule. -- None. This is a new rule.

§126-38-2. Enrollment Status of Students.

2.1. The West Virginia Board of Education (hereinafter WVBE) shall work with county boards of education to provide the names and addresses of all high school dropouts in the state to the director of the Mountaineer Challenge Academy (hereinafter MCA) annually upon request.

2.2. A student participating in the MCA special alternative education program shall remain at full enrollment status in the referring county board of education for the purposes of state aid funding and calculating attendance and graduation rates.

2.3. The MCA shall confidentially maintain the education records of all participating students and comply with all applicable provisions of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99).

§126-38-3. Tuition.

3.1. The county board of education shall make payment of tuition to the MCA for each student who graduates from the MCA with a high school diploma and who resides in the county board of education's district. Tuition means an amount equal to seventy-five percent of the statewide average net state aid allotted per pupil based on net enrollment adjusted for state aid purposes. The county board of education shall pay tuition to the MCA only for those students earning a high school diploma while at the MCA and for whom the county receives state aid funding during the school year the student attends MCA (based on the enrollment status as of the preceding year second month enrollment) or for

whom the county will receive state aid funding in the subsequent school year (based on the enrollment status as of the second month enrollment in the year of attendance at MCA).

§126-38-4. Option Pathway and High School Diploma.

4.1. The MCA is approved by the West Virginia Department of Education (hereinafter WVDE) to implement the Option Pathway (see W. Va. 126CSR32, WVBE Policy 2444.4, Issuance of the State of West Virginia High School Equivalency Diploma, hereinafter Policy 2444.4).

4.2. The MCA student must successfully complete the requirements found in Policy 2444.4, section 8, to be counted as a graduate of his or her home high school for the purposes of calculating the graduation rate. Policy 2444.4, section 8, states:

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

4.2.b. 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 MCA and be counted as a graduate if the student meets the following requirements:

4.2.b.1. Attends preparation classes for high school equivalency assessment;

4.2.b.2. Passes the WVDE approved high school equivalency assessment;

4.2.b.3. Completes the 22 week MCA program;

4.2.b.4. Successfully completes the competencies in the four National Guard Youth Challenge Program Courses; and

4.2.b.5. Meets the scores of a career readiness assessment as determined by the WVDE.

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

4.4. A MCA student who does not pass the high school equivalency assessment during enrollment may retest during or after the MCA post-residential phase and may use the MCA's photo identification during the MCA post-residential phase if documentation reflecting the student's graduation date from the MCA is presented to the Examiner.

§126-38-5. Participation in Adult Education Program.

5.1. A MCA student, age 17 or over, who does not successfully complete the MCA Option Pathway and does not return to a public high school may participate in the adult education program for the purpose of earning a high school equivalency diploma.

§126-38-6. Participation in Child Nutrition Program.

6.1. For the purposes of participation in the National School Lunch Program, the MCA is identified as a residential child care institution and eligible to receive reimbursement for breakfast, lunch and afterschool snack.

§126-38-7. Severability.

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