



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/11/2016 1:10:26 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 1)**

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)**

COMMENTS LIMITED TO
Written

DATE OF PUBLIC HEARING

LOCATION OF PUBLIC HEARING

DATE WRITTEN COMMENT PERIOD ENDS
Monday, September 12, 2016 4:00 PM

WRITTEN COMMENTS MAY BE MAILED TO
**Heather L. Hutchens, General Counsel
WVDE Office of Legal Services
Capitol Building 6, Room 362
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330**

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: 28801



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/11/2016 1:10:26 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 1 -- NOTICE OF A PUBLIC HEARING OR COMMENT PERIOD ON A PROPOSED RULE
(Page 2)**

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)**

PROVIDE A BRIEF SUMMARY OF YOUR PROPOSAL

The Legislature amended W. Va. Code §18-2-6, via HB459, to provide for the payment of tuition by county boards of education to the Mountaineer Challenge Academy for each student graduating from the Academy with a high school diploma that resides in the county boards school district. This policy clarifies how the payment of tuition to the Mountaineer Challenge Academy will be calculated and clarifies that the payment of tuition will only be required for those students who graduate from the Academy with a high school diploma. The policy also clarifies that students who do not complete either the Option Pathway or pass the high school equivalency assessment while in the Academy may return to the high school of origin to complete deficient areas of study or to retest for the high school equivalency diploma. Finally, the policy also sets forth other areas in which there is public school support for the Mountaineer Challenge Academy such as participation in the National School Lunch Program and participation in the adult education program for those who qualify.

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: 28801



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/11/2016 1:10:26 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Education**
RULE TYPE **Legislative Exempt** AMENDMENT TO EXISTING RULE No TITLE-SERIES **126-038**
RULE NAME **Public School Support for the Mountaineer Challenge Academy (Policy 2446)**

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)**

PRIMARY CONTACT

Heather L. Hutchens
West Virginia Department of Education
1900 Kanawha Blvd., East, Capitol Building 6
Charleston, STATE ZIP

SECONDARY CONTACT

Virginia Harris
West Virginia Board of Education
1900 Kanawha Blvd., East, Capitol Building 6
Charleston, STATE SECONDARY ZIP SECONDARY

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: 28801



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/11/2016 1:10:26 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

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)

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

This will have no impact on the costs and revenues of state government. However, public schools will pay tuition to the Mountaineer Challenge Academy (MCA) for each student who graduates from the MCA with a high school diploma and who resides in the LEAs 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 LEA 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).

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: 28801



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/11/2016 1:10:26 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

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)**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
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
ESTIMATED TOTAL REVENUES	0	0	0

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: 28801



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/11/2016 1:10:26 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

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)

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

There is no cost to the State because the allowances under the Public School Support Plan (PSSP) are not impacted by this policy. All amounts will be paid directly by the county boards of education to the MCA from the amounts they receive under PSSP.

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: 28801



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/11/2016 1:10:26 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 4)

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)**

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

The total annual amount paid by the county boards of education to the MCA will vary based on both the number of students who graduate from MCA with a high school diploma and the statewide average net state aid amount per pupil. The statewide average net state aid amount per pupil changes annually; however, for the 2016-17 school year, the amount is \$4,004.56. The tuition amount per eligible student would therefore be \$3,003.42 per pupil for the 2016-17 school year.

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

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: 28801



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

eFILED

8/11/2016 1:10:26 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

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)**

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

The Legislature amended W. Va. Code §18-2-6, via HB459, to provide for the payment of tuition by county boards of education to the Mountaineer Challenge Academy for each student graduating from the Academy with a high school diploma that resides in the county boards school district.

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: 28801

EXECUTIVE SUMMARY
WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number and Title: Policy 2446, Public School Support for the Mountaineer ChalleNGe Academy

Background: The Legislature amended W. Va. Code §18-2-6, via HB459, to provide for the payment of tuition by county boards of education to the Mountaineer ChalleNGe Academy for each student graduating from the Academy with a high school diploma that resides in the county board's school district.

Proposals: Policy 2446 was written to clarify how the payment of tuition will be calculated and to set forth other areas in which there is public school support for the Mountaineer ChalleNGe Academy such as participation in the National School Lunch Program and participation in the adult education program for those who qualify.

Impact: This policy clarifies how the payment of tuition to the Mountaineer ChalleNGe Academy will be calculated and clarifies that the payment of tuition will only be required for those students who graduate from the Academy with a high school diploma. The policy also clarifies that students who do not complete either the Option Pathway or pass the high school equivalency assessment while in the Academy may return to the high school of origin to complete deficient areas of study or to retest for the high school equivalency diploma. Finally, the policy also sets forth other areas in which there is public school support for the Mountaineer ChalleNGe Academy such as participation in the National School Lunch Program and participation in the adult education program for those who qualify.

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. -

1.4. Effective Date. -

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 Local Education Agencies (hereinafter LEAs) 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 LEA 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 LEA 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 LEA'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 LEA 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.

126CSR38

POLICY 2446, Public School Support for the Mountaineer Challenge Academy

COMMENT PERIOD ENDS: September 12, 2016

COMMENT RESPONSE FORM

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 2446, Public School support for the Mountaineer Challenge Academy. 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
§126-38-1. General.
§126-38-2. Enrollment Status of Students.

126CSR38

§126-38-3. Tuition.

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

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

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

§126-38-7. Severability.

Please direct all comments to:

Heather L Hutchens
General Counsel, Office of Legal Services
West Virginia Department of Education
Capitol Building 6, Room 362
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330
E-Mail Address: hhutchens@k12.wv.us
Fax No.: (304) 558-0048