



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

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

AGENCY: Secondary School Activities Commission TITLE-SERIES: 127-05  
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: Band Activities (Series 5)  
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); & 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:

October 9, 2018

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

**Yes**

**William C Burch -- 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.**

127CSR5

TITLE 127  
LEGISLATIVE RULE  
WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION

SERIES 5  
BAND ACTIVITIES

**§127-5-1. General.**

1.1. Scope. -- These rules and regulations govern band activities.

1.2. Authority. -- W. Va. Constitution, Article XII, §2, and W. Va. Code §§18-2-5, 18-2-25, 18-2-25a, and 18-2-25b.

1.3. Filing Date. -- August 10, 2018.

1.4. Effective Date. -- October 9, 2018.

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. 127CSR5, West Virginia Secondary School Activities Commission Series 5, Band Activities, filed June 7, 2002, and effective August 5, 2002.

**§127-5-2. Enrollment and Membership - Band.**

2.1. All members of a member school band must be enrolled in that school; §127-5-2.3 is the only exception.

2.2. Majorettes, flag corps, drill teams, etc. are considered an integral part of the band and shall be adjudicated and governed accordingly. Any performance by a majorette, member of a flag corps or drill team, without the band, shall not be considered a band activity.

2.3. Instrumental music students in 7<sup>th</sup> and 8<sup>th</sup> grades of a feeder school which does not have its own band and who receive their instruction from the band director of the senior high band in which the students will eventually enroll shall be eligible to participate in the band directed by their instructor.

2.4. Participants in secondary school interscholastic band activities shall be eligible only for the number of years in which they are enrolled and attending a secondary school.

2.5. Students enrolled in schools serving grades five through eight may be eligible to participate in all band activities.

**§127-5-3. Scholarship - Band.**

3.1. All students are required to be enrolled in the equivalent of at least four content area course credits toward graduation. Failure to earn passing marks in the equivalent of at least four content area courses toward graduation shall render a student ineligible for the following semester.

3.1.a. Two of those four content area course credits must be in English-language arts, social

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studies, mathematics or science, and may or may not be in the same subject.

3.1.b. If a student has completed all state, county, and school requirements, they may select four full credits from any area of the curriculum offered by the school.

3.1.c. If a student is taking a multiple period block course, such as vocational courses for a full morning or afternoon, it may be counted as more than one course. The number of courses counted will be equal to the units of full credits given; however, §127-5-1.1 and §127-5-1.2 apply.

3.2. Full credit may be awarded for outside courses and experimental programs developed by the school itself provided that it meets standards established by the county and West Virginia Board of Education. Such credit must be earned during the regular school term.

3.3. In order for a withdrawn student or expelled student to regain eligibility, they must complete one semester of school work.

3.4. Scholastic deficiencies cannot be made up after the last day of the semester, except when a student's final examination(s) and course credit are delayed due to illness verified by a physician.

3.5. In all cases, the official school transcript determines a student's eligibility and is regarded as final.

3.6. A student promoted to the 7<sup>th</sup> grade for the first time is considered to have satisfied scholastic requirements and is permitted to participate during the first semester of initial enrollment in that grade, provided the student is otherwise eligible.

### **§127-5-4. Festivals - Band.**

4.1. The West Virginia Secondary School Activities Commission (WVSSAC/Commission) Board of Directors (Board of Directors) shall divide the state into regions for the purpose of band festivals and shall have the authority to place bands in those regions. They shall also determine the time, place, and management of these events.

4.2. All bands participating in those festivals shall be composed of students that meet the qualification standards set forth in these rules.

4.3. The Board of Directors shall appoint directors for the festivals. One of their responsibilities will be to contract adjudicators for the festivals.

4.4. Newly established programs are not required to participate in the regional festival.

### **§127-5-5. Sanctioning - Band.**

5.1. On or before September 1 of each school year, the Board of Directors shall provide each member school a list of approved school sponsored and non-school sponsored contests and activities in which member bands may participate during the ensuing year.

5.2. Additions to this list may be made after September 1 of each school year, provided that the request for approval is filed with the Commission office at least 30 days prior to the activity.

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5.3. In order to qualify for approved participation in activities outside the home county and counties contiguous to the home county (including out-of-state), bands of member schools must have participated within the guidelines of the WVSSAC Band Festival Plan in the most recently conducted regional band festival.

5.4. A school band shall not be absent from school more than five school days each year for the purpose of participating in band activities.

5.5. The regulations above apply only during the regular school term.

### **§127-5-6. Awards - Band.**

6.1. Only a member school or a non-school organization sponsoring an activity approved by this Commission may give the following awards to a student or band: medal, trophy, cup, certificate, ribbon, plaque, unattached letter, unattached chevron, or similar award.

6.2. A student may accept as an individual or member of a school band the above specified awards in the following situations:

6.2.a. from a member school for participation;

6.2.b. in a sanctioned event; or

6.2. c. in a non-sanctioned event during the summer.

6.3. A student may not receive the following awards from any source:

6.3.a. Wearing apparel - sweaters, jackets, etc.;

6.3.b. Equipment - radio, television, etc.;

6.3.c. Music instruments, batons, etc.; and

6.3.d. Money (scholarship to institutions of higher learning are exempted).

6.4. Member school bands may accept prizes and/or gratuities for participation in sanctioned events during the school term and in non-sanctioned events during the summer.

6.5. Purchase for a student of an item mentioned in §127-5-6.3.1-4 whereby a portion is donated by a school, booster club, auxiliary agency, or any other group or organization is prohibited.

6.6. Nothing in §127-5-6 shall be interpreted to affect the recognition of scholarship or scholastic achievement.

6.7. Any student who accepts an award in any band activity, other than those approved in these rules, shall be ineligible to participate in any band activity for 365 days.

### **§127-5-7. Classification of Schools - Band.**

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7.1. There shall be three classes of schools for bands: Class AAA, Class AA, and Class A. The Board of Directors is authorized to determine the size of enrollment in each class.

7.2. Classification shall be determined every four years in the even numbered year and, when established, shall remain in effect for four school years. Classification shall be based on the second month's enrollment of the previous odd numbered year.

7.3. Enrollment standard for schools will be the active enrollment of the total number of students in grades 9, 10, 11, and 12.

7.4. Member middle schools will not be given a classification.