

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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OFFICE OF THE SECRETARY OF STATE

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

AGENCY: Secondary Schools Activities Comm. TITLE NUMBER: 127

CITE AUTHORITY: §18-2

RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

§29A-1-3

AMENDMENT TO AN EXISTING RULE: YES X, NO _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Athletics - Eligibility

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: _____

TITLE OF RULE BEING ADOPTED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS October 18, 1990

Judy Cooper
for SSAC

#1990 REVISION 3.9

09 Section 127-2-3 - Enrollment and Team Membership

3.1 - To be eligible for participation in interscholastic athletics a student must be enrolled in a member school on or before the eleventh instructional day of the semester in which he competes. Enrollment must be continuous after the student has officially enrolled in the school.

3.2 - If a student who has not enrolled in a member school on or before the eleventh day decides to transfer, even though it may be a bonfide change of residence, he will not be eligible during that semester.

3.3 - Students can participate only in schools in which they are enrolled; for example, a student in a feeder junior high school cannot participate on the high school team.

3.4 - An ineligible student may practice 15 days prior to his date of becoming eligible provided that he is otherwise eligible.

3.5 - Students enrolled in the following grades in member schools will be eligible for junior high participation:

<u>Junior High Schools</u>	<u>High Schools</u>
Grades 7 and 8	7, 8 and 9 (six year school)
Grades 7, 8 and 9	8 and 9 (five year school)
Grades 8 and 9	9 (four year school)

3.6 - Students enrolled in the ninth grade of a four, five or six year high school may participate on the high school team; however, once a student becomes a member of that team said student will be ineligible for the junior high team in that sport.

3.7 - Students who are enrolled in a grade below the ninth are not eligible for a high school team, and students enrolled in a grade below the seventh will not be eligible for a junior high team.

3.8 - Senior students will be eligible for spring sports until the close of the school's season.

~~3.9 - If a school maintains separate teams in the same or related sports (example: baseball or softball) for girls and boys during the school year, regardless of the sports season, girls may not participate on boys' teams and boys may not participate on girls' teams. However, should a school not maintain separate teams in the same or related sports for boys and girls, then boys and girls may participate on the same team except in contact sports such as football and wrestling.~~

3.9 - Schools may sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill. If a school sponsors a team in a particular sport for members of one sex but sponsors no such team for members of the other sex, and athletic opportunities for members of that sex previously have been limited, members of the excluded sex must be allowed to try out for the team offered. For example, because overall athletic opportunities for females have previously been limited, females will be allowed to try out for baseball, but males will not be allowed to try out for volleyball or softball.

#1988 Correction 4.2
#1990 Revision 4.3, 4.4

*09 Section 127-2-4 - Age

- 4.1 - A student in high school who becomes 19 and a student in junior high school who becomes 16 before September 1 shall be ineligible for interscholastic competition.
- # 4.2 - A student in high school who becomes 19 and a student in junior high school who becomes 16 on or after September 1 shall remain eligible for the entire year.
- NEW # 4.3 - A student in a middle school (eighth grade being the highest grade) who becomes 15 before September 1 shall be ineligible for interscholastic competition at that level.
- NEW # 4.4 - A student in a middle school (eighth grade being the highest grade) who becomes 15 on or after September 1 shall remain eligible for the entire school year at that level.

1988 Revision 5.2
1989 Revision 5.2

*09 Section 127-2-5 - Semester and Season

~~5.1 - A student shall not participate for more than four seasons while in grades 9-12 in any interscholastic activity, and these shall be during the student's first eight semesters of attendance beginning with the ninth grade. The seventh and eighth semesters must be consecutive.~~

~~5.2 - A student shall not participate for more than two seasons while in grades 7-8 in any interscholastic activity. If a student does not fail a grade but still repeats that grade, it would be considered a failure and this student would not be eligible while repeating.~~

~~5.3 - A student enrolled in a fifth first semester or fifth second semester of grades nine to twelve shall not be eligible to participate in any interscholastic activity.~~

~~5.4 - Ten days of attendance or enrollment shall constitute a semester. Said ten days includes the day of enrollment, the last day of attendance and the elapsed time between, provided that they are days when school was actually in session. School records may be requested for verification.~~

~~5.5 - The number of semesters of athletic eligibility of a student is determined by semesters of enrollment and attendance and not by semesters of participation.~~

~~5.6 - A student whose eligibility expires with the end of a semester shall not become ineligible until the first day of the following semester. The student will be considered eligible any days between the two semesters.~~

~~5.7 - Any part of a contest or interscholastic event in which a student competes shall be counted as a season for that sport and a semester of attendance.~~

~~5.8 - NOTE: The purpose of *09 Section 127-2-5 is to allow a student to have six seasons of participation for any interscholastic sport or to have 12 semesters of eligibility in grades 7-12.~~

1988 Revision 5.2
1989 Revision 5.2
1990 Revision 5.1 to 5.9

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*09 Section 127-2-5 - Semester and Season

5.1 - A student may have the privilege to participate in the interscholastic program for four consecutive years (eight consecutive semesters or equivalent) after entering the ninth grade of a four-year high school or the 9th grade in a 7-9 junior high school.

5.2 - In schools with 6 grades (7-12) and 5 grades (8-12), Rule 5.3 will govern seventh and/or eighth and nine through twelve (9-12) will be considered as a four-year school, as explained in Rule 5.1.

5.3 - A student shall not participate for more than two seasons while in grades 7-8 in any interscholastic activity.

5.4 - Students retained without failing.

- (a) Loss of eligibility. A student held back in the seventh or eighth grade without failing shall lose one of his four years of high school eligibility for each year he is held back.
- (b) Loss of fourth year. A student held back one year in the seventh or eighth grade without failing shall lose his fourth year of eligibility after entering the ninth grade.
- (c) Loss of third and fourth years. A student held back for two years in the seventh or eighth grade without failing shall lose both his third and fourth years of eligibility after entering the ninth grade.

5.5 - Ten days of attendance or enrollment shall constitute a semester. Said ten days includes the day of enrollment, the last day of attendance and the elapsed time between, provided that they are days when school was actually in session. School records may be requested for verification.

5.6 - The number of semesters of athletic eligibility of a student is determined by semesters of enrollment and attendance and not by semesters of participation. (This applies for students in grades 9-12 only.)

5.7 - A student whose eligibility expires with the end of a semester shall not become ineligible until the first day of the following semester. The student will be considered eligible any days between the two semesters.

5.8 - Any part of a contest or interscholastic event in which a student competes shall be counted as a season for that sport in grades 7-12 and a semester of attendance in grades 9-12.

5.9 - The Board of Appeals is authorized to grant exceptions to the Semester and Season Rule when it feels the rule fails to accomplish the purpose for which it is intended and when the rule works extreme and undue hardship upon the student.

- (a) The Board is authorized to consider only those cases in which a student entering high school (explained in Rules 5.1 and 5.2) and did not stay in continuous enrollment because of personal illness or no school was available, or because of other undue hardship reasons ascertained through investigation.
- (b) The Board may provide release from the continuous enrollment restriction provided no participation had occurred during the semester(s) in question.
- (c) The Board may also assess appropriate penalties to the student athlete or to the school if said Board determines through its investigation, that said student athlete or said school did try to evade the rule by subterfuge.

09- Section 127-2-7 - Residence-Transfer*Philosophy:**

Following is a brief resume of the points of philosophy included in the residence and transfer rules of this Commission:

- 7.1 - Participation in interscholastic athletics is a privilege provided for students who meet standards set by principals of all member schools.
- 7.2 - Participation in interscholastic athletics is a privilege which should fundamentally be available to bona fide students in school zones where their parents or legally established guardians reside.
- 7.3 - Standards governing residence and transfer are a necessary prerequisite to participation in athletics because
 - (a) They protect the opportunities of bona fide resident students to participate.
 - (b) They provide a fundamentally fair and equitable framework in which interscholastic athletic competition in an educational setting can take place.
 - (c) They provide uniform standards for all schools to follow in maintaining athletic competition.
 - (d) They support the educational philosophy that participation in athletics is a privilege which must not be permitted to assume a dominant position in the school program.
 - (e) They keep the focus of educators and students on the fact that students attend school to receive those requirements mandated by law first and athletics second.
 - (f) They maintain the fundamental principle that a student should live at home with his parents and attend school in the school zone in which his parents reside.
 - (g) They reinforce the view that the family is a strong and viable unit in our society and, as such, is the best place for a student to reside while attending school.
 - (h) They prevent school hopping or shopping around for school or athletic programs which may suit an individual's personal interest.
 - (i) They prevent "bumping" of students who have gained legitimate eligibility by persons from outside the school zone.

1989 Revision 7.6

- (j) They serve as a deterrent to individuals who would seek to recruit student athletes to attend a particular school.
- (k) They serve as a deterrent to student athletes running away from discipline problems, teacher problems, coach or similar conflicts.
- (l) They protect school programs from losing students who have established an identity as an athlete and, as such, are contributors to the overall school program and image.
- (m) They tend to encourage competition between member nonpublic and public schools.
- (n) They eliminate family financial status from becoming a factor on eligibility. The ability to pay or not to pay tuition creates a suspect classification.

7.4 - Speculative loss of college scholarship is not considered a basis for granting exceptions to these rules.

Part A - Residence

7.5 - A student shall be eligible in the zone in which his parents reside. Public secondary school zones shall be established by official action by each county Board of Education. Zones of nonpublic member schools shall be established by their governing board and subject to approval by Board of Appeals.

#7.6 - A student shall be eligible if he is enrolling to attend a secondary school for the first time at either a public school or a member nonpublic secondary school in the zone in which his parents reside, unless he has established eligibility under Rule 127-2-7.16 in another attendance zone.

7.7 - A student who completes the highest grade of an elementary school or member secondary school and enrolls for the first time in the next succeeding grade of the junior high school or senior high school located in his home zone shall be eligible to participate in interscholastic athletics, provided he is otherwise eligible.

7.8 - When a town or city is located in two counties and only one public secondary school is located in the town or city, students living in the town or city may attend this secondary school if mutually agreed upon by the two county Boards of Education and approved by the Board of Appeals.

7.9 - A student from a broken home who is in the care of the Department of Human Services of West Virginia shall be eligible to participate in interscholastic athletics as a member of the athletic teams of the high school in the zone in which said Department of Public Assistance places him in a home, provided he is otherwise eligible under the rules of the West Virginia Secondary School Activities Commission.

1989 Revision 7.16

7.10 - A student may be eligible outside his specified zone of attendance if he has been in attendance in that zone the three (3) immediate preceding years prior to entering a member secondary school. There can be no change of residence involving change of attendance zone during these three (3) preceding years.

7.11 - Should the parents make a bona fide change of residence to a new school zone during the school term, a student of any grade may remain in the school zone from which his parents moved and retain eligibility only until the end of that school year.

7.12 - Students who have attended a given high school and whose parents move from the zone following the completion of the student's eleventh (11th) grade, may retain eligibility for his twelfth (12th) grade, providing there is no undue influence to retain the attendance of such students.

7.13 - Foreign exchange students, attending a member school under the auspices of approved student exchange programs, shall be considered eligible regarding residence for a maximum period of one calendar year. Said foreign exchange student may not be a graduate of the secondary school of his home country and must maintain eligibility in a member school. A foreign exchange program must assign students to schools by a method which insures that no student, school, or other interested party may influence the assignment for athletic purposes.

7.14 - A student returning from an approved foreign exchange program may resume interscholastic competition in a member school at the point of interruption provided the student did not receive credits toward graduation while participating in the exchange program and provided the student meets all requirements relative to age and semesters of eligibility.

Part B - Transfer

7.15 - A student becomes immediately eligible, providing he is otherwise eligible, when parents make a bona fide change of residence to a new school zone. Change of residence is defined as an actual physical relocation of the family to a different residence with the intent to reside indefinitely and terminate all occupancy of their previous residence.

#7.16 - If a student transfers from a secondary school in one zone to a secondary school in another zone, said student shall be ineligible for a period of 120 instructional days unless the parents become residents of the district to which the student transfers. Students transferring out of attendance zone shall immediately forfeit eligibility in their home zone.

- # 1988 Revision 7.21
- # 1990 Revision 7.17
- # 1990 Correction 7.20

7.17 - ~~Students who transfer to or from a member school shall be ineligible for a period not to exceed 120 instructional days unless the parents move from one public school zone to another in conjunction with transfer of schools.~~ Students who transfer to or from a member school shall be ineligible for a period not to exceed one hundred twenty (120) instructional days unless the parents move from one public school zone to another public school zone in conjunction with transfer of schools. Students may, during this bona fide change in residence, transfer to either a member public or a member non-public school without penalty. However, if the transfer is from a non-member private school to a public school in the zone where the student's parents reside, a student is eligible providing: (1) the student is enrolling in a member school for the first time; (2) The principals of both private and public schools involved concur that undue influence is not involved with the transfer; (3) and the student transfer take place no later than the first ten (10) days of the first semester.

7.18 - A student may be transferred from one school zone to another zone within the same county by a county Board of Education and maintain eligibility. The transfer must be initiated by County Board of Education personnel to fulfill certain special program(s) not available in the school zone from which the student is transferred. A WVSSAC transfer form must be completed on the student, indicating approval by the Principals of the involved schools. Upon the completion of the special program the student must return to the school zone of his residence.

7.19 - The Commission does not recognize emancipated status as relates to transfer except as might occur in marriage and relocation to another school zone.

7.20 - A transfer student may not compete in any athletic contest until the WVSSAC Athletic Transfer Form has been filed with the WVSSAC office.

7.21 - "The Board of Appeals is authorized to grant exceptions to the Residence and Transfer Rule when it feels the rule fails to accomplish the purpose for which it is intended and when the rule works extreme and undue hardship upon the student."