



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Education TITLE-SERIES: 126-032
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Issuance of the State of West Virginia High School
Equivalency Diploma and Option Pathway
(2444.4)
CITE STATUTORY 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)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 05/14/2018 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Ellen Killion, Coordinator
ADDRESS: WVDE, Capitol Bldg. 6, Room 243
Charleston, WV 25305
EMAIL: ekillion@k12.wv.us
PHONE NUMBER: 304-558-6315

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Policy 2444.4 clarifies the procedures for acquiring a high school equivalency diploma, the implementation of an Option Pathway in the high school or Mountaineer Challenge (MCA) Academy, and the use of HESA for credit recovery. The policy will assist secondary administrators to better place students in programs that address their individual needs and opportunities for success.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Policy 2444.4 addresses the West Virginia High School Equivalency Diploma process and clarifies procedures resulting in a more efficient and effective policy.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

No costs or revenue will be impacted by the proposed amendment of W. Va. 126CSR32, Policy 2444.4.

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

No costs or revenue will be impacted by the proposed amendment of W. Va. 126CSR32, Policy 2444.4.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2018 Increase/Decrease (use "-")	2019 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No costs or revenue will be impacted by the proposed amendment of W. Va. 126CSR32, Policy 2444.4.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Mary C Tuckwiller -- 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.

**Policy 2444.4: Issuance of the State of West Virginia High School
Equivalency Diploma and Option Pathway**

Executive Summary

**West Virginia Department of Education
Division of Technical Education & Governor's Economic Initiatives / Office of Adult Education**

Introduction: The intent of Policy 2444.4 which addresses the West Virginia High School Equivalency Diploma program remains the same. The repeal and replace process clarifies the programs' procedures resulting in a more efficient and effective policy.

Background: To date, the State of West Virginia High School Equivalency Diploma program has provided approximately 3,000 West Virginians per year an alternative pathway to a high school degree. The program has increased the graduation rate of West Virginia students which results in a positive impact on the state's economic condition.

Stakeholders' collaboration consisted of team meetings with Option Pathway Peer Trainers, Career Technical Education and Office of Diversion and Transition Program staff.

Changes: There are two (2) major changes in Policy 2444.4:

1. The language "A locally developed personalized concentration of course work" was replaced with "a state-approved Career Technical Education Program of Study" to ensure students achieve employable skill sets prior to high school graduation; and
2. Language was added, "Individuals may not sit for the final content area of the High School Equivalency Assessment (HSEA) before the final semester of the required CTE program of study." to protect the purpose of the Policy, i.e., "an opportunity for at-risk students to stay in school and graduate with a standard high school diploma.

Other minor changes to Policy 2444.4:

- A reorganization of the items found in the current policy;
- Clarification in administering Option Pathway in various programs;
- Language change to provide consistency throughout the policy;
- The sections, "Applying for Testing, Criteria for Administering Option Pathway," and "Option Pathway Supplemental programs" were rearranged to update and clarify the difference between various programs.

Impact: Policy 2444.4 clarifies the procedures for acquiring a high school equivalency diploma, the implementation of an Option Pathway in the high school or Mountaineer Challenge (MCA) Academy, and the use of high school equivalency assessment (HSEA) for credit recovery. The policy will assist secondary administrators to better place students in programs that address their individual needs and opportunities for success.

**Policy 2444.4: Issuance of the State of West Virginia High School
Equivalency Diploma And Option Pathway
List of Stakeholders**

West Virginia Department of Education

External Stakeholders

- Major General James A. Hoyer, National Guard
- Mr. Robert Morris, Director, Mountaineer Challenge Academy
- Ms. Dianna Trickett, Deputy Director, Mountaineer Challenge Academy
- Ms. Elizabeth Thomas, Cadet Services Coordinator, Mountaineer Challenge Academy

Internal Stakeholders (West Virginia Department of Education)

- Dr. Kathy D'Antoni, Associate Superintendent, Division of Technical Education & Governor's Economic Initiatives
- Mr. Jacob Green, Special Assistant, Office of Diversion and Transition Programs
- Ms. Mendy Marshall, Executive Director, Office of Adult Education
- Dr. Christine Chambers, Executive Director, Office of Diversion and Transition Programs
- Ms. Ellen Killion, Option Pathway Coordinator, Office of Adult Education
- Dr. Sherri Nash, Executive Director, Office of Career Technical Education
- Mr. Clinton Burch, Executive Director, Office of Governor's Economic Initiatives
- Mr. Richard Gillman, Assistant Director, Office of Career Technical Education
- Mr. Doug Cipoletti, Lead Coordinator, Office of Education Information Systems
- Ms. Sally Finchum, Option Pathway Specialist, Office of Adult Education
- Ms. Debra Kimbler, Part Time Employee, WV Department of Education
- Ms. Linda Berlin, Part Time Employee, WV Department of Education

126CSR32

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

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

§126-32-1. General.

1.1. Scope. -- This legislative rule establishes the protocols for administering and issuing West Virginia's High School Equivalency Diploma and Option Pathway.

1.1.a. The purpose of the State of West Virginia High School Equivalency Diploma is to recognize individuals who demonstrate attainment of academic skills equivalent to those skills required to graduate from a West Virginia high school demonstrated by satisfactorily passing the high school equivalency assessment (HSEA) approved by the West Virginia Department of Education (WVDE).

1.1.b. The purpose of the Option Pathway, which is a blend of Career Technical Education (CTE) and the WVDE approved HSEA, is to provide an opportunity for at-risk students to stay in school and graduate with a standard high school diploma.

1.1.c. The WVDE approved HSEA corresponds to the performance standards reflected at the national and state levels, and demonstrates the attainment of developed abilities acquired through completion of a four-year high school program of study.

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

1.3. Filing Date. -- .

1.4. Effective Date. -- July 1, 2018.

1.5. Repeal of Former Rule. -- This legislative rule repeals and replaces W. Va. 126CSR32, West Virginia Board of Education (WVBE) Policy 2444.4, Issuance of the State of West Virginia High School Equivalency Diploma, filed October 13, 2016, and effective November 14, 2016.

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

2.1. WVDE issues a State of West Virginia High School Equivalency Diploma based upon satisfactory scores earned on the WVDE approved HSEA.

2.2. HSEA tests will be administered only at WVDE approved testing sites.

2.2.a. The WVDE must approve all HSEA Testing Centers.

2.2.b. There will be no duplication of testing services within a county without evidence of need.

§126-32-3. Applying for Testing.

3.1. All applicants are required to pass an approved HSEA practice test with the minimum score as determined by the WVDE. An Adult Education (AE) instructor, an Option Pathway teacher, or an HSEA examiner will provide necessary eligibility documentation.

3.2. A current, valid, original (not photocopy) government-issued photo identification, such as a driver's license, military identification, or passport, which contains the individual's full name, photograph and signature, must be presented to the test examiner immediately prior to and present during all testing sessions.

3.2.a. Option Pathway students may use a current photo identification issued by the high school.

3.2.b. A Mountaineer Challenge Academy (MCA) student may use the MCA photo identification for a period of one year after leaving MCA. The MCA student must provide documentation reflecting the attendance dates to the HSEA examiner.

3.2.c. Students participating in a WVDE Office of Diversion and Transition Programs (ODTP) residential or government program, e.g., Job Corps, may use the facility-issued photo identification.

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

4.1. Individuals who take the WVDE-approved HSEA and achieve minimum passing scores as determined by the WVDE will receive a State of West Virginia High School Equivalency Diploma.

§126-32-5. Testing of Individuals 16, 17, or 18 Years of Age.

5.1. Individuals who are 16, 17, or 18 years of age are eligible to sit for the HSEA under any of the following circumstances:

5.1.a. The individual has officially withdrawn from a public high school prior to test registration as evidenced by documentation from the last school/system attended, or by documentation from the county attendance director that includes the withdrawal date as it is defined in W. Va. 126CSR81, WVBE Policy 4110, Attendance; or

5.1.b. The individual is enrolled in the Option Pathway; or

5.1.c. The individual, at least 17 years of age, is homeschooled and provides the appropriate documentation as specified by the WVDE; or

5.1.d. The individual is attending Mountaineer Challenge Academy; or

5.1.e. The individual is court-ordered.

5.2. All individuals meeting one of the requirements above must also provide documentation from an Adult Education instructor, an Option Pathway teacher, or an HSEA examiner as outlined in §3.1.

§126-32-6. Testing of Individuals 16, 17, or 18 Years of Age Participating in ODTP or Government Program.

6.1. Individuals, at least 16 years of age, who are participating in a ODTP juvenile program, may test under the following conditions:

6.1.a. The individual is court-ordered to test and must provide a copy of the court order to the examiner even if the individual is still enrolled in school; or

6.1.b. The individual is officially transferred from the public high school to an ODTP facility; or

6.1.c. Adjudicated youth 16, 17, or 18 years of age, who are under the control of a court, diagnostic and detention center, group care facility, or probation office may be admitted to testing based on the referral of the ODTP staff, provided the youth is officially transferred from the public high school to the ODTP facility.

6.2. Individuals, at least 16 years of age, who are participating in a residential government program, e.g., Job Corps, may test while a resident at the facility, provided the candidate has passed the compulsory age requirement for school attendance in their state of residence and has been officially withdrawn from a public high school.

6.3. All youth transitioning from an ODTP residential facility or government program, who have taken but not completed the WVDE approved HSEA and who are listed in the WVDE database, are eligible to continue testing at a valid testing center by presenting a government-issued photo identification.

§126-32-7. Criteria for Administering Option Pathway in West Virginia Public High Schools and ODTP Facilities.

7.1. The Option Pathway provides the opportunity for an at-risk student to take the HSEA while still enrolled in and attending a West Virginia public high school or an ODTP educational program. The Option Pathway blends Career Technical Education (CTE) and the WVDE approved HSEA, and provides an opportunity for at-risk students to stay in school and graduate with a standard high school diploma. The Option Pathway is designed for the student who has failed major core courses and remains enrolled in high school. In order to maintain the integrity of the Option Pathway program, Option Pathway schools must follow all Option Pathway guidelines and policies as outlined in the Option Pathway Organizational Manual, located on the WVDE website.

7.1.a. Individuals may not sit for the final content area of the HSEA prior to the final semester of the CTE program of study.

7.1.b. If the Option Pathway student successfully passes all subjects of the WVDE approved HSEA and successfully completes a state-approved CTE program of study as defined in W. Va. 126CSR44M, WVBE Policy 2520.13, West Virginia College- and Career-Readiness Programs of Study/Standards for Career and Technical Education, the student will receive a standard high school diploma and will be counted as a graduate.

§126-32-8. Criteria for Administering Option Pathway Supplemental Programs.

126CSR32

8.1. Schools that have an operational Option Pathway program may offer seniors the HSEA as credit recovery in one content area. This supplemental program is referred to as HSEA credit recovery.

8.1.a. The HSEA credit recovery student continues attending and maintaining passing grades in all other classes as per W. Va. 126CSR42, WVBE Policy 2510, Assuring the Quality of Education: Regulations for Education Programs; and

8.1.b. The HSEA credit recovery student will earn grades according to the county credit recovery guidelines.

8.2. Schools that have an operational Option Pathway program may offer the HSEA to a student prior to the student dropping out of school. This supplemental program is referred to as HSEA Opportunity.

8.2.a. The HSEA Opportunity student who passes the HSEA prior to dropping out of school will receive a State of West Virginia High School Equivalency Diploma and will not be counted in the public high school's graduation rate.

8.3. The high school graduation pathway for MCA, is a blend of the National Guard Youth Challenge Program Courses and the WVDE approved HSEA. In order to maintain the integrity of the program, MCA must follow the guidelines and policies specific to MCA as outlined in the Option Pathway Organizational Manual, located on the WVDE website.

8.3.a. An MCA student who successfully passes all content area tests of the WVDE approved HSEA, successfully completes the four National Guard Youth Challenge Program Courses, and graduates from the MCA program will receive a standard high school diploma from their home high school and is counted in their home high school graduation rate.

8.3.b. An MCA student who does not graduate from MCA may return to the public high school to complete the deficient areas of study required for a standard high school diploma.

§126-32-9. Residence.

9.1. 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 according to the guidelines of this policy .

§126-32-10. Transcripts of Scores.

10.1. Names of individuals receiving the State of West Virginia High School Equivalency Diploma will not be released unless an individual has signed a written permission to release the information.

10.2. The original transcript and diploma shall be issued at no cost. An additional transcript, verification and/or a replacement copy of the State of West Virginia High School Equivalency Diploma will be provided for a fee determined by the WVDE.

§126-32-11. Falsification of the High School Equivalency Tests Information and/or Center Violations.

126CSR32

11.1. Any falsification of information and/or cheating on the high school equivalency assessment will result in penalties as outlined in the testing guidelines for WVDE Examiners' Manual, located on the WVDE website.

11.2. Testing center violations will be processed according to the procedures outlined in the West Virginia Examiners' Manual and may include potential loss of teaching license and potential criminal prosecution.

§126-32-12. Testing Fees.

12.1. Testing fees shall be established by the WVDE.

§126-32-13. Severability.

13.1. If any provisions 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.

**W. Va. 126CSR32 Policy 2444.4: Issuance of the State of West Virginia High School
Equivalency Diploma and Option Pathway
Comment Response Form**

Comment Period Ends: May 14, 2018

NOTICE: *Comments, as submitted, shall be filed with the West Virginia Secretary of State's Office and open for public inspection and copying for a period of not less than five years.*

The following form is provided to assist those who choose to comment on **Policy 2444.4: Issuance of the State of West Virginia High School Equivalency Diploma and Option Pathway**. Additional sheets may be attached, if necessary.

Name: _____ Organization: _____

Title: _____

City: _____ State: _____

Please check the box below that best describes your role.

- | | | |
|---|--|--|
| <input type="checkbox"/> School System Superintendent | <input type="checkbox"/> School System Staff | <input type="checkbox"/> Parent/Family |
| <input type="checkbox"/> Principal | <input type="checkbox"/> Teacher | <input type="checkbox"/> Business/Industry |
| <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Community Member |

COMMENTS/SUGGESTIONS
§126-32-#. General.
§126-32-2. State of West Virginia High School Equivalency Diploma.
§126-32-3. Applying for Testing.
§126-32-4. Basis for Issuing the State of West Virginia High School Equivalency Diploma.
§126-32-5. Testing of Individuals 16, 17, or 18 Years of Age.

**W. Va. 126CSR32 Policy 2444.4: Issuance of the State of West Virginia High School
Equivalency Diploma and Option Pathway
Comment Response Form**

§126-32-6. Testing of Individuals 16, 17, or 18 Years of Age Participating in ODTP or Government Program.
§126-32-7. Criteria for Administering Option Pathway in West Virginia High School and ODTP Facilities.
§126-32-8. Criteria for Administering Option Pathway Supplemental Programs.
§126-32-9. Residence.
§126-32-10. Transcription of Scores.
§126-32-11. Falsification of the High School Equivalency Tests Information and/or Center Violations.
§126-32-12. Testing Fees.
§126-32-13. Severability.

Please direct all comments to:

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