

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #5

**FILED**

**JUL 12 9 57 AM '94**

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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

AGENCY: Secondary School Activities Comm. TITLE NUMBER: 127

CITE AUTHORITY: WV Code 18-2-25

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES X, NO \_\_\_\_\_

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

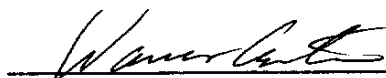
TITLE OF RULE BEING AMENDED: \_\_\_\_\_

Residence-Transfer

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 September 12, 1994



**TITLE 127**  
**LEGISLATIVE RULES**  
**WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION**  
**SERIES 2**  
**ATHLETICS, PROVISIONS GOVERNING ELIGIBILITY**

**# 1988**      **Revision d**

**\*09 §127-2-1. General.**

- 1.1 Scope** - These rules establish the provisions governing student eligibility to participate in interscholastic athletics.
- 1.2 Authority** - WV Code 18-2-25
- 1.3 Filing Date** -
- 1.4 Effective Date** - July 1, 1987

**\*09 §127-2-2 Note.**

- (a) The word "student" used in these Rules and Regulations refers either to a boy or girl participant in interscholastic athletics or band activities. Therefore, according to correct grammatical usage, since the antecedent "student" can involve persons of both sexes, the masculine pronouns he, his or him used throughout said Rules and Regulations will refer either to male or female participants.
  - (b) The word "principal" used in the Rules and Regulations refers either to a male or female head of a secondary school. Therefore, according to correct grammatical usage, since the antecedent "principal" can involve or refer to persons of either or both sexes the masculine pronouns he, him or his will refer to a male or female head of a secondary school.
  - (c) The words "this Commission" or the abbreviation WVSSAC used throughout these Rules and Regulations refers to THE WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION.
- #** (d) The word coach used in these rules and regulations refers either to a male or female coach of a secondary school. Therefore, according to correct grammatical usage, since the antecedent "coach" can involve or refer to persons of either or both sexes, the masculine pronouns, he, him or his will refer to a male or a female coach.

- # 1990 Revision 3.8
- # 1993 Revision-Delete Old 3.2

**\*09 §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 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.
- 3.3 An ineligible student may practice 15 days prior to his date of becoming eligible provided that he is otherwise eligible.
- 3.4 Students enrolled in the following grades in member schools will be eligible for junior high participation:

Junior High Schools

Grades 7 and 8  
Grades 7, 8 and 9  
Grades 8 and 9

High Schools

7, 8 and 9 (six year school)  
8 and 9 (five year school)  
9 (four year school)

- 3.5 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.
- 3.6 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.
- 3.7 Senior students will be eligible for spring sports until the close of the school's season.
- # 3.8 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 §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.
- # 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.
- # 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  
#1990 Revision 5.1 to 5.9

# \*09 §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 ninth 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.

## #1993 Addition to 6.1

**\*09 §127-2-6 Scholarship.**

- 6.1 A student is required to do passing work in the equivalent of at least 20 periods (four subjects with full credit toward graduation) per week. Failure to earn passing marks in four full credit subjects during a semester shall render a student ineligible for the following semester.
- (a) Two of those four full credit subjects must be in English-Language Arts, Social Studies, Mathematics or Science, and may or may not be in the same area.
  - (b) If a student has completed all state, county and school requirements for graduating, he or she may select four full credits from any area of the curriculum offered by the school.
  - (c) If a student is taking a multiple period subject, such as vocational courses for a full morning or afternoon, it may be counted as more than one subject. The number of subjects counted will be equal to the units of full credits given; however, part (a) above must also be met.
  - # (d) If a student has been declared ineligible according to the standards outlined above, he or she may attend summer school and have his or her eligibility reinstated if the student meets the standards at the conclusion of summer school.
  - # (e) If a student has been declared ineligible according to the standards outlined above, he or she may have his or her eligibility reinstated at midsemester if the student is meeting the standards at that time.
- 6.2 **Note:** Full credit is defined as one-half credit for a semester or 4050 minutes as taken from the West Virginia Department of Education, "Graduation Requirements for West Virginia Public Schools: Adolescent Education (Grades 9-12) (March 1982)."
- 6.3 Schools providing for planned programs of independent learning during the regular school term may not wish to require all students to attend classes for 4050 minutes during a semester. In such instances, full credit may be awarded for satisfactory performance provided that it meets standards established by the county and West Virginia Department of Education.
- 6.4 Full credit may be awarded for subjects in addition to those offered by the school as well as experimental programs developed by the school itself provided that it meets standards established by the county and West Virginia Department of Education. Such credit must be earned during the regular school term.
- 6.5 In order for a withdrawn student or an expelled student to regain eligibility, said student must complete one semester of school work.
- 6.6 Credit deficiencies cannot be made up after the last day of the semester, except in a case where a student whose final examinations and course credit are delayed due to illness which can be verified by a physician.
- 6.7 In all cases, the official school transcript will be used to determine a student's eligibility and will be regarded as final.
- 6.8 On August 12, 1983, the State Board of Education adopted Policy #2436.10 (C-Rule). Students must maintain a 2.0 average to participate in interscholastic athletics and cheerleading. Be sure to read this policy for details. (See Appendix)

**\*09 §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.
  - (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.

# 1989 Revision 7.6

# 1992 Revision 7.11

# 1993 Addition 7.8

- (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 A student who enters the lowest grade of a member school for the first time located in his/her home zone, shall be eligible to participate in interscholastic athletics, provided he/she is otherwise eligible. This transfer must occur at the beginning of the school term.

7.9 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.

7.10 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.

# 7.11 A student may be eligible outside his specified zone of attendance if he has been in attendance in that zone the immediate preceding year prior to entering a member secondary school. There can be no change of residence involving change of attendance zone during the immediate preceding year.

- # 1989 Revision 7.17
- # 1990 Revision 7.18
- # 1991 Revision 7.17
- # 1991 Revision 7.18
- # 1993 Revision 7.17

- 7.12 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.
- 7.13 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.
- 7.14 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.
- 7.15 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**

- 7.16 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.
- # 7.17 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 365 calendar 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.
- # 7.18 Students who transfer to or from a member school shall be ineligible for a period not to exceed three hundred sixty-five (365) calendar 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 and (2) the principals of both private and public schools involved concur that undue influence is not involved with the transfer.

# 1988 Revision 7.21

# 1993 Revision-Delete Old 7.20

- 7.19 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 education programs(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.
- 7.20 The Commission does not recognize emancipated status as relates to transfer except as might occur in marriage and relocation to another school zone.
- # 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."
- 7.22 If a student transfers for athletic reasons, he/she will be ineligible for 365 days from the date of enrollment.
- 7.23 If a student is released and accepted by formal actions of County Boards of Education or similar governing bodies of a non-public school, said student will be granted immediate eligibility, provided all other rules are met. This will be a one-time transfer while in grades 7-12 and must occur upon completion of the highest grade of the present school or upon entering the lowest grade of another school. Should a second transfer occur, said student will be subject to the strictest interpretation of all other rules stated in 127-2-7.

**\*09 §127-2-8 Adoption Guardianship.**

- 8.1 The residence of parents by adoption shall constitute the residence of their adopted child for the purpose of these rules when, and only when, the student is legally adopted.
- 8.2 The residence of a testamentary guardian shall constitute the residence of his ward when, and only when, (1) such testamentary guardian has been duly appointed by the last will and testament of the student's last surviving natural parent; (2) said testamentary guardian has duly qualified as such before the proper tribunal in West Virginia; and (3) the student is actually residing in the household of his testamentary guardian at the time of his sports participation.
- 8.3 The residence of a guardian shall constitute the residence of his ward when, and only when, (1) the guardian has been appointed or approved as such by order of a circuit court of West Virginia or by a court of record in some other state; (2) such circuit court or court of record in some other state has in addition to such appointment or approval awarded or approved the awarding of the legal custody of such student to his guardian; and (3) the student is actually residing in the household of his guardian/custodian at the time of his sports participation.
- 8.4 Except as provided in 7.9 (Residence), the residence of a person exercising the position of guardian but not custodian of a student or exercising the position of custodian but not guardian of a student shall not constitute the residence of such student under these rules.
- 8.5 Effective retroactively orders of any circuit court or court of record of any other state shall not have the effect of retroactively establishing residence of a student under these rules.
- 8.6 A person shall not be considered the guardian of a student for the purpose of these rules until he has qualified as such guardian by meeting all the prerequisites therefore as prescribed by law and the order of the appointing court of record.
- 8.7 A student may not compete for his school in any sport on the basis of the residence of his guardian/custodian unless written evidence of (1) a court record appointment or approval of his guardian, and (2) an order awarding custody or approving the awarding of custody to such guardian is furnished to the Executive Secretary of the West Virginia Secondary School Activities Commission before such sports participation. When a student has complied with the provisions of this rule, he becomes eligible immediately.
- 8.8 Legal guardianship should not be changed for athletic reasons. If this should occur, the student will be ineligible for 365 days from the date of enrollment in the new member school.

**#1992 Revision 9.2 and 9.3****\*09 §127-2-9. Undue Influence - Recruiting**

- 9.1 A student is considered a prospective athlete if the student has participated in an interscholastic contest beyond the sixth grade.
- # 9.2 The use of influence by a person or group connected or not connected with the school to secure or retain a prospective athlete is not permitted and may cause the student to be ineligible and may cause certain sanctions to be placed against the member schools.
- # 9.3 An employee of the school system shall not initiate any communication with a prospective athlete, parent of an athlete, guardian or family member, in person or through a third party prior to enrollment. County boards of education will be notified if such incidents occur.
- 9.4 A prospective athlete, parent of an athlete, or guardian shall not be offered any inducement, such as free tuition, jobs, supplies, uniforms, other than that which is provided for all students.

#1992 Revision 10.1

#1993 Revision 10.2

**\*09 §127-2-10. Non-school Participation**

- # 10.1 During the school year and while a member of a school team, a student shall neither participate on any non-school team in the same sport, nor shall the student compete as an individual unattached in non-school formally organized competition in the same sport. The following sports are exempted from the provisions of this rule: cheerleading, cross country, golf, swimming, tennis, track, gymnastics and wrestling providing:
- (a) participation is approved by the student's high school or junior high school principal.
  - (b) the student misses no school-sponsored athletic event involving a team in that sport.
- 10.2 A student may participate as a member of a national team (and the actual, direct tryouts thereof) which is defined as
- (a) one selected by the national governing body of the sport,
  - (b) while representing the National Federation in an International Schoolsport Federation, or
  - (c) as a representative of the United States in recognized national or international events.
- 10.3 A student who has participated on a non-school team or as an individual unattached in non-school formally organized competition after the beginning practice date of that sport will be ineligible for participation on that school team for that season in that particular sport except as provided by Rules \*09 §127-2-10.1 and 10.2.

**\*09 §127-2-11 Amateur.**

- 11.1 A student who represents a school in an interscholastic sport shall be an amateur in that sport. An amateur athlete is one who engages in athletic competition solely for the physical, mental, social, and pleasure benefits derived therefrom. An athlete forfeits amateur status in a sport by
- (a) competing for money or other monetary compensation (allowable travel, meals and lodging expenses may be accepted);
  - (b) receiving any award or prize of monetary value which has not been approved by the student's state association;
  - (c) capitalizing on athletic fame by receiving money or gifts of monetary value (scholarships to institutions of higher learning are specifically exempted);
  - (d) signing a professional playing contract in that sport.
- 11.2 Accepting a nominal, standard fee or salary for instructing, supervising or officiating in organized youth sports program or recreation, playground or camp activities shall not jeopardize amateur status. "Organized youth sports program" includes both school and non-school programs. Compensation for giving private lessons is permissible if approved by the West Virginia Secondary School Activities Commission office.
- 11.3 A high school student who loses amateur status may apply to the West Virginia Secondary School Activities Commission for reinstatement in the interscholastic program after a waiting period of one complete high school season (starting practice date to state tournament) for that sport.
- 11.4 A senior student may participate in a professional tryout either during or after the season of that sport provided
- (a) that it does not occur on the day of a school contest of that sport or
  - (b) that it meets with student's coach's approval.

**\*09 §127-2-12 Participation as an Ineligible**

- 12.1 Any student who participates in an interscholastic athletic event as an ineligible, either knowingly or inadvertently, shall be ineligible for a period not to exceed 365 days as determined by the Executive Secretary.



KEN HECHLER  
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help we can get)

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**STATE OF WEST VIRGINIA**

**SECRETARY OF STATE**  
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**RECEIVED**  
SEP 28 1994  
**WVSSAC**

TO: Warren Carter

AGENCY: Secondary Schools Activities

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: September 26, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 2 TITLE: 127 Secondary Schools Activities

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Warren Carter

TITLE OF PERSON SIGNING: Exec Sec

DATE: 10/4/94

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.