

**WEST VIRGINIA
SECRETARY OF STATE**

JOE MANCHIN III

ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

RULE TYPE: Procedural CITE AUTHORITY: W. Va. Constitution, Article XII, §2, W.Va.

Code §18-2-5; 18-6-1 through 18-6-10

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 22

TITLE OF RULE BEING AMENDED: West Virginia Board of Education Regulations: Driver
Education (Policy 2422.2)

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON September 11, 2001 AT 4:45 p.m.. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Deborah Brown, Executive Director

Office of Instructional Services

1900 Kanawha Blvd. E., Room 330

Charleston, West Virginia 25305

THE ISSUES TO BE HEARD WILL BE LIMITED TO THIS PROPOSED RULE.



David Stewart
State Superintendent of Schools

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**Policy 2422.2
West Virginia Board of Education Regulations: Driver Education
Proposed Changes
July 2001**

EXECUTIVE SUMMARY

Background

Policy 2422.2 West Virginia Board of Education Regulations: Driver Education was last revised in 1990. This policy promulgates rules governing the establishment, conduct and scope of driver education in West Virginia Schools. West Virginia Code §18-6-1 through §18-6-10 authorizes the establishment of these guidelines.

Proposed Changes

Major proposed changes align Policy 2422.2 with H.B. 3023, passed during the 2001 Legislative session, which allows students who are at least 15 years of age and enrolled in a driver education course to operate a motor vehicle while accompanied by a certified driver education teacher. (See Sections 3.8, 3.9, 3.10 of the proposed policy.)

Other changes bring consistency to the format, correct language relating to licensure of teachers and students with disabilities, and make minor editorial changes.

Impact

The major impact is the aligning of policy with the West Virginia Code.

Action Requested

The West Virginia Department of Education respectfully requests that Policy 2422.2 with the attached changes be placed on public comment for a period of 60 days.

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**TITLE 126
PROCEDURAL GUIDELINES
BOARD OF EDUCATION
SERIES 22
(Policy 2422.2)**

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA BOARD OF EDUCATION REGULATIONS: DRIVER EDUCATION

§126-22-1. General.

1.1. Scope. – These rules establish the standards and guidelines for approved driver education programs in West Virginia, which are conducted under the auspices of the local school districts.

1.2. Authority. – W.Va. Code §18-6-1 through §18-6-10.

1.3. Filing Date. –

1.4. Effective Date. --

1.5. Repeal of Former Rule – This legislative rule revises and supercedes all previous regulations governing driver education in West Virginia.

§126-22-2. Applicability.

2.1. West Virginia Code §18-6-1 through §18-6-10 authorized the State Board of Education, with the advice of the state superintendent and the superintendent of the department of public safety to promulgate rules governing the establishment, conduct and scope of driver education in public, private, parochial and denominational secondary schools of West Virginia subject to certain exceptions set forth in the code.

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

§126-22-3. Standards for an Approved High-School Course.

3.1. The Driver Education course shall be organized and designed in such a manner that it does not preclude the ability to provide a program equivalent to or surpassing the following (exclusive of passing time between classes):

Minimum Requirements (Preferred)

Classroom Instruction:	50 hours (66 hours preferred)
Including a minimum of 8 hours in a standard defensive driving course	
In-Car Observation	10 hours (18 hours preferred)
In-Car Practice Driving	6 hours
(or the equivalent according to the established and universally recognized ratio when simulation and multiple car instruction ranges are utilized	
TOTAL:	66 HOURS

3.1.1. The minimum and preferred requirements of the driver education course.

- a. Classroom instruction of 50 hours (66 hours preferred) including a minimum of 8 hours in a standard defensive driving course.
- b. In-car observation of 10 hours (18 hours preferred).
- c. In-car practice driving of 6 hours (or the equivalent according to the established and universally recognized ratio when simulation and multiple car instruction ranges are utilized).

3.2. As a minimum, driver education shall be scheduled as a one semester program, ~~or its equivalent~~, 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 weeks 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 (also a dual control clutch pedal for vehicles with manual shift transmissions) and an approved driver education teacher shall occupy the seat beside the pupil.

3.5. Classroom instruction shall not exceed two hours during any 24-hour period.

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. A minimum of two and a maximum of four students shall occupy the driver education vehicle during secondary school on-street practice driving/instruction lessons.

3.8. Only eligible students shall participate in the laboratory (practice driving) phase part of the course. An eligible student is defined as one who ~~will have reached age sixteen by the last scheduled date of the course~~ is fifteen years of age and older and is in grades 9-12 during the period of enrollment. The student must not have a known mental or physical disability that would prevent the person from qualifying for an operator's license, unless the disability is controlled or corrected so the person could so qualify. (State Statute West Virginia Code §18-6-3 and §18-6-5).

3.9 ~~On or before July 1, 1992, fifteen year olds with permits will become eligible, at the discretion of the sponsoring secondary school, for the regular driver education program provided 1) ample resources are available without straining the existing program and, 2) all other eligible students in the school have been given the opportunity to participate in the established program.~~ After June 7, 2000, students at least fifteen years of age or older may enroll in driver education and receive instruction and practical training in the operation of a motor vehicle on the public streets and highways. Students who will not reach the age of fifteen years before completion of the driver education course may enroll, if space is available, giving priority to those students that are already fifteen years of age or older, but instruction shall be limited to the classroom only.

3.10. Any student who is at least fifteen years of age or older may enroll in Driver Education and operate a motor vehicle on the roadways of West Virginia without a Level I Instructional Permit while accompanied by a certified driver education teacher occupying a seat beside the student and in an automobile equipped with dual controls. However, it is encouraged a student have a Level I Instructional Permit at the time the student enrolls in the course and begins the behind-the-wheel driving instruction.

3.101. All course content as required in the West Virginia State Code §18-6-3 is taught in the driver education program; the development of positive social interactions, basic and advanced driving techniques; emergency driving situations, traffic regulations and laws; natural laws which affect driving; preventive maintenance of critical vehicle parts and systems; highway, community and environmental features that aid the driver in avoiding accidents; signs, signals and highway markings that facilitate the safe operation of motor vehicles; the characteristics of urban and rural driving, including the use of interstates and other modern highway systems; pedestrian safety concepts; alcohol and other drugs and their relationship to traffic accidents and/or traffic safety role of emotions and personality characteristics in relationship to traffic safety; discussions/activities regarding the scope of traffic accident causes and accident prevention measures; fuel and energy conservation; impact of safety belt/restraining systems on injuries and fatalities and first-aid instruction.

3.142. 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 (8) hours practice driving on the range and two (2) hours on-street driving.

3.123. Simulator instruction programs shall provide not more than one-half of the six (6) hour on-street practice-driving requirement of at a 4:1 ratio. Therefore, a minimum program would be 3 hours practice driving in real traffic conditions coupled with twelve (12) hours simulation.

3.14. ~~NOTE: Course design ensures that laboratory time is available to provide~~ In the scheduling of students for the course, a minimum of 6 hours driving practice/instruction for each enrolled student is required. ~~Some pre-licensed or students licensed students before January 1, 2001,~~ however, may not require the full amount of allotted time while other students may require considerable additional instruction and practice driving before attaining and consistently demonstrating safe driving performance. The amount of practice driving instruction required by pre-licensed student will vary depending on their individual skills and experience. Therefore, pre-licensed students shall receive a minimum of 3 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 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 pre-licensed student shall be applied to providing additional in-car practice driving to the less experienced students enrolled for the course.

§126-22-4. Standards for An Approved Teacher

4.1. Applicants and teachers who meet the following requisites are eligible for ~~certification~~ licensure and employment as an approved driver education teacher. Failure to meet any of the conditions specified below may result in refusal, recall, revocation or suspension by either the Superintendent of Public Safety or the State Superintendent of Schools.

4.1.1. An approved Teacher:

- a. Has a valid West Virginia high school certificate.
- b. Is licensed ~~certified~~ by the State Department of Education to teach safety education.
- c. Has held a valid motor vehicle operator's license for the past three (3) years.
- d. Possesses good health and ~~be~~ is free from impairments that would adversely affect the safety of pupils and the general public.
- e. Has a satisfactory driving record confirmed and approved through the State Driver Education Coordinator through the Accident Prevention Bureau, West Virginia Department of Public Safety and/or West Virginia Department of Motor Vehicles.
- f. Has not accumulated more than 9 points on the DMV record.
- g. Has not been convicted of and/or has not had DMV suspension or revocation of license on a charge of operating a motor vehicle while under the influence of alcohol, drugs or narcotics, or clear and convincing evidence presented, such as positive breath or blood test, of operating a motor vehicle while under the influence of same.

A. The applicant/teacher shall not be licensed certified to teach driver education for at least two (2) years subsequent to the first offense for conviction or DMV suspension/revocation. For the second offense certification license shall be refused permanently.

h. Has completed the standard defensive course.

§126-22-5. Emergency Licensure.

5.1. In emergency situations created by the loss of a fully licensed certified safety education teacher, county boards of education may employ teachers to provide driver education on a permit if qualified personnel are not available.

5.2. A letter documenting efforts to find a licensed certified teacher shall be provided by the county superintendent to the state superintendent of schools. Such documentation shall include: a) newspaper advertisement, b) letters to West Virginia college officials where driver education teacher preparation programs are offered, and c) notification to the state coordinator of driver education.

5.3. However, teachers employed on permit shall have completed six semester hours of credit within an approved safety education program. One of the courses shall include an approved basic teacher preparatory course for teaching students behind-the-wheel practice driving.

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

6.1. Summer driver education programs shall be conducted over a period of not less than five (5) weeks. The course shall consist of the same structured learning experiences required during the regular school term. Otherwise, all driver education regulations are applicable to the summer program.

§126-22-7. Standards for Adult and Out-of-School Youth Courses.

7.1. Program time requirements for adults and out-of-school youth over eighteen (18) years of age shall include 20 hours of classroom instruction, ten (10) hours of assigned independent study and a minimum of six (6) hours of actual driving practice or the equivalent where multiple car driving ranges and simulator programs are used. (See ~~note at end of~~ Section 3.14 for pre-licensed drivers.)

§126-22-8. Incapacitated Instructor.

8.1. In the event of death, extended illness, dismissal, serious injury, or other reasons which would prevent the instructor from performing duties normally associated with teaching driver education, the principal shall notify the State Driver Education Coordinator within ten days.

§126-22-9. Accidents.

9.1. Any accident involving the driver education vehicle shall be handled by the county and reported within five days to the state driver education coordinator. In the event the teacher is incapacitated, the principal or principals' designee shall fulfill this responsibility.

§126-22-10. Insurance.

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

§126-22-11. Student Transfers.

11.1. 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, driving performance records and a record of the student's driving time and performance. Out-of-state students shall provide documentation on the sending school's letterhead, specifying the nature and hours of instruction, observation, behind-the-wheel driving, and whether or not satisfactory performance in each was attained by the transfer student.

§126-22-12. Handicapped Students with Disabilities.

12.1. When ~~physically handicapped~~ 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 disabled students to successfully ~~compensate for~~ accommodate their handicap(s) 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 State Coordinator of Driver Education on official forms provided through the Department.

§126-22-14. Driver Education Certificates.

14.1. High School Driver Education Certificates, Form I-DE-4 and Adult Driver Education Certificates, Form I-DE-5, shall, in the judgment of the teacher, be awarded only to students demonstrating mastery of recommended course content and a satisfactory level of driving performance, i.e. student ability to consistently control the speed and direction of the vehicle and to safely operate the motor vehicle on the public streets and highways.

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

15.1. Those counties securing dealer loaned or leased vehicles shall use such vehicles only in compliance with an Official Contract Between School Boards and Car Dealers. 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 be 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 Drivers Education and/or being operated by a student driver.

RESPONSE

Policy 2422.2: West Virginia Board of Education Regulations: Driver Education

Directions: Please use this form to comment on Policy 2422.2: Driver Education.

Individual/Organization: _____

Address: _____

Phone: _____

§126-22-2. Applicability.	
§126-22-3. Standards for an Approved Course.	
§126-22.4 Standards for An Approved Teacher.	

§126-22.5 Emergency Licensure.

§126-22.6 Standards for Summer Driver Education Courses.

§126-22.7 Standards for Adult and Out-of-School Youth Courses.

§126-22.8 Incapacitated Instructor.

§126-22.9 Accidents.

§126-22.10 Insurance.

§126-22.11 Student Transfers.

§126-22.12 Students with Disabilities.
§126-22.13 Program Reports.
§126-22.14 Driver Education Certificates.
§126-22.15 Use of Driver Education Vehicles.
§126-22.16 Specifications for Identification of Driver Education Cars.

Please return your comments by September 11, 2001, to:

West Virginia Department of Education
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1900 Kanawha Boulevard, East
Charleston, WV 25305
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