



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

6/9/2022 10:57:44 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Education TITLE-SERIES: 126-022  
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: Regulations for Driver Education and Student Licensing (2422.2)  
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); and, W. Va. Bd. of Educ. v. Bd. of Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/11/2022 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Robert Joey Wiseman, Jr., Director  
ADDRESS: WVDE Middle and Secondary Learning Services, Capitol Bldg. 6, Suite 500  
1900 Kanawha Blvd., E, Charleston, WV 25305  
EMAIL: rjwisma@k12.wv.us

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Policy 2422.2 establishes the standards and guidelines for driver education programs and student licensing in West Virginia.

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

Policy 2422.2 is being revised to include new legislation regarding student Licensing restrictions and to repeal Policy 4150, Student Driver Eligibility Certificate.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There will be no economic impact on revenues of state government as a result of the proposed amendment of 126CSR22, Policy 2422.2.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

There will be no economic impact on special revenue accounts as a result of the proposed amendment of 126CSR22, Policy 2422.2.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

There will be no economic impact on the state or its residents as a result of the proposed amendment of 126CSR22, Policy 2422.2.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	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
<b>2. Estimated Total Revenues</b>	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There will be no economic impact on revenues of state government, special revenue accounts, or the state or its residents as a result of the proposed amendment of 126CSR22, Policy 2422.2.

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

Yes

**Michele L Blatt -- 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.**



**Policy 2422.2, Regulations for Driver Education and Student Licensing  
List of Stakeholders**

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**West Virginia Department of Education**

**External Stakeholders**

- PE McClanahan, Director, Putnam County Schools
- Dustin Cogar, Assistant Principal, Lewis County High School
- Chris Rutherford, Attendance Director, Wood County Schools
- Terri Lynn Queen, Attendance Director, Wayne County Schools
- Adam Holley, West Virginia Division of Motor Vehicles
- Debbie Ferguson, West Virginia Division of Motor Vehicles
- Cecil Loyd, West Virginia Division of Motor Vehicles
- Todd Barcus, Attendance Director, Wetzel County Schools
- David Neff, Attendance Director, Barbour County Schools
- Danica Rubenstein, Attendance Director, Monongalia County Schools
- Aaron Radcliff, Attendance Director, Lewis County Schools
- Tricia Maxwell, Attendance Director, Marion County Schools
- Tammy Holcomb, Attendance Director, Webster County Schools

**Internal Stakeholders**

- Dr. Sonya White, Senior Officer, Office of Teaching and Learning
- Robert "Joey" Wiseman, Jr., Director, Middle and Secondary Learning Services
- Charlene Coburn, Accountability Officer, Office of Accountability
- Stacy Losh, Coordinator, School Improvement Services
- Joshua Grant, Coordinator, Middle and Secondary Learning Services
- Margaret Williamson, Director, School Improvement Services
- Derek Lambert, Manager, Leadership Support Services
- Carrie Reeves, Coordinator, Child Nutrition Services
- Timothy Conzett, Technology Officer, Office of Data Management and Information Systems
- Nanette Argabrite, Director, West Virginia Education Information System
- Georgia Hughes-Webb, Director, Data Analysis and Research Services

126CSR22

TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION

SERIES 22  
REGULATIONS FOR DRIVER EDUCATION REGULATIONS AND STUDENT LICENSING (2422.2)

**§126-22-1. General.**

1.1. Scope. -- This rule establishes the standards and guidelines for driver education programs in West Virginia.

1.2. Authority. -- W. Va. Constitution, Article XII, §2; and W. Va. Code §§18-2-5, 18-6-1, and 18-8-11, et seq.

1.3. Filing Date. -- ~~October 14, 2021.~~

1.4. Effective Date. -- ~~November 15, 2021.~~

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. §126CSR22, Policy 2422.2, Driver Education Regulations, filed ~~August 15, 2014~~ October 14, 2021, and effective ~~September 15, 2014~~ November 15, 2021, and repeals W. Va. 126CSR84, Policy 4150, Student Driver Eligibility Certificate, filed May 13, 2021, and effective July 1, 2021 .

**§126-22-2. Applicability.**

2.1. W. Va. Code §18-6-4, et seq., authorizes the West Virginia Board of Education (WVBE), with the advice of the State Superintendent of Schools (State Superintendent), to promulgate rules governing the establishment, conduct, and scope of driver education in public, private, and parochial secondary schools located within the state, subject to the requirements and exceptions set forth in W. Va. Code.

2.2. There shall be offered in all public secondary schools within the state, without charge to the students, an approved, comprehensive course in driver education. The course may be offered in summer school in addition to the regular instructional term. Before graduating from a secondary school, students shall be provided an opportunity and encouraged to successfully complete a driver education course approved by the WVBE. In those counties where, sufficient public secondary school driver education courses are not available to meet all requests for the course, county boards of education (county board) shall, as quickly as possible, make sufficient courses available to fill those requests.

2.3. The following standards shall be applicable for all driver education courses offered and made available to students within the state, regardless of whether the courses are offered by public, private, or parochial schools.

2.4. W. Va. Code §18-8-11, authorizes the WVBE, to promulgate a rule outlining compulsory school attendance and academic progress as a condition of licensing for the privilege of operation of a motor vehicle.

**§126-22-3. Standards for an Approved Course.**

3.1. The driver education course shall be organized and designed in such a manner that is equivalent to or surpasses the following requirements.

3.1.a. Minimum and preferred requirements of the driver education course:

3.1.a.1. classroom instruction of 50 hours (66 hours preferred);

3.1.a.2. in-car observation of 10 hours (18 hours preferred); and

3.1.a.3. in-car practice driving of six hours or the equivalent according to the established and universally recognized ratio when simulation and multiple car instruction ranges are utilized.

3.2. At a minimum, driver education shall be scheduled as a one-semester program consisting of both classroom and laboratory instructional phases. In the case of schools using a block schedule of 90 minutes, the program may be scheduled as a nine-week program.

3.3. The course shall provide a minimum of one-half unit of credit.

3.4. Student on-street practice driving lessons shall be provided in an automobile equipped with a dual control brake, and a dual control clutch pedal for vehicles with manual shift transmissions. An approved/certified driver education teacher shall occupy the seat beside the student.

3.5. Classroom instruction shall not exceed the school's typical instructional course timeframe.

3.6. Student in-car practice driving lessons shall be scheduled so that students will receive not more than one-half hour behind-the-wheel instruction per session and not more than one hour during any 24-hour period.

3.7. Along with the driver education teacher, a minimum of two and a maximum of four students shall occupy the driver education vehicle during on-street practice driving/instruction lessons.

3.8. Only eligible students shall participate in the laboratory (practice driving) part of the course. An eligible student is defined as one who is 15 years of age and older and is in grades 9-12 during the period of enrollment in the course. The student must not have a known mental or physical disability that would prevent the student from qualifying for an operator's license, unless the disability is controlled or corrected so the student could so qualify. (W. Va. Code §18-6-3 and §18-6-5.)

3.9. Students at least 15 years of age or older may enroll in driver education and receive instruction and practical training in the operation of a motor vehicle on public streets and highways. Students who will not reach 15 years of age before completion of the driver education course may enroll, if space is available, after giving priority to those students who are already 15 years of age or older; instruction shall be limited to the classroom only.

3.10. Any student who is at least 15 years of age or older may enroll in driver education and operate a motor vehicle on West Virginia roadways without a Level I Instructional Permit while accompanied by

an approved/certified driver education teacher occupying a seat beside the student and in an automobile equipped with dual controls. However, it is encouraged that a student possess a Level I Instructional Permit at the time the student enrolls in the course and begins the behind-the-wheel driving instruction.

3.11. Course content shall be taught in the driver education program as required in W. Va. Code §18-6-3 and W. Va. 126CSR44H, Policy 2520.8, West Virginia Driver Education Standards.

3.12. Multiple-vehicle driving range instruction/practice driving may substitute for a portion of the time required for on-street driving practice at a 2:1 ratio. However, such instruction shall be supplemented with a minimum of two hours of practice driving per student under actual traffic conditions. A minimum program would consist of eight hours practice driving on the range and two hours on-street driving.

3.13. Simulator instruction programs shall provide not more than one-half of the six hours on-street practice driving requirements at a 4:1 ratio. Therefore, a minimum program would be three hours of practice driving in real traffic conditions coupled with 12 hours of simulation.

3.14. In the scheduling of students for the course, a minimum of six hours driving practice/instruction is required for each enrolled student. The amount of practice driving instruction required by licensed students will vary depending on their individual skills and experience. Therefore, licensed students shall receive a minimum of three hours in-car practice driving/instruction, testing, and evaluation in a variety of highway and traffic conditions. If the student, in the best judgment of the driver education teacher, requires additional driving instruction to hone skills and improve driving performance, such time shall be provided. Any instructional time that is not utilized by the licensed student shall be applied to providing additional in-car practice driving to the less experienced students enrolled in the course.

**§126-22-4. Standards for an Approved Teacher.**

4.1. The State Superintendent may issue a professional teaching certificate in driver education to applicants and teachers who meet the requirements for licensure and employment as an approved driver education teacher, as set forth in W. Va. §126CSR136, Policy 5202, Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications. Failure to meet any of the conditions specified below may result in refusal, recall, suspension, or revocation by the State Superintendent.

4.1.a. An educator possessing a professional teaching certificate in driver education:

4.1.a.1. has held a valid motor vehicle operator's license for the past five years without interruption;

4.1.a.2. possesses good health and is free from impairments that would adversely affect the safety of students and the general public;

4.1.a.3. demonstrates a satisfactory driving record by submitting a certified copy of the driving record from the Department of Motor Vehicles in each state where the teacher has been licensed during the past five years;



4.1.a.4. has not accumulated more than nine points on the applicant's driving record at any time during the past five years; and

4.1.a.5. has not been convicted and/or had a driving suspension or revocation of license on a charge of operating a motor vehicle while under the influence of alcohol, controlled substance, any other drugs, or the combination thereof; or by clear and convincing evidence, including but not limited to, and has not operated a motor vehicle while under the influence of same as established by a preponderance of evidence, such as a positive breath or blood test, or field sobriety test, notwithstanding the lack of a conviction or driving license suspension or revocation;

4.1.a.5.A. such individual shall not be licensed to teach driver education for at least two years subsequent to the first instance of conduct set forth in section 4.1.a.5. For the second instance, licensure shall be refused permanently.

4.1.a.6. waivers are not applicable to section 4.1.a.

4.2. Prior to employment as a driver education teacher in a West Virginia, the county superintendent shall verify that the applicant is an approved driver education teacher. Application for licensure must be made to the West Virginia Department of Education (WVDE).

4.3. An individual holding a First-Class/Full-Time Permit or Out-of-Field Authorization for Driver Education shall only be eligible to teach the course in the classroom and shall not be eligible to instruct students in the in-car practice driving.

**§126-22-5. Driver Education Temporary Permit.**

5.1. The State Superintendent may issue a temporary permit or other certificate for the purpose of providing instruction in driver education to an individual who does not qualify for a professional certificate under section 4.1 subject to the requirements found in W. Va. Code §18-6-2.

**§126-22-6. Standards for Summer Driver Education Courses.**

6.1. A summer driver education program shall consist of the same structured learning experiences required during the regular school term. All driver education regulations are applicable to the summer program with the exception that the summer program shall be conducted over a period of not less than five weeks.

**§126-22-7. Duty to Report.**

7.1. A county superintendent who knows of any acts on the part of a driver education instructor for which a certificate or permit may be revoked shall report the same, together with all facts and evidence, to the State Superintendent.

**§126-22-8. Accidents.**

8.1. Any accident involving the driver education vehicle shall be reported by the driver education teacher and handled by the county board immediately. If the incident involves student and/or teacher

injury, it shall be reported to the WVDE Legal Services unit as soon as possible. All accidents shall be ~~and~~ reported within five days to the WVDE Legal Services unit. In the event the driver education teacher is incapacitated and cannot report, the principal or principal's designee shall fulfill this responsibility.

**§126-22-9. Insurance.**

9.1. Driver education teachers and cars shall be covered by county board secured liability coverage in an amount proportionate to coverage for its school bus fleet and school bus operators.

**§126-22-10. Student Transfers Prior to Course Completion.**

10.1. When a student transfers to another school within the state prior to completing the course, appropriate records shall be forwarded to the new school. These records shall include course content/units of instruction completed and driving time and performance records. An out-of-state student shall provide documentation, on the sending school's letterhead, specifying the nature and hours of instruction, observation, behind-the-wheel driving, and whether satisfactory performance in each was attained by the student.

**§126-22-11. Commercial Driving Schools and Courses from Other States.**

11.1. As provided in W. Va. Code §18-6-8, commercial driving schools and courses from other states may be accepted by the WVBE if the requirements of section 3 are met.

11.2. The county board is not required to offer driver education to a student who has successfully completed a WVBE-approved driver education course.

**§126-22-12. Students with Physical Disabilities.**

12.1. When students with physical disabilities are eligible for the laboratory phase of the course, driver education vehicles and simulators in the schools when they are used shall be equipped with appropriate devices to enable the students to successfully accommodate their physical disability.

**§126-22-13. Program Reports.**

13.1. Certain data and information pertinent to the effective administration of the driver education program, the needs of other relevant and cooperating state agencies and national organizations shall, when requested, be reported to the WVDE.

**§126-22-14. Driver Education Certificates.**

14.1. High School Driver Education Certificates and Adult Driver Education Certificates shall, in the judgment of the driver education teacher, be awarded to students demonstrating mastery of recommended course skills and content and a satisfactory level of driving performance.

**§126-22-15. Use of Driver Education Vehicles.**

15.1. Those county boards securing dealer-loaned or leased vehicles shall use such vehicles only in compliance with an approved contract between the county board and car dealer. Dealer-secured

vehicles shall be used for driver education purposes only.

15.2. County boards owning their driver education vehicle(s) shall establish a policy regarding the use of the driver education vehicle for any purpose other than teaching driver education during the school day or hours of the school day that the driver education program is scheduled. If the vehicle is used for any purpose other than driver education, any identification as a Student Driver or Driver Education shall either be covered or removed.

**§126-22-16. Specifications for Identification of Driver Education Cars.**

16.1. Identification on any driver education car shall be visible to other drivers from all directions. It should indicate clearly that the car is being used for driver education and/or being operated by a student driver.

**§126-22-17. Motor Vehicle Driver's License Restrictions.**

17.1. School Attendance. When a student at least 15 but less than 17 years of age withdraws from school or fails to maintain satisfactory academic progress, the attendance director or chief administrator shall notify the West Virginia Division of Motor Vehicles (DMV) of the student's withdrawal no later than five days from the date of the withdrawal.

17.1.a. Withdrawal from School. When a student accrues more than 10 consecutive days or 15 total days of unexcused absences during a school year or is suspended from school pursuant to W.Va. Code §18A-5-1a and §18A-5-1a(b).

17.1.b. Satisfactory Academic Progress. Student attains and maintains grades that will allow graduation and course work in an amount of time sufficient to allow graduation in five years or by age 19, whichever is earlier. This calculation includes the minimum annual earning of five credits to be on track to graduate in five years based on the graduation requirements set forth in W. Va. §126CSR42, Policy 2510, Assuring the Quality of Education: Regulations for Education Programs (Policy 2510). Three of the five credits earned annually must be from the graduation requirements identified in Policy 2510.

17.2. When withdrawal from school or unsatisfactory academic progress is determined to be beyond the student's control, or withdrawal from school is for the purpose of transferring to another school, and is documented by a parent or guardian, no notice shall be sent to the DMV to restrict the student's license. If a student is applying for a license, the attendance director or chief administrator shall provide that student with documentation to present to the DMV to excuse the student from all of the above provisions.

17.3. Circumstances beyond the control of the student shall include, but not be limited to, medical reasons, familial responsibilities, and the necessity of supporting oneself or another. Suspension or expulsion from school or imprisonment in a West Virginia Division of Corrections and Rehabilitation facility is not a circumstance beyond the control of the student and shall be considered an unexcused absence for purposes of reporting withdrawals pursuant to this policy.

17.3.a. The county superintendent, or appropriate school official of any private secondary school, with the assistance of the attendance director and any other staff or school personnel, shall be the sole judge of whether any of the grounds for restriction of a license as provided by this policy are

due to circumstances beyond the control of the student.

17.4. Notice to DMV. Restriction of Student's Instruction Permit or License.

17.4.a. Within five days of receipt of the notice, the DMV shall send notice to the student that the student's instruction permit or license to operate a motor vehicle will be restricted to driving for: 1) work, 2) medical purposes, 3) educational pursuits, and/or 4) religious pursuits.

17.4.a.1. The notice shall advise student that the student is entitled to a hearing before the county superintendent of schools or designee or before the appropriate private school official concerning whether the student's withdrawal from school was due to a circumstance beyond the control of the student.

17.4.a.2. If the student's instruction permit or license is restricted, the DMV may not reinstate the instruction permit or license until the student returns to school and shows satisfactory academic progress or until the student turns 17 years of age.

**§126-22-178. Severability.**

178.1. If any provision of this policy or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this policy.

126CSR84

TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION

SERIES 84  
STUDENT DRIVER ELIGIBILITY CERTIFICATE (4150)

**§126-84-1. General.**

1.1. Scope. -- This legislative rule provides guidelines for the uniform implementation of driver eligibility criteria for students at least 15 but less than 18 years of age.

1.2. Authority. -- West Virginia Constitution, Article XII, §2, and W. Va. Code §§17B-2-3a, 17B-3-6, 18-2-5, and 18-8-11.

1.3. Filing Date. -- May 13, 2021.

1.4. Effective Date. -- July 1, 2021.

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. 126CSR84, Policy 4150, Student Driver Eligibility Certificate, filed August 15, 2008, and effective September 15, 2008.

**§126-84-2. Purpose.**

2.1. The West Virginia Board of Education (WVBE) recognizes that driving a vehicle is a privilege and that W. Va. Code requires young people, at least 15 but less than 18 years of age, to maintain specified driver eligibility requirements related to school attendance, personal behavior, and academic progress in order to obtain and maintain a West Virginia license or instruction permit for the operation of a motor vehicle. While the West Virginia Department of Motor Vehicles (WVDMV) has the authority to deny and suspend a license or instruction permit for the operation of a motor vehicle, W. Va. Code places certain responsibilities on school administrators to identify students who do not meet any or all of the driver eligibility requirements and to communicate this information to the WVDMV. The identification of students not meeting the driver eligibility requirements must be performed using uniform measures across the 55 counties; the definitions provided in this policy have been designed to assure consistent application of driver eligibility throughout West Virginia.

**§126-84-3. Definitions.**

3.1. Circumstances Beyond the Control of the Student. Circumstances shall include, but not be limited to, medical reasons, familial responsibilities, and the necessity of supporting oneself or another. Suspension or expulsion from school or imprisonment in a jail or a West Virginia correctional facility is not a circumstance beyond the control of the student and shall be considered an unexcused absence.

3.2. Driver's Eligibility Certificate. Documentation provided by the county to the student verifying that the student has met the attendance, behavioral, and academic expectations set forth by W. Va. Code §18-8-11 that are required to obtain a license or instruction permit to drive a motor vehicle.

3.3. Satisfactory Academic Progress. Attaining and maintaining grades sufficient to allow graduation

and coursework in an amount sufficient to permit graduation in five years or by age 19, whichever is earlier.

3.3.a. This calculation includes the minimum annual earning of five credits to be on track to graduate in five years based on the graduation requirements set forth in W. Va. §126CSR42, Policy 2510, Assuring the Quality of Education: Regulations for Education Programs (Policy 2510).

3.3.b. Three of the five credits earned annually must be from the graduation requirements identified in Policy 2510.

3.4. Withdrawal. For the purpose of driver's license eligibility, withdrawal is defined as the following reasons for which the county board of education shall deny or revoke a Driver's Eligibility Certificate from any student at least 15 but less than 18 years of age:

3.4.a. more than 10 consecutive or 15 total days unexcused absences during a school year.

3.4.b. suspensions pursuant to W. Va. Code §18A-5-1a and §18A-5-1b which include the following behaviors when committed on the premises of an educational facility, at a school-sponsored function, or on a school bus: assault and/or battery on school employees; possessing deadly weapons; sale of a narcotic drug; committing an act or engaging in conduct that would constitute a felony under W. Va. Code if committed by an adult; and/or unlawfully possessing a control substance governed by the uniform controlled substances act as described in W. Va. Code §60A-1-101, et seq.

#### **§126-84-4. Responsibilities.**

##### **4.1. WVBE responsibilities.**

4.1.a. Encourage daily attendance and appropriate student conduct, set academic graduation requirements for public schools, and mandate that county school systems collect and report student performance data regarding these student behaviors.

4.1.b. Define Driver's Eligibility Certificate criteria in uniform quantifiable measures to assure that the process is applied equally to all students ages 15 to 18 who are enrolled in West Virginia public schools.

##### **4.2. County board of education responsibilities.**

4.2.a. Support and require the county attendance director and all school administrators to implement and execute the duties defined in W. Va. §126CSR81, Policy 4110, Attendance (Policy 4110).

4.2.b. Incorporate the appropriate components of this policy into existing county attendance, student code of conduct, and academic requirement policies.

4.2.c. Support and require the county attendance director and all school administrators to implement and execute the following duties defined in W. Va. Code §18-8-11 regarding driver's eligibility for a license or instruction permit to operate a motor vehicle:

4.2.c.1. provide, upon request, a Driver's Eligibility Certificate on a form (hard-copy or electronic) approved by West Virginia Department of Education (WVDE) to any student at least 15 but less than 18 years of age who is in satisfactory standing with regard to attendance, behavior, and academic

progress in a school under the jurisdiction of the official for presentation to the WVDMV on application for or reinstatement of an instruction permit or license to operate a motor vehicle.

4.2.c.2. provide notification to the WVDMV when a student, at least 15 but less than 18 years of age, withdraws from school, is suspended pursuant to W. Va. Code §18A-5-1a and §18A-5-1b, section 3.4.b, and/or fails to maintain satisfactory academic progress, except when the withdrawal or failure to make satisfactory academic progress is due to circumstances outside the control of the student. Notification must be provided to the WVDMV no later than five days from the date of the withdrawal and/or suspension. Notification must be provided to the WVDMV no later than five days from the end of the school year for failure to maintain satisfactory academic progress.

4.2.c.3. provide the opportunity, upon request, for a student who has been denied a Driver's Eligibility Certificate or has received a revocation notice, to have a hearing before the county superintendent of schools or designee concerning whether the student's withdrawal from school or failure to make satisfactory academic progress was due to a circumstance or circumstances beyond the control of the student. The county superintendent, with the assistance of appropriate staff, shall be the sole judge of whether any of the grounds for denial or suspension of a license or instruction permit are due to a circumstance or circumstances beyond the control of the student.

4.2.d. provide a review process that allows students to have their Driver's Eligibility Certificate reinstated upon demonstration of satisfactory progress as follows:

4.2.d.1. reinstatement requests related to withdrawal for unexcused absences shall be reviewed, as outlined in Policy 4110, at the end of the semester following that in which the withdrawal occurred.

4.2.d.2. reinstatement requests related to failure to make satisfactory academic progress shall be reviewed at the end of each school year for the purpose of reinstating the Driver's Eligibility Certificate.

4.2.d.3. reinstatement requests related to withdrawal for suspension pursuant to W. Va. Code §18A-5-1a and §18A-5-1b shall be reviewed after all disciplinary sentences have been served for the purpose of reinstating the Driver's Eligibility Certificate.

**§126-84-5. Severability.**

5.1. If any provision of this policy or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this policy.

**Policy 2422.2, Regulations for Driver Education and Student Licensing  
Comment Response Form**

**COMMENT PERIOD ENDS: July 11, 2022**

**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 2422.2, Regulations for Driver Education and Student Licensing. 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"/> County Board Member  | <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Higher Education |
| <input type="checkbox"/> Superintendent       | <input type="checkbox"/> Principal                  | <input type="checkbox"/> Parent/Family     | <input type="checkbox"/> Legislator       |
| <input type="checkbox"/> Central Office Staff | <input type="checkbox"/> Teacher                    | <input type="checkbox"/> Community Member  | <input type="checkbox"/> Other            |

<b>COMMENTS/SUGGESTIONS</b>
<b>§126-22-2.4. Applicability.</b>
<b>§126-22-17. Motor Vehicle Driver's License Restrictions.</b>
<b>Repeal of Policy 4150, Student Driver Eligibility Certificate</b>

Please direct all comments to:  
Robert "Joey" Wiseman, Jr., Director  
Middle and Secondary Learning Services  
Office of Teaching and Learning  
West Virginia Department of Education  
Capitol Building 6, Suite 500  
1900 Kanawha Boulevard, East  
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