



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

5/8/2024 11:26:20 AM

Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Education TITLE-SERIES: 126-026
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Participation in Extracurricular Activities
(2436.10)
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: 06/10/2024 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Drew McClanahan, Director
ADDRESS: WVDE Office of Leadership Development, Capitol Bldg. 6, Suite 750
1900 Kanawha Blvd., E, Charleston, West Virginia 25305
EMAIL: dmccclanahan@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 2436.10 establishes academic eligibility of students to participate in extracurricular activities both during and after normal school hours in West Virginia public schools.

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

Policy 2436.10, Participation in Extracurricular Activities, is being amended to comply with House Bill 2820 (2023 Regular Session).

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 126CSR26, Policy 2436.10.

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 126CSR26, Policy 2436.10.

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 126CSR26, Policy 2436.10.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	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
2. Estimated Total Revenues	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 126CSR26, Policy 2436.10.

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

Yes

Kelli D Talbott -- 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.

126CSR26

TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

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, 18-2-25, 18-8-1, and 18-8-1a.

1.3. Filing Date. -- ~~July 14, 2022.~~

1.4. Effective Date. -- ~~August 15, 2022.~~

1.5. Repeal of Former Rule. -- This rule amends W. Va. 126CSR26, Policy 2436.10, Participation in Extracurricular Activities, filed ~~November 12, 2020~~ July 14, 2022, and effective ~~December 14, 2020~~ August 15, 2022.

§126-26-2. Purpose.

2.1. This policy promotes expectations of academic performance for students engaged in extracurricular activities. While students bear the responsibility to meet these expectations, school administrators are required to enforce eligibility rules to create a school environment primarily focused on academic performance.

§126-26-3. Applicability.

3.1. 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 career and technical education, linguistic, mathematic, scientific, forensic, theatrical, musical, journalistic, and other similar academic cocurricular activities.

§126-26-4. Eligibility.

4.1. In order to participate in the extracurricular activities to which this policy applies, a student must meet the following:

4.1.a. adhere to all state and local attendance policies.

4.1.b. maintain a 2.0 average.

126CSR26

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

4.1.b.2. 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.

4.1.b.3. In computing a student's 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/failure is awarded will be included in computing the GPA only if the student failed the class.

4.1.b.4. A student's eligibility will be determined for each semester by the student's GPA from the previous semester (or, in schools which do not use the traditional semester approach, during the previous 18-week period).

4.1.b.5. If a student does not maintain a 2.0 average for the semester, the student 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.

4.1.b.6. If a student does not earn a 2.0 average by the end of the second semester, the student may attend summer school to raise the GPA to become 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 the student's grade from the summer school will be used to determine the GPA.

4.1.b.7. A student who has not achieved a 2.0 GPA for the previous semester may have 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.

4.1.b.8. In the case of students with exceptionalities as set forth in W. Va. 126CSR16, Policy 2419, Regulations for the Education of Students with Exceptionalities, 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 program (IEP).

4.1.b.9. 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. The credits/grades earned and transferred from the non-public setting shall be used in determining academic eligibility. 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.

4.1.b.10. Students who are entering public schools or other West Virginia Secondary Schools Activities Commission (WVSSAC) member schools for the first time will be eligible for participation as follows:

4.1.b.10.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.

4.1.b.10.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.

4.1.b.11. ~~Homeschooled~~ Students participating in interscholastic athletics pursuant to W. Va. Code §18-2-25(d) will be eligible for participation, provided that the student:

4.1.b.11.A. complies with the rules promulgated by the WVSSAC; and

4.1.b.11.B. has demonstrated satisfactory evidence of academic progress for the immediately preceding year and that the student's average test results for the immediately preceding year are within or above the fourth stanine in all subject areas; and

~~4.1.b.11.C. is enrolled in at least one virtual instructional course per semester, consistent with the applicable virtual instruction policies of the county in which the homeschooled student lives and the applicable virtual instruction policies of the WVBE. A homeschooled student who fails to receive a C grade or higher at the conclusion of the virtual instruction course or semester, whichever is earliest, shall be ineligible to continue participation and remain ineligible for the following semester.~~

§126-26-5. 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.

**W. Va. 126CSR26, Policy 2436.10, Participation in Extracurricular Activities
Comment Response Form**

Comment Period Ends: June 10, 2024

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 2436.10, Participation in Extracurricular Activities. Additional sheets may be attached, if necessary.

Name: _____ Organization: _____

Title: _____

City: _____ State: _____

Please check the box below that best describes your role.

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 |

COMMENTS/SUGGESTIONS
§126-26-4.1.b.11. Eligibility.
§126-26-4.1.b.11.C. Eligibility.

Please direct all comments to:

Drew McClanahan, Director
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West Virginia Department of Education
Capitol Building 6, Suite 750
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0330
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