



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

5/8/2024 1:06:26 PM

Office of West Virginia  
Secretary Of State

---

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Secondary School Activities Commission TITLE-SERIES: 127-01  
RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: Constitution (WVSSAC Series 1)  
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: David Price, Executive Director  
ADDRESS: West Virginia Secondary School Activities Commission, 2878 Staunton Turnpike  
Parkersburg, West Virginia 26104  
EMAIL: david.price@wvssac.org

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:

WVSSAC Series 1 establishes the organization and duties of the West Virginia Secondary School Activities Commission.

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

Amendments (attached to rule filing) are brought forth to keep the West Virginia Secondary School Activities Commission current and updated on changes, trends and issues in the band and athletic programs.

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 127CSR1, Constitution.

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 127CSR1, Constitution.

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 127CSR1, Constitution.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2024 Increase/Decrease (use "-")	2025 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 127CSR1, Constitution.

**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.**

**EXECUTIVE SUMMARY  
WEST VIRGINIA BOARD OF EDUCATION**

**Series 1, Constitution  
Series 2, Athletics, Provisions Governing Eligibility  
Series 3, Provisions Governing Contests  
Series 4, Provisions Governing Conduct**

**West Virginia Secondary School Activities Commission  
Proposed Changes in Rules and Regulations**

**BACKGROUND**

The majority of public schools and several private schools in West Virginia belong to the West Virginia Secondary School Activities Commission. Each year, the principals of member schools submit revisions to the rules and regulations. The submitted proposals are presented and voted upon at the annual Board of Control meeting. Any approved changes are then submitted to the West Virginia State Board of Education for its review and approval.

**PURPOSE**

These amendments are brought forth to keep the West Virginia Secondary School Activities Commission current and updated on changes, trends and issues in the band and athletic programs.

These proposals will be distributed for public comment in May and June. The West Virginia Secondary School Activities Commission will present to the Board the comments received for its review at the July meeting.

The West Virginia Secondary School Activities Commission staff, Constitution and Bylaws Committee, and Board of Control respectfully request that the proposed rule changes to the West Virginia Secondary School Activities Commission Rules and Regulations Handbook be approved.

**CONTENT**

Nineteen proposals were submitted by member schools for consideration; eighteen proposals were approved (Proposal 15 is actually from WVDE policy and therefore cannot be amended by the Board of Control.) The following is a brief description of each proposal and outcome of the vote.

1. Semester and Season – §127-2-5 (Vote: Yes – 91, No-36 Proposal PASSED)
2. Scholarship – §127-2-6.7 (Vote: Yes – 128, No-1 Proposal PASSED)
3. Baseball – §127-3-19.9 (Vote: Yes – 125, No – 0 Proposal PASSED)
4. Softball – §127-3-26.9 (Vote: Yes – 128, No – 0 Proposal PASSED)
5. Basketball (Boys and Girls) – §127.3.20.9 (Vote: Yes-127, No-0 Proposal PASSED)
6. Code for Interscholastic Athletics-§127.4.3.7 (Vote: Yes-127, No-0 Proposal PASSED)
7. Enrollment and Team Membership-§127-2-3 (Vote Yes -125, No-0 Proposal PASSED)
8. Residence Transfer – §127-2-7.2.b (Vote: Yes128, No-0 Proposal PASSED)
9. Residence Transfer – §127-2-7.2.a (Vote Yes 126, No-1 Proposal PASSED)
10. Residence Transfer – §127-2-7.2.f (Vote: Yes 127, No-0 Proposal PASSED)
11. Residence Transfer – §127-2-7.2.j (Vote Yes 127, No-1, Proposal PASSED)
12. Review Board – §127-1-13 (Vote Yes – 128, No-0 Proposal PASSED)

13. Officers and Duties – §127-1-6.4 (Vote: Yes-129, No-1 Proposal PASSED)
14. Cross Country (Boys and Girls) – §127-3-22.8 (Vote: Yes-129, No-0 Proposal PASSED)
15. Eligibility §126-26-4.1 (Vote: Yes-129, No-0 Proposal PASSED) -WVBE Policy, Not Board of Control
16. Coaches §127-3-6.1 (Vote: Yes – 127, No – 0 Proposal PASSED)
17. Basketball (Boys and Girls) §127.3.20.9 (Vote: Yes – 128, No – 0 Proposal PASSED)
18. Out of Season Coaching – §127-3-7.9 (Vote: Yes – 130, No – 0 Proposal PASSED)
19. Non School Participation –§127-2-10 (Vote: Yes – 125, No – 1 Proposal PASSED)

## **IMPACT**

### **Instruction**

None

### **Leadership**

None

### **Financial**

None

### **Administrative**

None

**ATHLETIC ADMINISTRATORS, PRINCIPALS, AND COUNTY SUPERINTENDENTS WILL NEED TO BE AWARE OF THE CHANGES IN ORDER TO ADMINISTER THEIR SCHOOL PROGRAMS IN ACCORDANCE WITH THE CURRENT RULES. THERE IS NO MAJOR CHANGE THAT WOULD IMPACT ADMINISTRATION NEGATIVELY.**

WVSSAC  
RULES AND REGULATIONS HANDBOOK  
PROPOSED RULE CHANGES PASSED BY BOARD OF CONTROL

**PROPOSAL 1 (Vote: Yes – 91, No – 36)**

**Amend §127-2-5. Semester and Season as follows:**

5.1. A student may have the privilege to participate in the interscholastic program for ~~four consecutive years (eight consecutive semesters or equivalent) after entering the 9<sup>th</sup> grade.~~ seven consecutive years (14 consecutive semesters) after enrollment in 6<sup>th</sup> grade.

~~5.2. A student may have the privilege to participate in the interscholastic program for three consecutive years (or six consecutive semesters or equivalent) after entering the 6<sup>th</sup> grade.~~

~~5.3. 5.2~~ Ten days of attendance and/or enrollment shall constitute a semester of eligibility. Ten days includes the day of enrollment, the last day of attendance, and the elapsed time between, provided that they are days when school was actually in session.

~~5.4. 5.3~~ The number of semesters of athletic eligibility of a student is determined by semesters of enrollment and/or attendance and not by semesters of participation. ~~(This applies for students in grades 9-12 only.)~~ (This applies for students in grades 6-12).

~~5.5.5.4~~ A student whose eligibility expires with the end of a semester shall not become ineligible until report cards are issued or five school days into the next semester, whichever occurs first. The student will be considered eligible any days between the two semesters.

~~5.6. 5.5~~ Any part of a contest or interscholastic event in which a student competes shall be counted as a season for that sport ~~in grades 6-12 and a semester of participation in grades 9-12.~~ 6-12.

~~5.7. 5.6~~ The Board of Directors is authorized to grant a waiver to the Semester and Season Rule when it ~~feels~~ determines the rule fails to accomplish the purpose for which it is intended and/or when the rule causes extreme and undue hardship upon the student. Waivers may be granted in the following circumstances:

~~5.7.a. 5.6.a~~ The Board of Directors is authorized to consider cases in which a student ~~entering 9<sup>th</sup> grade~~ did not stay in continuous enrollment because of personal illness, or no school was available, or because of other undue hardship reasons ascertained through investigation.

~~5.7.b. 5.6.b~~ The Board of Directors ~~may provide~~ is authorized to release from the continuous enrollment restriction provided no participation has occurred during the semester(s) in question.

~~5.7.c. 5.6.c~~ In no event may a student be allowed to participate for more than ~~four~~ seven seasons or fourteen semesters in any one sport in grades ~~9-12.~~ 6-12.

~~5.8. 5.7~~ The Board of Directors ~~may also~~ is authorized to assess appropriate penalties to the student or to the school if the Board of Directors determines through its investigation that the student or the school tried to evade the rule by subterfuge.

Rationale: Creates a clear distinction regarding number of years and semesters of athletic

eligibility for secondary school students in grades 6-12. Provides a more uniform rule by removing any middle to high school level transitions.

Shann Elkins, Principal  
Madison Middle School

**PROPOSAL 2 (Vote: Yes – 128, No – 1)**  
**Amend §127-2-6. Scholarship as follows:**

6.7. A student expelled from any public, private, charter, or other school entity in WV or transferring to WV from another state where the student was expelled will not be eligible for participation in extracurricular activities until the expiration of the assigned expulsion.

Rationale: Students can currently transfer from a public school to a private school in another county after expulsion and continue to participate in extracurricular activities. If a student expelled from a public school in XYZ county transfers to private school ABC, the private school immediately makes them eligible.

James Green, Principal  
Fairmont Senior High School

**PROPOSAL 3 (Vote: Yes – 125, No – 0)**  
**Amend §127-3-19. Baseball as follows:**

19.9.a. Middle school teams may play 20 games including tournaments sanctioned by the WVSSAC. Tournament exception does apply. Schools may play no more than three extra games during the end of season conference/county tournament.

Rationale: The rule was changed last year to increase to 20 games. The end of season language needs to be added to make all middle school sports consistent.

Constitution and Bylaws Committee

**PROPOSAL 4 (Vote – Yes – 128, No – 0)**  
**Amend §127-3-26. Softball as follows:**

26.9.a. Middle school teams may play 20 games including tournaments sanctioned by the WVSSAC not including tournaments sanctioned by the WVSSAC. Tournament exception does apply. Schools may play no more than three extra games during the end of season conference/county tournament.

Rationale: The rule was changed last year to increase to 20 games. The end of season language needs to be added to make all middle school sports consistent.

Constitution and Bylaws Committee

**PROPOSAL 5 (Vote – Yes 127, No – 0)**  
**Amend §127-3-20. Basketball (Boys and Girls) as follows:**

20.9.d. Boys and girls basketball teams will be permitted to play no more than 20 games. Tournament exception does not apply. Schools may play no more than three extra games during the end of the season conference/county tournament.

Rationale: Rule was changed last year to allow for end of season tournament games. The word “not” should have been deleted from the rule.

**PROPOSAL 6 (Vote: Yes – 127, No – 0)**

**Amend §127-4-3.7 Code for Interscholastic Athletics as follows:**

3.7.c. Any coach, player, team member, student, or bench personnel ejected or disqualified by rule ~~by an official~~ will be suspended for the remainder of ~~the~~ a game, match, meet, ~~or~~ contest or other interscholastic event, (ejected, disqualified or disqualification hereafter) (Excepting any applicable ejection or disqualification sport specific rule not involving sportsmanship) by an official, referee, judge, or other such person charged to administer participation. The coach, player, team member, student, or bench personnel ejected or disqualified by an official will also be suspended an additional contest(s); the suspension is assessed based upon ten (10) percent of the allowed regular season contests for that sport. Regardless of when the suspension occurs (regular season or post season), the length of the suspension (number of contests) will be as follows: golf (two); cross country (two); soccer (two); volleyball (two play dates); football (one); cheer (one); swim (two); wrestling (two weigh ins); boys basketball (two); girls basketball (two); tennis (two); track (two); softball (three); and baseball (three). The suspension will include the number of indicated contests in that sport and at that level and all other sport contests in the interim at any level. A second ejection or disqualification will result in the doubling of the suspension assessed for the first ejection. If an individual is ejected or disqualified for a third time during the same sport season, the individual will be suspended from participating or coaching for 365 calendar days from the date of ejection or disqualification. In accordance with Rule 127-3-15.3, an individual ejected or disqualified by an official may not appeal that ejection or disqualification, but may appeal any subsequent suspension that is a consequence of the ejection or disqualification. ~~by an official.~~

Rationale: Addition of phrase “disqualification” as it is used in NFHS rule book for players, etc. Recommended by legal counsel.

Constitution and Bylaws Committee

**PROPOSAL 7 – (Vote: Yes – 125, No – 0)**

**Amend §127-2-3. Enrollment and Team Membership as follows:**

3.11. A homeschooled student receiving home instruction pursuant to W.Va. Code §18-8-1(c), a Hope Scholar, a micro school student, and/or a learning pod student, shall be considered eligible for participating in interscholastic athletic events and other extracurricular activities of the public secondary school serving the attendance zone in which the student ~~lives or~~ resides with their parents or as allowed by §127-2-7.2.f and §127-2-7.2.h who:

~~3.11.a. has been homeschooled for at least one year immediately preceding interscholastic athletic participation;~~

3.11.a. has demonstrated satisfactory evidence of academic progress for the immediately preceding academic year ( see §127CSR3, Provisions Governing Contests, Glossary, for the definition of academic year) as defined by an average stanine of a four or higher in all content areas on a nationally normed assessment;

3.11.b. is otherwise eligible to participate as a result of being subject to all other eligibility rules applicable to non-homeschooled students; and

3.11.c. has received all vaccinations as required for school attendance by West Virginia state code.

3.12 A student attending a member or non- member private school, or a public charter school may participate in extracurricular activities in a public member school in the attendance area in which the student resides with their parents if the private school or public charter school does not offer the extracurricular activity. The student is required to show evidence of a 2.0 GPA. This provision does not guarantee membership on the team, but rather an opportunity to try out just like all other students.

Rationale: Language needs to be revised to reflect legislative changes.

Constitution and Bylaws Committee

**PROPOSAL 8 (Vote: Yes – 128, No – 0)**

**Amend §127-2-7.2 Residence-Transfer as follows:**

7.2.b. If the transfer is from a home school or non-member school to a member school in the zone where the student's parents reside, a student is eligible providing: (1) the student is enrolling in a member school for the first time, and (2) the principals of both private/parochial and member schools involved concur that undue influence is not involved with the transfer, and (3) meets all other eligibility rules that apply. If a student leaves a public or private member school at the end of the academic year and becomes a home-schooled student for the first time, the student must provide evidence of a 2.0 from the second semester or the public or private member school in order to be eligible for extracurricular activities the next year. For each additional year, the student would follow provisions outlined in 127-2-3.11. A student who leaves a public or private member school anytime during the academic year to become a homeschooled student will be ineligible for extracurricular activities for the remainder of the semester. To gain eligibility, the student must provide evidence of satisfactory progress as defined by an average stanine of 4 or higher on a nationally normed assessment.

Rationale: Language needs to be revised to reflect legislative changes.

Constitution and Bylaws Committee

**PROPOSAL 9 (Vote: Yes – 126, No – 1)**

**Amend §127-2-7.2 Residence-Transfer as follows:**

127-2-7.2.a. In addition to those transfers permitted by any other rule, a student shall be eligible for a one-time transfer during grades 9-12 and shall retain their immediate eligibility following the transfer. This also applies to homeschool students, Hope Scholars, micro school students, learning pod students, and public charter school students. If the transfer occurs during a season in which the student has ~~started practice~~ participated in any capacity within a WVSSAC established sports season (including, but not limited to summer participation) as set forth and published by the WVSSAC, the student will be eligible for all sports except for ~~the~~ that sport. in which the student has started practice at the previous school.

Rationale: Language needed as result of legislation as well to clarify what constitutes participation in a sport.

Constitution and Bylaws Committee

**PROPOSAL 10 (Vote: Yes – 127, No – 0)**

**Amend §127-2-7.2 Residence-Transfer as follows:**

7.2.f. If a member middle school student is released and accepted by formal actions of a county board of education or governing body of a private/parochial school ~~which have verified that such transfer is not for athletic reasons~~, the student will be granted immediate eligibility provided all other rules are met. The transfer must occur at the beginning of the academic year with the student enrolled on or before the eleventh instructional day of the beginning of the academic year and provided that the student is residing with the parents. This also applies to homeschool students, Hope Scholars, micro school students, learning pod students, and public charter school students. ~~Once a student has been a member of a team that has participated in a scrimmage or contest, the student has established eligibility at that school. If the transfer occurs during a season in which the student has participated in any capacity within a WVSSAC established sports season (including, but not limited to summer participation) as set forth and published by the WVSSAC, the student will be eligible for all sports except for that sport.~~

Rationale: Language needed to clarify as a result of legislative changes.

Constitution and Bylaws Committee

**PROPOSAL 11 (Vote: Yes – 127, No – 1)**

**Amend §127-2-7. Residence-Transfer as follows:**

127.2.7.2.j An out of state student in grades 6-12 who transfers to any WVSSAC member school is not eligible for participation in extracurricular activities unless the student meets all criteria as set forth in 127-2-7.2.a.

Rationale: Language needed to clarify as a result of legislation.

Constitution and Bylaws Committee

**PROPOSAL 12 (Vote: Yes – 128, No – 0)**

**Amend §127-1-13. Review Board as follows:**

13.1.b. Each of the following associations shall be requested to present three nominations to the State Superintendent for membership on the Review Board:

13.1.b.1. West Virginia Bar Association;

13.1.b.2. West Virginia Association of School Administrators;

13.1.b.3. West Virginia State Medical Association;

13.1.b.4. West Virginia Sportswriter Association;

13.1.b.5. West Virginia Athletic Directors Association; and

13.1.b.6. West Virginia Association of Retired School Employees; and

13.1.B.7. State Superintendent's Designee

Rationale: The Review Board is comprised of seven members. The seventh member historically was from the North Central Association, which no longer is an educational entity that works with West Virginia schools. This addition completes the membership.

Constitution and Bylaws Committee

**PROPOSAL 13 (Vote: Yes – 129, No – 1)**  
**Amend §127-1-6.4 Officers and Duties as follows:**

6.4. The ~~annual~~ honorarium of each of the officer-members shall be ~~\$1000.00~~, \$100 per meeting attended.

Rationale: There are times when special meetings are called that result in board members exceeding the ten regularly scheduled meetings. This change would allow board members to be compensated for each meeting attended.

Constitution and Bylaws Committee

**PROPOSAL 14 (Vote: Yes – 129, No – 0)**  
**Amend §127-3-22.8 Cross Country (Boys and Girls) as follows:**

22.8 Middle Schools. The above rules will apply to middle school with the following adaptations:

22.8.a Organized team conditioning practice will begin on Monday of Week 5 and the first meet will be held during Week 7.

22.8.b Maximum Team Contests: A middle school cross country team will be permitted 14 meets.

22.8.c Length of Season: The middle school cross country season will end on Saturday of Week 16.

Rationale: No current language in rule book that addresses middle school cross country.

Constitution and Bylaws Committee

**PROPOSAL 15 (Vote: Yes – 129, No – 0) ~~This is WVBE policy.~~**  
**Amend §126-26-4. Eligibility as follows:**

~~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.~~

Rationale: Language needs deleted as a result of recent legislation. No longer required for eligibility.

Constitution and Bylaws Committee

**PROPOSAL 16 (Vote: Yes – 127, No – 0)**  
**Amend §127-3-6. Coaches as follows:**

6.1. A member of a school faculty, substitute teacher, or student teacher, with West Virginia Department of Education (WVDE) Authorized Certification, shall be allowed to coach an athletic team. A member of a private/parochial school ~~facility~~, faculty, substitute teacher, regardless of WVDE certification status, shall be allowed to coach an athletic team. An authorized certified individual may coach if they meet all of the requirements in §127-3-6.4.

Rationale: Editorial change. Typo that was never corrected.

Constitution and Bylaws Committee

**PROPOSAL 17 (Vote: Yes – 128, No – 0)**

**Amend §127-3-20.9 Basketball (Boys and Girls) as follows:**

20.9.e. All middle students may play a maximum of ~~400~~ 120 quarters for one season.

Rationale: Rule was changed last year to allow six quarters per day, but the maximum number of quarters for the season rule was not changed. Makes the rules consistent.

Constitution and Bylaws Committee

**PROPOSAL 18 (Vote: Yes – 130, No – 0)**

**Amend §127-3-7.9 Out-of-Season Coaching as follows:**

7.9 Involvement in community- based youth league athletic programs (i.e. serving on a youth league board, serving as a director, booster, etc.) is permitted.

Rationale: Current interpretation of the rule does not allow a coach to also serve on a youth league board or be involved in any capacity. The intent of the rule is to prohibit coaching. This revision provides some allowances for those who wish to be involved in their communities and also coach for a member school without being penalized.

Constitution and Bylaws Committee

**PROPOSAL 19 (Vote: Yes – 125, No – 1)**

**Amend §127-2-10. Non-school Participation as follows:**

~~10.1. During a WVSSAC established sport season and while a member of a school team, a student shall neither participate, which includes, but is not limited to, fund-raising activities, team picture, tryouts, etc., on any formally organized non-school team in the same sport, nor shall the student compete as an individual unattached in non-school formally organized competition in the same sport. The following sports are exempted from the provisions of this rule: cross country, golf, swimming, tennis, track, and wrestling, provided that:~~

~~\_\_\_\_\_ 10.1.a. participation is approved by the student's principal; and~~

~~\_\_\_\_\_ 10.1.b. the student misses no school-sponsored athletic contest involving a team in that sport.~~

~~\_\_\_\_\_ 10.2. A student may participate as a member of a national team (and the actual, direct tryouts thereof) which is defined as:~~

~~\_\_\_\_\_ 10.2.a. one selected by the national governing body of the sport;~~

~~\_\_\_\_\_ 10.2.b. while representing the National Federation in an International Schoolsport Federation;~~

~~\_\_\_\_\_ 10.2.c. as a representative of the United States in recognized national or international events;~~

~~\_\_\_\_\_ 10.2.d. a qualifier for the West Virginia Golf Association's Amateur Championship or the United States Golf Association's United States Amateur Championship; or~~

~~\_\_\_\_\_ 10.2.e. the USA Swimming Junior National Championship.~~

~~\_\_\_\_\_ 10.3. A student who has participated on a non-school team or as an individual unattached in non-school formally organized competition after the WVSSAC established start date of the sport~~

~~season will be ineligible for participation on that school team for that season in that particular sport except as provided by §127-2-10.1 and §127-2-10.2.~~

10.1. During a WVSSAC established sport season and while a member of a WVSSAC school team, a student may participate in, including but not limited to, showcases, clinics/camps, tryouts, fund-raising activities, and similar activities (hereafter "events") in the same sport outside of the WVSSAC school team activities, however, the student may not compete for a non-WVSSAC school, team, club, or similar structured organization in their formally organized competition/contest/match/game/practice in the same sport. For the identified non-WVSSAC events which are allowed during the sport season, approval for participation shall be obtained from the student's WVSSAC school/principal. The WVSSAC school/principal shall have discretion in approving the requested approval, but such shall not be unreasonably withheld. If approved the principal/school may set reasonable limitations therein for all matters which reasonably conflict with the WVSSAC school's practice and game/contest schedule including all regular and post season events taking into consideration that the WVSSAC sport season competition/contest/match/game/practices have priority over the non-WVSSAC school participation request.

10.1. Notwithstanding the provisions as contained in 10.1, a student may participate during the sport season as a member of a national team (and the actual, direct tryouts thereof) which is defined as:

10.1. a. one selected by the national governing body of the sport;

10.2. b. while representing the National Federation in an International School sport Federation;

10.2. c. as a representative of the United States in recognized national or international events;

10.2. d. a qualifier for the West Virginia Golf Association's Amateur Championship or the United States Golf Association's United States Amateur Championship; or

10.2. e. the USA Swimming Junior National Championship.

10.3. A student who has participated in a game/contest/ and/or practice on a non-WVSSAC school/ team/club or similar structured organization or as an individual unattached in formally organized competition/contest/match /game/practice in the same sport after the WVSSAC established start date of the sport season will be ineligible for participation on that school team for that sport season in that particular sport except as provided by §127-2-10.1 and §127-2-10.2

10.4.

Rationale: As per discussion with legislators to provide some flexibility in the rule.

Constitution and Bylaws Committee

127CSR1

TITLE 127  
LEGISLATIVE RULE  
WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION

SERIES 1  
CONSTITUTION

**§127-1-1. General.**

1.1. Scope. -- These rules establish the organization and duties of the West Virginia Secondary School Activities Commission.

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. -- ~~July 12, 2023.~~

1.4. Effective Date. -- ~~September 11, 2023.~~

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. 127CSR1, West Virginia Secondary School Activities Commission Series 1, Constitution, filed ~~July 14, 2022~~ July 12, 2023, and effective ~~September 12, 2022~~ September 11, 2023.

**§127-1-2. Name.**

2.1. The name of this organization shall be the West Virginia Secondary School Activities Commission (WVSSAC/Commission), a voluntary organization. Extracurricular activities of the students in the public secondary schools are controlled pursuant to W. Va. Code §18-2-25, and authority for the delegation of such control to the Commission is granted by statute.

**§127-1-3. Goals.**

3.1. This Commission, through the employment of the instrumentalities hereinafter established, shall supervise and control interscholastic athletics and band activities among member schools.

3.2. In the performance of these functions it shall be the aim of the Commission:

3.2.a. To stress the cultural values, appreciations, and skills involved in these interscholastic activities, and to promote cooperation and friendship;

3.2.b. To limit these interscholastic activities in both character and quantity so that these activities and events may be looked upon as promoting the objectives of secondary education, and as such shall not interfere with nor abridge the regular program of teachers and students in the performance of their duties;

3.2.c. To encourage economy in expenses of these interscholastic activities;

3.2.d. To discourage long trips for interscholastic activities; and

3.2.e. To establish minimum standards of conduct for both active and spectator participants, coaches, and all other school personnel at all interscholastic activities approved, sponsored, or controlled by this Commission.

**§127-1-4. Membership.**

4.1. The WVSSAC shall be composed of the principals or designee, of those public or private secondary schools which have certified in writing to the State Superintendent of Schools of West Virginia (State Superintendent) that they have elected to delegate the control, supervision, and regulation of their interscholastic athletic and band activities.

4.2. Membership in the Commission shall be predicated upon accepting the following conditions:

4.2.a. The principal or designee is and shall be the sole representative of the school in all matters pertaining to the constitution, bylaws, rules and regulations of the Commission;

4.2.b. The principal or designee is and shall be responsible for conducting interscholastic athletic and band activities of the school in accordance with the constitution, bylaws, rules and regulations of the Commission which have been adopted by the Board of Control of the Commission for the governing of such activities;

4.2.c. Pay the annual dues charged by the Commission;

4.2.d. The principal or designee shall file a statement with the Executive Director of the Commission agreeing to abide by and support the constitution and the rules and regulations of the Commission.

4.2.e. A member school must sponsor one sport per gender during each season - fall, winter, and spring. Schools having membership prior to the 2007-2008 school year are exempt from this provision.

4.2.f. At the annual meeting of the Board of Control, the Executive Director shall announce the names of the principals whose schools have become new members.

4.2.f.1. A middle school shall be a school so designated and approved by the West Virginia Department of Education (WVDE).

4.2.f.2. A senior high school consists of grades 9, 10, 11, and 12, established by law, and so designated and approved by the WVDE.

4.2.g. The first year of membership will be a probationary year with the school not being allowed participation in WVSSAC sponsored tournaments.

4.2.h. A one-time membership fee of \$1,500.00 will be afforded senior high schools, \$500.00 to middle schools, or \$2,000.00 to combined middle/senior high schools.

4.2.i. Public schools seeking membership that are created as a result of consolidation or splitting

## 127CSR1

of existing member schools shall be exempt from the provisions in subsection 4.2.g.

4.3. A school, through its principal, coach, or other official, is not permitted to enter into an agreement with any other school to waive the standards of eligibility of students or waive or change any other requirement established in these regulations.

4.4. Any member violating the regulations of this Commission and refusing to abide by the decision of the Board of Directors or the Review Board shall be subject to the penalties hereinafter set forth. ~~(See in W. Va §127CSR6, 2 Violations of the Rules (Rule §127CSR6) of these regulations.)~~

### **§127-1-5. Administration.**

5.1. The administration of the WVSSAC shall be vested in the secondary school principal and who shall constitute a Board of Control. The Board of Control shall determine the regulation of interscholastic athletic and band activities among the schools represented by the members of the Commission and shall have charge of all Commission funds, and in order to expedite the regulations of activities shall delegate and assign to the Board of Directors hereinafter constituted, and the Executive Director, hereinafter constituted, and working through the Board of Directors, authority to interpret and enforce these regulations. The Board of Control shall delegate and assign to the Board of Trustees, hereinafter constituted, the power and authority to hold title to and manage the property owned by the Commission. These regulations of the Commission shall be the articles, rules, explanations, and interpretations which have been voted upon and approved by a majority vote of the members of the Board of Control present and voting at the annual meeting of the Commission. Fifty members shall constitute a quorum for the transaction of all business at the annual meeting and approval is by a majority vote of the members of the Board of Control present and voting at the annual meeting of the Commission. If the result of a vote by the Board of Control has a margin of five or less after the vote is counted, a second confirmation vote will be taken.

5.2. At the annual or called meetings of the Board of Control of the WVSSAC each member shall have one vote on each question or proposition under consideration. A member may appoint, by a written statement to the president of the Commission, the assistant principal or other member of the faculty to represent the school at meetings of the Board of Control, but no such appointment shall absolve the member of responsibility as defined in these regulations.

5.3. The Board of Control of the WVSSAC shall, at its annual meetings, elect officers of the Commission and define their duties as provided in §127-1-6 ~~of these regulations~~. The officers so elected shall be members of the Board of Directors of the WVSSAC with the powers and duties assigned to it by §127-1-8 ~~of the regulations of the Commission~~. The Board of Directors shall be the executive body of the Commission and shall administer the regulations of the Commission. Further, the Board of Directors shall enforce the provisions of these regulations through the application of penalties provided under Rule §127CSR6-2, section 2, ~~of these regulations~~. Adjudication of disagreements and disputes among members of the Commission shall be one of the chief duties of the Board of Directors. Such adjudication may, however, be appealed to the Review Board.

5.4. The Board of Control of the WVSSAC shall delegate to the Board of Directors, hereinafter constituted, the authority to define, devise, and/or create five administrative districts in the State of West Virginia:

## 127CSR1

5.4.a. Effective July 1, 1971, and until such time as it is necessary to change the boundaries of such districts, the five administrative districts shall be as follows:

5.4.a.1. First District: Brooke, Calhoun, Doddridge, Gilmer, Hancock, Harrison, Marion, Marshall, Ohio, Taylor, Tyler, and Wetzel.

5.4.a.2. Second District: Barbour, Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Tucker, and Upshur.

5.4.a.3. Third District: Boone, Braxton, Clay, Kanawha, Lewis, Nicholas, Putnam, and Roane.

5.4.a.4. Fourth District: Cabell, Jackson, Lincoln, Logan, Mason, Pleasants, Ritchie, Wayne, Wirt, and Wood.

5.4.a.5. Fifth District: Fayette, Greenbrier, Mercer, Mingo, McDowell, Monroe, Pocahontas, Raleigh, Summers, Webster, and Wyoming.

5.4.b. Any change in the boundaries of the administrative districts adopted by the Board of Directors shall be submitted for approval to the Board of Control at the annual meeting. Any change requires two thirds affirmative vote of the members present and voting at the annual Board of Control meeting.

5.4.c. Any adopted and approved changes in the boundaries of the administrative districts shall not be cause for reducing the length of the regular term of office of an incumbent officer member.

### **§127-1-6. Officers and Duties.**

6.1. There shall be five elected officer-members of the WVSSAC, each of whom shall be a principal of a secondary school in West Virginia.

6.1.a. The elected officer-members shall constitute the Board of Directors of the WVSSAC.

6.1.b. One officer-member shall be elected to a regular term each year at the annual meeting of the Commission. The runner-up candidate in each election shall be declared the alternate-officer-member and shall serve any portion of the officer-member's unexpired term which may occur. If the alternate-officer-member is not thus determined, then a separate election shall be held to do so. Both the officer-member and alternate-officer-member shall be from the same administrative district.

6.1.c. The regular term of an elected officer-member shall be a period of five years and the term shall begin on Monday of Week 40 of the NFHS Calendar, following the member's election.

6.1.d. An elected officer-member shall be eligible to serve two regular five year terms in succession. Upon completion of the two successive terms, a former officer-member shall not be appointed to, nor elected to fill, a vacancy of an unexpired term during the five year period immediately following the expiration of a regular term. Serving more than one half of an unexpired five year term shall constitute one of the two permitted successive terms.

6.1.e. The election shall be by ballot when more than one candidate from the same administrative

district is nominated for officer-member. When more than two candidates from the same administrative district are nominated for officer-member, the balloting shall continue until one candidate receives a majority of the votes cast. The candidate with the least number of votes on each ballot shall be dropped from each subsequent ballot.

6.1.f. At the first meeting of the Board of Directors following the close of the annual meeting of the Commission, the Board of Directors shall elect one of its officer members to serve as president and one to serve as vice president.

6.2. Two or more members serving as principals of secondary schools located in the same administrative district shall be ineligible to serve as officer-members simultaneously.

6.3. The term of an officer-member shall end immediately upon their agreement to accept a position that would make them ineligible to hold office in this Commission. However, in the event that a director ceases to meet the qualifications for their position but remains in good standing in the last year of their term, such director shall be given the option to remain in their position for the remainder of the assigned term. The vacancy would then be filled at the next annual Board of Control meeting.

6.4. The ~~annual~~ honorarium of each of the officer-members shall be ~~\$1,000.00.~~ \$100 per meeting attended.

6.5. The Executive Director shall act as treasurer and shall pay out monies from the funds belonging to this Commission in payment of bills only upon order of the president.

6.6. The president shall furnish bond in the amount of \$20,000. The Executive Director shall furnish bond in the amount of \$100,000. The premium for both of these bonds shall be paid by the Commission.

6.7. The Board of Directors may submit questions for discussion and ascertain sentiment of the schools by means of questionnaires. No vote to alter these regulations shall be taken except at the annual meeting of the Commission, except that the Board of Directors may, in case of emergency, with the consent of the Board of Directors, enact and adopt all necessary rules and regulations, whether by deletion, amendment, revision, or addition, and which emergency rules and regulations shall be filed with the Secretary of State and thereafter submitted at the next annual meeting of the Commission for formal adoption or rejection.

**§127-1-7. Meetings.**

7.1. The annual meeting of the WVSSAC shall be planned by the Executive Director and the Board of Directors of the Commission.

7.2. Special meetings may be called by order of the president of the Commission. Fifty principals constitute a quorum to transact business.

**§127-1-8. Board of Directors.**

8.1. The Board of Directors shall have authority to administer the regulations of the WVSSAC.

8.2. The State Superintendent or representative designee, a representative from the West Virginia

Board of Education (WVBE), a representative selected by the West Virginia School Boards Association, a representative selected by the West Virginia School Administrators Association, and a representative selected by the West Virginia Athletic Directors Association, shall serve as appointive members of the Board of Directors. These members shall be accorded full voting privileges but shall be ineligible to be elected or to serve as an officer of WVSSAC.

8.2.a. The president of the West Virginia Association of Secondary School Principals (WVASSP) shall serve as an ex-officio member of the Board of Directors. However, serving the one year term as an ex-officio member shall not render that member ineligible to be elected to a regular five year term as an officer-member provided they are otherwise eligible.

8.3. The Board of Directors shall have authority to appoint an Executive Director, except as hereinafter provided, and such additional assistance as may be necessary to assure efficient functioning of the work of the WVSSAC. Furthermore, the Board of Directors shall have authority to fix and pay salaries to the Executive Director and to other personnel appointed to assist the Executive Director. The Board of Directors shall also have authority to devise a plan of retirement benefits for the Executive Director and other full-time personnel appointed to assist the Executive Director.

8.3.a. At least one of the personnel appointed to assist the Executive Director shall have the status of Assistant Executive Director. The appointment of the Assistant Executive Director shall be made by the Board of Directors only upon the nomination and recommendation by the Executive Director. In case the Board of Directors fails to appoint the person nominated, the Executive Director shall nominate and recommend another person and submit the name to the Board of Directors at such time as the Board may direct. The length of the contract term of office of the Assistant Executive Director shall be the same as that prescribed for the Executive Director in §127-1-11.1 and 11.2. ~~of these regulations.~~ No Assistant Executive Director shall be removed during the contract term of office except for just and reasonable cause as prescribed in §127-1-11.3.

8.3.b. All other personnel to assist the Executive Director shall be recommended by the Executive Director before being considered for employment by the Board of Directors.

8.3.c. The Board of Directors will annually evaluate the performance of the Executive Director. It shall be the responsibility of the Executive Director to evaluate Assistant Executive Directors. The Executive Director must submit a list of areas of concern to be addressed. From that list, a plan of improvement would be implemented by the Executive Director. Failure on the part of the Assistant Executive Director and other personnel to comply with the plan of improvement could result in disciplinary action up to and including dismissal.

8.4. The Board of Directors shall have power of appointment to fill vacancies in its membership until the vacancies are filled regularly at the next annual meeting of the Commission.

8.5. The Board of Directors shall have power to decide all cases of eligibility of students and participants in interscholastic athletic and band activities. The Board may also exercise discretionary powers it may deem necessary for the furtherance of education and interscholastic athletic and band activities in the secondary schools of West Virginia.

8.6. The Board of Directors shall appoint Deputy Board Members who will serve at the will and pleasure of the Board of Directors.

8.7. At the request of the Board of Directors, a Deputy Board Member may investigate matters of eligibility and other violations of the rules and regulations of the WVSSAC. The Deputy Board Member shall submit to the Board of Directors a written report of findings and recommendations for disposition of the case(s).

8.8. The Board of Directors shall have the power to investigate through the Deputy Board Member, or in such other manner as may be found advisable, matters of eligibility and other violations of rules when the Board deems it advisable to do so on the basis of information furnished, even though a formal protest is not filed.

8.9. The Board of Directors shall divide the state into regions and sections for the purpose of administration and for tournaments or meets of any interscholastic athletic or band activity.

8.10. The Board of Directors shall hold hearings and render decisions in all contested cases.

8.11. Five (5) officer-members present and eligible to vote at any meeting of the Board of Directors shall constitute a quorum to transact all business.

8.12. The minutes of regular and special meetings of the Board of Directors shall be submitted to principals of all member schools.

**§127-1-9. Funds.**

9.1. The Board of Directors may initiate the amount of annual dues of the members for any year.

9.2. The Board of Directors is authorized to levy entry fees and assessments for the conducting of any interscholastic athletic or band activity when the activity is not self-supporting. Fees and assessments from one activity division shall not be used for the support of another.

9.3. The Commission shall determine the expenditures of money, but superseding power is given to the Board of Directors to use funds as are necessary to carry on its work.

9.4. The fiscal year of this Commission extends from July 1 to June 30. All monies derived from any contest or other event sponsored by the Commission shall be subject to an annual audit by the West Virginia Tax Commissioner. A written summary of the audit shall be a part of the annual report of the Executive Director to the Board of Control.

9.5. In case of dissolution of the WVSSAC, all funds of the Commission shall be prorated equally and distributed to the County Boards of Education or governing bodies of the members of the Commission. Provided, however, that governing boards of those schools that become members of the Commission subsequent to January 1, 1968, shall be entitled to a prorated share of only that portion of the Commission's fund which has been collected, earned, and accumulated between the inception of such membership and the actual dissolution of the Commission.

**§127-1-10. Amendments.**

10.1. The articles, bylaws, rules, and regulations of the WVSSAC may be amended as provided in this

section.

10.2. A Constitution and Bylaws Committee, consisting of five members of the Commission, shall be appointed by and shall serve at the will and pleasure of the Board of Directors. The Board of Directors shall designate one of the members so appointed to serve as the chairman of such committee.

10.3. The Board of Directors shall give due consideration to maintaining a balance of representation by programmatic level as defined in §127-1-4.2 of this regulation when making new appointments to the Constitution and Bylaws Committee. However, an incumbent member of the committee shall not be ruled ineligible to continue to serve on the committee solely because they become principal of a secondary school different from that from which they were originally appointed.

10.4. It shall be the function and purpose of the Constitution and Bylaws Committee to provide continuity and cohesion in the rules and regulations governing the interscholastic athletic and band activity programs in West Virginia. Further, it shall be the function and purpose of the Constitution and Bylaws Committee to address what it considers, as needed, interim constitutional rule changes for possible Board of Directors' consideration.

10.5. Expenses for authorized meetings of the Constitution and Bylaws Committee shall be defrayed from the funds of the WVSSAC.

10.6. Proposed changes to these regulations may be submitted by any member of the WVSSAC. Such proposed changes, whether by revision, addition, or deletion, shall be postmarked or received by the WVSSAC office by January 15 of each year in order to permit the Constitution and Bylaws Committee to study such proposed changes and to submit them, by mail, to the membership 30 days prior to the annual meeting of the Commission.

10.7. At the annual meeting of the WVSSAC each proposed change received by the Constitution and Bylaws Committee, and those interim emergency rules and regulations enacted by the Committee, shall be presented to the membership of the Commission for discussion and formal adoption or rejection. The Committee may accompany each presentment with an explanation of the effect of the proposed change upon present rules and objectives of the Commission. The Committee may also recommend adoption or rejection of the proposal along with the Committee numerical vote for the recommendation.

10.8. The president of the Commission shall appoint a parliamentarian to serve at the meetings of the Commission to decide questions of procedure during the meetings. Robert's Rules of Order shall be followed in conducting the annual meeting and all other meetings.

10.9. An amendment to the regulations of the WVSSAC shall become effective following the annual meeting at which such amendment was adopted and such adoption is formally approved by the WVBE in accordance with W. Va. Code and such other rules and regulations promulgated by the WVBE.

10.10. Nothing in these regulations shall be construed as limiting or in any way affecting the validity of emergency rules and regulations which have been duly approved by the Board of Directors in accordance with §127-1-6.7 of this regulation. Emergency rules and regulations will be effective upon the date they are filed with the Secretary of State of State of West Virginia and remain in effect until the next meeting of the Commission.

**§127-1-11. Executive Director.**

11.1. The Board of Directors shall employ the Executive Director and Assistant Executive Director. At the discretion of the Board of Directors these positions will be given from one year to four year contracts. These contracts may be renegotiated prior to expiration. If a new contract is not to be negotiated, individuals in these positions will be notified in writing six months prior to the end of the contract period. A letter to this effect shall be sent to the President of the WVASSP.

11.2. If a vacancy occurs in the office of the Executive Director or Assistant Executive Director position during any contract period, the Board of Directors shall fill such vacancy. The exception will be that if a person serving as a Board of Directors member or one who has served in that capacity within the preceding one year prior to the vacancy becomes a candidate for one of the positions, the authority to fill the vacancy of the position shall be vested in the Constitution and Bylaws Committee.

11.3. The Executive Director shall not be removed during the term of office contract period except for just and reasonable cause. Reasonable cause may include, but not be limited to the following: immorality, incompetency, cruelty, insubordination, intemperance, willful neglect of duty, unsatisfactory performance, the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.

**§127-1-12. Duties of the Executive Director.**

12.1. The Executive Director shall carry on the work incident to the efficient functioning of the Commission. The general management and administration of the program of officiating for the interscholastic athletic activities sponsored by this Commission is considered a proper function of the Commission.

12.1.a. The Executive Director shall be responsible for assigning general areas of responsibilities and directing the activities of the Assistant Executive Directors as such responsibilities relate to the work of the Commission.

12.1.b. Based on employee evaluations and/or employee performance, the Executive Director shall make the appropriate recommendation of the employment status of all other employees.

12.2. The Executive Director shall receive complaints and make investigations concerning the eligibility of member school students who participate in athletic and band activities. The Executive Director shall also receive complaints and make investigations concerning violations of the rules of the Commission.

12.3. The Executive Director shall render decisions and impose penalties in athletic eligibility and other disputes subject to review by the Board of Directors. The Executive Director shall have the discretion to grant exceptions to the rules based upon previous Board of Directors' decisions on cases of a similar nature. Appeals of rendered decisions by the Executive Director shall be filed within 30 days of the decision unless otherwise stated.

12.4. It shall be the duty of the Executive Director to make a full and complete written report to the county board of education or governing body regarding any disciplinary action taken by the Board of Directors against a member school which is located in the county in which the board of education or governing body has jurisdiction.

12.5. The Executive Director shall attend state meetings of the WVASSP and report, when requested by the principals, on the work of the Commission office.

12.6. The Executive Director shall attend the meetings, when practicable, of the National Federation of State High School Associations and bring meeting reports to the attention of the Commission and the Board of Directors.

12.7. The Executive Director shall devote full time to the work assigned by the Board of Directors. The Executive Director shall hold no other remunerative office or position and shall not officiate at any interscholastic contest.

12.8. The Executive Director shall represent West Virginia in conferences and controversies involving other states.

12.9. The Executive Director shall exercise all rights and privileges pertaining to eligibility and to representation with the National Federation of State High School Associations granted to members by the Board of Directors and principals by these regulations.

**§127-1-13. Review Board.**

13.1. A WVSSAC Review Board is hereby established.

13.1.a. The Review Board shall consist of seven members to be appointed by the WVBE upon recommendation by the State Superintendent. No person, other than a county superintendent of schools, and a representative of the West Virginia Athletic Directors Association, shall be appointed or shall serve who is employed by the WVBE or any county board of education. All members of the Review Board shall be residents of the State of West Virginia.

13.1.b. Each of the following associations shall be requested to present three nominations to the State Superintendent for membership on the Review Board:

13.1.b.1. West Virginia Bar Association;

13.1.b.2. West Virginia Association of School Administrators;

13.1.b.3. West Virginia State Medical Association;

13.1.b.4. West Virginia Sportswriter Association;

13.1.b.5. West Virginia Athletic Directors Association; ~~and~~

13.1.b.6. West Virginia Association of Retired School Employees; and

13.1.b.7. State Superintendent's Designee

13.1.c. Members of the Review Board need not be members of the association which submitted their names in nomination and shall be appointed for a term of five years. Prior to the expiration date of

the term of each member of the Review Board, the respective association will nominate three representatives to the State Superintendent who shall subsequently recommend one to the WVBE.

13.1.d. The term of office of each member of the Review Board will begin upon the acceptance of the appointment and will expire on June 30 of the year in which the term expires.

13.1.e. The member with the shortest remaining tenure on the Review Board shall serve as its chairman. Each appointed member of the Review Board shall have equal voting privileges.

13.1.f. In the same manner as prescribed in §127-1-13.1.a through 13.1.c ~~of this regulation~~, the WVBE shall have power to fill any vacancy which occurs in the membership of the Review Board. Such appointments shall be made at the next regular or called meeting of the WVBE following the existence of a vacancy, and shall be for the unexpired term of the position vacated.

13.1.g. Members of the Review Board shall serve without pay but shall be reimbursed for actual expenses incident to the performances of their duties upon presentation to WVDE an itemized sworn statement thereof. Costs shall be taxed by the Review Board at its discretion, not to exceed the actual expenses incurred, against the party who fails to prevail and the Review Board may, in its discretion, if it so desires, require any appealing party to post security for costs with the State Superintendent in the sum of \$200.

13.1.h. The Review Board will sit for hearings within a reasonable time after the aggrieved party having a matter for review files an appeal, but not longer than 30 days after such appeal is filed, and at such other times as the Review Board may determine, at the State Capitol in Charleston, or in such other place as the Chair of the Review Board may elect.

13.2. The WVDE shall make available adequate and competent secretarial services to record the proceedings and transactions of each meeting of the Review Board and to prepare the official written report, required in these regulations, on each decision rendered by the Review Board.

13.3. Any decision of the Board of Directors involving a penalty, protest, or interpretation of the rules and regulations of this Commission governing interscholastic athletic or band activities may be appealed to the Review Board in the manner hereinafter described. Such appeal may be made by any member of the aggrieved party directly affected by the decision of the Board of Directors and aggrieved by such decision of the Board of Directors.

13.3.a. Appeals must be filed with the State Superintendent within 15 days after any final decision of the Board of Directors of the WVSSAC.

13.3.b. Upon receipt of any appeal, the State Superintendent shall immediately notify each member of the Review Board of the appeal and the Chair of the Review Board shall set a date, time, and place for hearing and shall immediately notify all interested parties, in writing, of the same.

13.3.c. The filing of any appeal shall not stay enforcement nor act to supersede the prior ruling or decision of the Board of Directors. However, pending the hearing of any appeal, at its discretion, the Board of Directors may grant a stay of enforcement upon such terms as it deems proper.

13.4. Proceedings for review shall be instituted by filing a petition with the State Superintendent

## 127CSR1

within 15 days after the date upon which such party received notice of the final order or decision of the Board of Directors. A copy of the petition shall be served upon the WVSSAC or its Executive Director and all other parties of record by registered or certified mail. The petition shall state whether the appeal is taken on questions of law or questions of fact, or both. No appeal bond shall be required to effect any such appeal.

13.4.a. Within 15 days after receipt of a copy of the petition by the WVSSAC, or its Executive Director, or within such further time as the Review Board may allow, the Commission or the Executive Director shall transmit to the Review Board, the original or a certified copy of the entire record of the proceedings under review, including a transcript of all testimony and all papers, motions, documents, evidence, and records as were before the Commission, all Commission staff memoranda submitted in connection with the case, and a statement of matters officially noted; but, by stipulation of all parties to the review proceedings, the record may be shortened. The expense of preparing such record shall be taxed as a part of the costs of the appeal. The appellant shall provide security for costs involved. Upon demand by any party to the appeal, the Commission shall furnish, at the cost of the party requesting same, a copy of such record. In the event the complete record is not filed with the Review Board within the time provided for in this section, the appellant may apply to the Review Board to have the case docketed, and the Review Board shall order such record filed. Failure of the Commission to file the record within the time stipulated shall automatically stay the enforcement of the order or decision of the Board of Directors, in that particular case, and such stay shall continue until such record is filed.

13.4.b. Appeals taken on questions of law, fact, or both, shall be heard upon assignment of error filed in the case or set out in the briefs of the appellant. Errors not argued by brief may be disregarded, but the Review Board may consider and decide errors which are not assigned or argued.

13.4.c. The review shall be conducted by the Review Board without a jury and shall be upon the records made before the Commission, except that in cases of alleged irregularities in procedure before the Commission not shown in the record, testimony thereon may be taken before the Review Board. The Review Board may hear oral arguments and require written briefs.

13.5. After hearing all evidence and arguments, the Review Board shall render a decision in one of three forms:

13.5.a. Sustaining the ruling of the Board of Directors;

13.5.b. Reversing the ruling of the Board of Directors; or

13.5.c. Remanding the matter to the Board of Directors for further action.

13.5.c.1. The Review Board shall reverse, vacate, or modify the order or decision of the Board of Directors if the substantial rights of the petitioner or petitioners have been prejudiced because the administrative findings, inferences, conclusions, decisions, or orders are:

13.5.c.1.A. In violation of constitutional or statutory provisions;

13.5.c.1.B. In excess of the statutory authority or jurisdiction of the Commission;

13.5.c.1.C. Made upon unlawful procedures;

## 127CSR1

13.5.c.1.D. Affected by other error of law;

13.5.c.1.E. Clearly wrong in view of the reliable probative and substantial evidence on the whole record; or

13.5.c.1.F. Arbitrary or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

13.5.c.2. Four members, present and eligible to vote, shall constitute a quorum for the Review Board to transact all business.

13.5.c.3. A majority vote of those members of the Review Board in attendance at any hearing shall be required to render a decision. Such decision shall be final and binding on all parties concerned.

13.5.c.4. Within 30 days from the date of any hearing, the Review Board shall make a written report of its decision, stating briefly therein its reasons for such a decision. Copies of the report shall be mailed to the State Superintendent, the Executive Director of the WVSSAC and, upon written request, to other interested parties.

13.6. Nothing in these regulations shall be construed to limit the Board of Directors in performing its regular duties as provided in the regulations of the WVSSAC; in making investigations and initiating proceedings against any member of the Commission; in making interpretations of the rules of eligibility of student athletes or band members; or in imposing penalties for the violations of any rules, regulations, or bylaws of the Commission.

13.6.a. §127-1-8.5, and Rule §127CSR6, section 3.2, ~~Violation of the Rules~~, infer or state that decisions of the Board of Directors are final and are hereby modified only to the extent that such final ruling of the Board of Directors may be appealed within the time limit in the manner prescribed elsewhere in these regulations and affirmed, reversed, or remanded by the Review Board.

### **§127-1-14. Rules and Regulations.**

14.1. The constitution and bylaws of the WVSSAC are the rules and regulations of the Commission.

### **§127-1-15. Board of Trustees.**

15.1. The Board of Directors shall appoint a five member Board of Trustees. Each trustee shall be a principal of a member school and shall serve at the will and pleasure of the Board of Directors. Two or more members serving as principals of secondary schools located in the same administrative district shall be ineligible to serve as trustees at the same time.

15.2. The Board of Trustees and their lawfully appointed successors shall hold title to all real estate and other property owned by the WVSSAC except as shall be directed otherwise by the Board of Control.

15.3. The Board of Trustees shall elect from the membership thereof, to hold office for a term of one year or until a successor shall be elected, a Chair and, if need requires, a Vice-Chair, Secretary and Treasurer.

15.4. The Board of Trustees shall serve without pay or honorarium.

15.5. If it so elects, the Board of Control shall direct the Board of Trustees to incorporate in accordance with the pertinent laws of West Virginia and in such manner as will fully protect and exempt from any and all legal liability the individual officers and members, jointly and severally, of the WVSSAC for an account of the debts and other obligations of every kind and description of the Commission.

15.6. Should a trustee withdraw from membership of the Commission or be excluded therefrom, that trusteeship therein shall automatically cease from the date of such withdrawal or exclusion.

15.7. Should a trustee refuse, within five days from the receipt thereof, to execute a legal instrument relating to any property of the Commission, when directed to do so by the Board of Control or the Board of Directors, and when all legal requirements have been satisfied with reference to execution, the Board of Directors may declare that membership on the Board of Trustees vacated.

15.8. The Board of Control and/or the Board of Directors may direct the trustees with respect to the purchase, sale, mortgage, encumbrance, construction, repairing, remodeling and maintenance of any and all property, real and personal, as may be committed to the trustees by the Board of Control or Board of Directors.

**West Virginia Secondary School Activities Commission (WVSSAC)  
W. Va. 127CSR1, Series 1, Constitution**

**COMMENT PERIOD ENDS: June 10, 2024**

**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 **WVSSAC Series 1, Constitution**. 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            |

COMMENTS/SUGGESTIONS
<b>§127-1-6.4. Officers and Duties.</b>
<b>§127-1-13.1.b.7. Review Board.</b>

Please direct all comments to:  
Mr. David Price, Executive Director  
West Virginia Secondary School Activities Commission  
2875 Staunton Turnpike  
Parkersburg, West Virginia 26104  
[david.price@wvssac.org](mailto:david.price@wvssac.org)  
Fax No.: 304.428.5431