

**WEST VIRGINIA
SECRETARY OF STATE**

BETTY IRELAND

ADMINISTRATIVE LAW DIVISION

Form #5

Do Not Mark In This Box

2008 MAY 16 AM 11:14

WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

CITE AUTHORITY: W. Va. Constitution, Article XII, §2 and W. Va. Code §18-2-5

RULE TYPE: PROCEDURAL: _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

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).

AMENDMENT TO AN EXISTING RULE: YES X NO _____

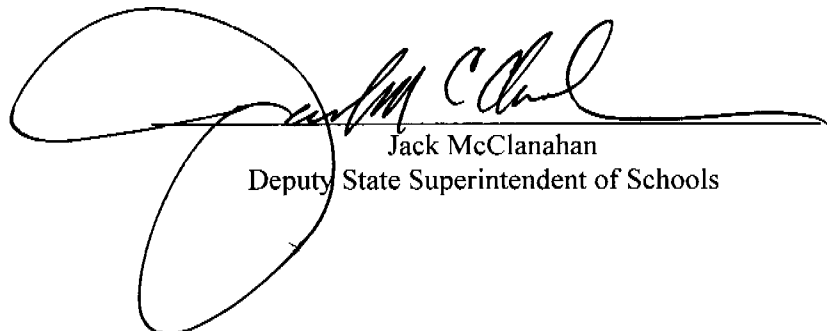
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 26

TITLE OF RULE BEING AMENDED: Participation in Extracurricular Activities (2436.10)

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

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS June 16, 2008.



Jack McClanahan
Deputy State Superintendent of Schools

**EXECUTIVE SUMMARY
WEST VIRGINIA DEPARTMENT OF EDUCATION**

Policy Number and Title: Policy 2436.10 – Participation in Extracurricular Activities.

Background:

This policy revision will clarify when and how a student's grade point average is considered in determining eligibility for participation in extracurricular activities. The revision was requested to eliminate inconsistencies in those instances when students are either entering public school for the first time or have had a break in their public school attendance.

Proposals:

Revisions to Policy 2436.10 clarify the following:

- The policy applies only to interscholastic athletics (which includes cheerleading), student government, and class officers.
- In schools and/or counties where the traditional semester approach is not used, the nine week point shall be utilized in place of the midsemester. Similarly, in schools which do not use the traditional semester approach, eligibility shall be determined for each semester by examining the GPA earned during the previous eighteen week period.
- Students who have had a break in public school attendance for any reason may be required to establish eligibility after re-enrollment in the public school. If the county school system accepts the transfer of credits/grades earned in the non-public setting, then those credits/grades shall be used in determining academic eligibility. If the county school system does not accept the transfer of credits/grades earned in the non-public setting, then eligibility must be established after re-enrollment in the public school setting. Eligibility shall be gained at midsemester (nine week point) if the student has attained at least a 2.0 GPA.
- Students who are entering public school in grades 6-12 for the first time will be eligible for participation upon enrollment and must have a 2.0 GPA at the end of the semester in which they enroll to remain eligible.

Impact:

The proposed revision to this policy will clarify how the academic eligibility of students who are either entering public school for the first time or have had a break in their public school attendance is determined. This should eliminate confusion on behalf of those students and parents who had questions regarding the applicability of the policy and allow them to make decisions regarding a return to or enrollment in public school with accurate information about extracurricular participation.

Response to public comments:

Five comments were received during the public comment period. Minor changes were made to clarify the policy, as follows:

- “Cheerleading” was removed from 126-26-3.cc because cheerleading is included within the term “athletic.”
- In 126-26-3.e. the word “during,” which had been proposed as a change, was eliminated and the word “for” was retained. The language was further clarified to reflect that if a student does not achieve a 2.0 average for the semester, he or she will be ineligible for participation the following semester. Students not meeting eligibility requirements shall be reviewed at the mid-point of the semester (the nine week point) to determine whether a student has achieved a 2.0 average.
- In 126-26-3.i. the word may was changed to shall in the second and fourth paragraph. This change will ensure equity in the way a county utilizes grades earned in non-public settings.
- In 126-26-3.j. this section was rewritten to clarify the difference between those students entering an SSAC member school for the first time who did or did not earn grades that will be accepted by the receiving school. Other issues raised in this comment are addressed in the SSAC transfer rule.

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2000 MAY 16 AM 11: 14

TITLE 126
LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EDUCATION

WEST VIRGINIA
UNIVERSITY OF STATE

SERIES 26
PARTICIPATION IN EXTRACURRICULAR ACTIVITIES (2436.10)

§126-26-1. General.

1.1. Scope. -- This legislative rule establishes academic eligibility of students to participate in extracurricular activities both during and after normal school hours in West Virginia public schools.

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

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. 126CSR26, West Virginia Board of Education Policy 2436.10, Participation in Extracurricular Activities, filed August 10, 1984 and effective September 10, 1984.

§126-26-2. Applicability.

2.1. This policy applies only to interscholastic athletics, student government, and class officers in grades 6-12. Excluded from this policy are co-curricular activities which are closely related to identifiable academic programs/areas of study and which serve to complement academic curricular activities such as vocational, linguistic, mathematic, scientific, forensic, theatrical, musical, journalistic and other similar academic cocurricular activities.

§126-26-3. Eligibility.

3.1. In order to participate in the extracurricular activities to which this policy applies, a student must meet all state and local attendance requirements and:

3.1.1. Maintain a 2.0 average.

a. A 2.0 average is defined as a grade-point average (GPA) of 2.0 or better on a scale where an "A" mark earns 4 points, a "B" is awarded 3 points, a "C" is worth 2 points, a "D" is given a value of 1 point, and an "F" is worth 0 points.

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b. For purposes of achieving the clearest and most uniform application of the policy for those schools which use a numerical grading system, all numerical grades shall be converted to the corresponding letter grade. Each letter grade shall be assigned the appropriate value as set forth above, and the average thereof computed to determine whether the student is eligible. No enhanced value should be given for a "plus" or "minus" designation, such as "B+" or "C-"; all grades with the same letter designation have the same numerical value in the 4.0 scale.

c. In computing a student's "grade-point average" (GPA) for purposes of this policy, all subjects undertaken by the student and for which a final grade is recorded are to be considered. Athletic practice may not be counted as a subject. The total number of classes taken is divided into the total number of "grade points" earned to determine the GPA. Classes for which a pass/fail is awarded will be included in computing the GPA only if the student failed the class.

d. A student's eligibility will be determined for each semester by his or her GPA the previous semester (or, in schools which do not use the traditional semester approach, during the previous eighteen week period).

e. If a student does not maintain a 2.0 average for the semester, he or she will be ineligible for participation for the following semester. Students not meeting eligibility requirements shall be reviewed at the mid-point of the second semester (the nine week point) to determine whether the student has achieved a 2.0 average.

f. If a student does not earn a 2.0 average by the end of the second semester, he or she may attend summer school to raise the GPA so that he or she is eligible for participation at the beginning of the next school year. For purposes of computing the GPA after summer school, all of the student's grades from the second semester plus his or her grade from the summer school will be used to determine the GPA.

g. A student who has not achieved a 2.0 GPA for the previous semester may have his or her eligibility reinstated at midsemester if the student has attained at least a 2.0 GPA. In schools and/or counties where the traditional semester approach is not used, the nine week point shall be utilized in place of the midsemester.

h. In the case of students with exceptionalities as set forth in West Virginia Board of Education Policy 2419, *Regulations for the Education of Students with Exceptionalities* (W. Va. 126CSR16), if grades are given, all grades received from placements in regular classrooms and special education classrooms should be included when computing the GPA. Exceptional students placed in ungraded programs will be eligible for participation in extracurricular activities if their records indicate that they are making satisfactory progress in meeting the objectives of their individualized education

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program (IEP).

i. Students who have had a break in public school attendance for any reason may be required to establish eligibility after re-enrollment in the public school. If the county school system accepts the transfer of credits/grades earned in the non-public setting, then those credits/grades shall be used in determining academic eligibility. If the county school system does not accept the transfer of credits/grades earned in the non-public setting, then eligibility must be established after re-enrollment in the public school setting. Eligibility shall be gained at midsemester (nine week point) if the student has attained at least a 2.0 GPA. In schools and/or counties where the traditional semester approach is not used, the nine week point shall be utilized in place of the midsemester.

j. Students who are entering public schools or other Secondary Schools Activities Commission (SSAC) member schools for the first time will be eligible for participation as follows:

(A) Students who have not earned grades that the receiving school will accept for credit upon transfer will be eligible upon enrollment and must have a 2.0 GPA at the end of the semester in which they enroll to remain eligible.

(B) Students who have earned grades that the receiving school will accept for credit upon transfer must have earned a 2.0 GPA in the previous semester to be eligible upon enrollment. If not eligible upon enrollment, the student shall become eligible at the midsemester (nine week point) if the student has attained at least a 2.0 GPA.

FISCAL NOTE WORKSHEET
(Submit 4 Copies)

HD NO _____ DRAFT NO _____ BILL NO _____ RESOLUTION NO _____

SUBJECT Policy 2436.10 – Participation in Extracurricular Activities

FUND _____

SOURCE OF REVENUE: GENERAL FUND SPECIAL OTHER (SPECIFY) _____

COST OF ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

INCOME ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

SHOW OVER-ALL EFFECT IN ITEMS 1 AND 2 & GIVE EXPLANATION OF BREAKDOWN BY FISCAL YEAR INCLUDING LONGRANGE EFFECT

EFFECT OF PROPOSAL	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
1. ESTIMATED TOTAL COST	\$0	\$0	\$0	\$0	\$0
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER	\$0	\$0	\$0	\$0	\$0
2. ESTIMATED TOTAL REVENUES	\$0	\$0	\$0	\$0	\$

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONGRANGE EFFECT):

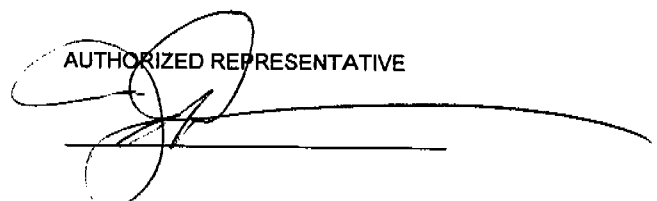
DATE

AGENCY

AUTHORIZED REPRESENTATIVE

11-6-07

West Virginia Department of Education



**Policy 2436.10: Participation in Extracurricular Activities
Comment Log**

November - December 17, 2007

Action Type
 N: No Response - Negative
 NA: Not Accepted + Positive
 A: Accepted o Neutral

Date	Individual/Organization	Comments	Action/ Type	Rationale
11/18/07	Crystal Montoya	<p>§126-26-1. General. My son is a headstart student and on halloween day we were told that the children could not dress up in costumes to celebrate this holiday. I was told that one year there were two students in the whole school that didn't celebrate halloween and that this was the reason why this policy was the way it was. And the way companies are trying there hardest to take christ out of christmas I'm guessing that if the children will be celebrating anything during the christmas season it will not be called a "christmas party with the word "Christ" in it but probably "winter festival or something ridiculous like that. What I dont understand is that the basic reason settlers came to america was because they were "CHRISTIANS" meaning they believed in christ but were being persocuted because of it." It has been a tradition or culture some would say of americans to celebrate the birth of christ during</p>	N	This comment is not related to the policy.

this time of year. Why do we have to give up our traditions and culture? It seems to me when people from one country travel to another, they embrace that country's culture or traditions. Not try to change it or be offended by it. What I am trying to ask is why can't we celebrate christmas in our schools and actually use the name of Christ in the wording so that our children are hearing the name. Why let 300 kids suffer because 2 kids in the whole school doesn't believe? Just because we celebrate it doesn't mean that other people who don't believe in christ has to. It's a free country and they should be aloud to miss school on those days without being penalized. This way if they don't want to participate in the traditions or culture of our country they don't have to and at the same time the majority of us who do can use our right to celebrate what we believe in, in our own country? I would like to know what I can do to help to change these policies. It is prophesied in the bible that there will come a day when the name of christ will no longer be heard of and I can see that prophecy coming true more and more. Companies are calling them "holiday trees, or celebrations are being called winter festivals, the ten commandments aren't allowed on the front lawn of a courthouse, there was talk at one time about the word "God" being taken out of the pledge of allegiance, companies want to change their greeting from "Merry Christmas" to "Happy Holidays" and we wonder why there are so many shootings in the schools now a days? God is not

		<p>allowed in the schools anymore. He is not allowed anywhere other than the home or church. (Parents need more help than that to teach their children about God. I don't think this country will have God's protection much longer. I fear that if I don't at least try to do something about this, that God will hold me accountable for not trying and he will hold every person on the board of education and every teacher and every person that is responsible for creating these policies responsible. Are we no longer a God fearing Nation? I'm not for sure if this is the right place to be voicing my opinion or not but I hope whoever reads this can point me in the right direction Thank you for your time</p>		
12/17/07	Elizabeth Kocsis	<p>§126-26-3. Applicability.</p> <p>I'm disappointed that the state continues to include middle school students with high school students. Middle schools operate on different schedules than high schools, they don't award credits for classes as high schools do. What is the purpose of including middle school interscholastic athletics in this policy?</p> <p>Are the terms "cocurricular" and "extracurricular" defined officially somewhere or is the explanation in this section considered the definition?</p>	NA	<p>Academic achievement is deemed to be as important for middle school students as it is for high school students.</p> <p>This policy does accurately define extracurricular and cocurricular as those terms are used elsewhere.</p>

12/14/07	Gary Ray WVSSAC Executive Director	<p>§126-26-3. Eligibility.</p> <p>c. delete - and cheerleading (because cheerleading is covered with the term athletic).</p> <p>e. write as follows - If a student does not achieve a 2.0 average for the semester, he or she will be ineligible for participation the following semester. Students not meeting eligibility requirements shall be reviewed at the mid-point of the semester (the nine week point) to determine whether a student has achieved a 2.0 average.</p> <p>i. replace the word MAY in the second and fourth sentence with SHALL.</p> <p>j. change PUBLIC SCHOOLS to the following - SCHOOL, GRADES 6-12,</p>	<p>A/+</p> <p>A/+</p> <p>A/+</p> <p>A/-</p>	<p>These changes are accepted because they clarify the policy.</p> <p>c. Cheerleading is included within the term "athletic"</p> <p>e. The word "during," which had been proposed as a change, was eliminated and the word "for" was retained. The other changes simply clarify the intent of the original wording.</p> <p>i. This change will ensure equity in the way a county utilizes grades earned in non-public settings.</p> <p>j. This section was rewritten to clarify the difference between those students entering an SSAC member school for the first time who did or did not earn grades that will be accepted by the receiving school.</p>
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12/17/07	Joe Altobello - Coach/Retired Asst. Principal	3.1.1.e I am in favor of this change. However, if LOSING eligibility at the 9 weeks (mid-semester) is going to be possible (which is a major change from the previous policy), it should apply to both semesters. Losing and gaining eligibility needs to be consistent during the year. This change does not do that.	N/o	The word "during," which had been proposed as a change, was eliminated and the word "for" was retained. The other changes simply clarify the intent of the original wording.
12/17/07	Elizabeth Kocsis	<p>I wish the state would synchronize attendance requirements for extracurricular activities with those defined by the WVSSAC and not allow counties to extend "full-time" beyond the current requirement: 4 periods in a traditional schedule or 2 periods in a block schedule.</p> <p>Regarding i.: Wouldn't it be more straightforward to require a child who withdraws from school with failing grades to sit out a semester or nine-week marking period (from sports), until their GPA meets the minimum 2.0 requirement?</p> <p>Does j. mean "Students who are entering WV public schools for the first time"? I think these students should be treated as freshmen are -- allowed to pick their school and participate in interscholastic athletics without sitting out a year. Currently, homeschool students who enroll in school for the first time (after freshmen year) are only allowed to play sports at their area school;</p>	NA	<p>The attendance requirement for sports participation is adequately defined in SSAC rules and applies equally to all counties.</p> <p>It is deemed most fair to allow passing grades earned in nonpublic settings to count for eligibility purposes if the public school also accepts the grades for credit</p> <p>This section was rewritten to clarify the difference between those students entering an SSAC member school for the first time who did or did not earn</p>

		<p>they cannot enroll in another nearby school, even if they live closer to it, and play there.</p>		<p>grades that will be accepted by the receiving school. Other issues raised in this comment are addressed in the SSAC transfer rule.</p>
<p>12/18/07</p>	<p>Daniel Jones</p>	<p>Can an enrolled student taking county approved classes outside the school setting use these classes to determine GPA. Example college course, Virtual school or some other distance learning.</p>	<p>N/o</p>	<p>If the classes are approved by the county, and the county grants credit toward high school graduation for the credit earned, then the grade can be used for eligibility purposes.</p>