



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

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: S.E.2d 839 (1988); & W. Va. Board of Education and Steven L. Paine,
Ed.D. v. Board of Education of the County of Nicholas, W. Va., 17-0767
(October 10, 2017)

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 16, 2018

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

Yes

Virginia M Harris -- 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.

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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. -- June 15, 2018.

1.4. Effective Date. -- July 16, 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.

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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 facilities 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 AE 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 educational 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 HSEA 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 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's website.

7.1.a. If the Option Pathway student successfully passes all content areas 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.

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.

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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's 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 rule.

§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 Assessment Information and/or Center Violations.

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11.1. Any falsification of information and/or cheating on the HSEA will result in penalties as outlined in the testing guidelines for WVDE Examiners' Manual, located on the WVDE's 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.