



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL  
RULE**

AGENCY: Education

TITLE-SERIES: 126-032

RULE TYPE: Legislative  
Exempt

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: Issuance of the State of West Virginia High School  
Diploma and the Administration of the West  
Virginia High School Equivalency Test, Option  
Pathway, and Mountaineer Challenge Academy  
Graduation Pathway (2444.4)

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)

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

July 15, 2024

**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.**

126CSR32

TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION

SERIES 32  
ISSUANCE OF THE STATE OF WEST VIRGINIA HIGH SCHOOL EQUIVALENCY DIPLOMA AND THE  
ADMINISTRATION OF THE WEST VIRGINIA HIGH SCHOOL EQUIVALENCY TEST, OPTION PATHWAY, AND  
MOUNTAINEER CHALLENGE ACADEMY GRADUATION PATHWAY (2444.4)

**§126-32-1. General.**

1.1. Scope. -- This legislative rule establishes the protocols for administering the issuance of the State of West Virginia High School Equivalency Diploma and the administration of the West Virginia Department of Education (WVDE) approved High School Equivalency (HSE) test, Option Pathway, and the Mountaineer Challenge Academy (MCA) Graduation Pathway.

1.1.a. The purpose of the State of West Virginia High School Equivalency Diploma is to recognize individuals who demonstrate attainment of academic skills equivalent to those skills required to graduate from a West Virginia high school by satisfactorily passing the WVDE-approved HSE test.

1.1.b. The purpose of the Option Pathway, which is a blend of Career Technical Education (CTE) and the WVDE-approved HSE test, is to provide an opportunity for at-risk students to stay in school and graduate with a standard high school diploma.

1.1.c. The purpose of the MCA graduation pathway, which is a blend of the National Guard Youth Challenge Program (NGYCP) courses and the WVDE-approved HSE test is to provide an opportunity for students enrolled in MCA to graduate with a standard high school diploma.

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

1.3. Filing Date. -- June 12, 2024.

1.4. Effective Date. -- July 15, 2024.

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. 126CSR32, Policy 2444.4, Issuance of the State of West Virginia High School Equivalency Diploma and Option Pathway, filed June 15, 2018, and effective July 16, 2018.

**§126-32-2. State of West Virginia High School Equivalency Diploma.**

2.1. WVDE issues a State of West Virginia High School Equivalency Diploma based upon satisfactory scores earned on the WVDE-approved HSE test.

**§126-32-3. Applying for Testing.**

3.1. Applicants are required to pass an approved HSE practice test with the minimum score as determined by the WVDE. An Adult Education (AE) instructor, an Option Pathway teacher, or a West

Virginia Schools of Diversion and Transition (WVSDT), Mountaineer Job Challenge Program (MJCP), or MCA staff member shall provide the necessary eligibility documentation to the test administrator prior to the scheduled test dates as outlined in the West Virginia HSE Test Administrator's Manual. This manual is available upon request by contacting the WVDE HSE Coordinator.

3.1.a. Students who are court-ordered to take the HSE test and Option Pathway students who are enrolled in the MJCP are required to participate in an approved HSE practice test as determined by the WVDE. An AE instructor, Option Pathway teacher, or a MJCP staff member shall provide the necessary enrichment services to assist students in being better prepared for the HSE test.

3.1.a.1. Students who have a court order that specifically states they do not have to take the HSE practice test are permitted to take the HSE test without being required to take the approved HSE practice test.

3.1.a.2. Option Pathway students who are enrolled in the MCA program are subject to the testing rules as described in section 10 of this policy.

3.2. A current, valid, original (not photocopy) government-issued photo identification (ID), such as a driver's license, military ID, or passport, which contains the individual's full name, photograph, and signature, must be presented to the HSE test administrator during the check-in process and must be present during all testing sessions. Students who do not have a valid photo ID on the day of testing shall not be allowed to take the HSE test.

3.2.a. Option Pathway or WVSDT juvenile residential students may use the WVDE-approved alternate photo ID as outlined in the West Virginia HSE Test Administrator's Manual.

3.2.b. Students participating in a WVSDT residential or government program, e.g., Job Corps, students may use the facility-issued photo ID, providing it includes the student's legal name, date of birth, signature, and a legible photo.

3.2.c. Option Pathway students who are enrolled in the MJCP program may use their current photo ID issued by MCA, MJCP, or the West Virginia National Guard while enrolled in the MJCP.

**§126-32-4. Criteria for Administering the State of West Virginia HSE Test.**

4.1. HSE tests shall be administered at WVDE-approved testing centers that meet the facility requirements as outlined in the West Virginia HSE Test Administrator's Manual.

4.1.a. The WVDE HSE Coordinator must approve all HSE testing centers.

4.1.b. There shall be no duplication of testing services within a county without evidence of need, as outlined in the West Virginia HSE Test Administrator's Manual.

4.1.c. Test centers may not alter the configuration of the testing room or change testing rooms or locations without the approval of the WVDE HSE Coordinator. Upon approval, test administrators must follow the procedures outlined in the West Virginia HSE Test Administrator's Manual for changing a testing room or test center location.

4.2. HSE tests shall be administered by WVDE-trained and certified HSE test administrators. All test administrators must meet the eligibility requirements as outlined in the West Virginia HSE Test Administrator's Manual.

4.2.a. HSE test administrators must complete the required training as outlined in the West Virginia HSE Test Administrator's Manual and be approved by the WVDE HSE Coordinator before being permitted in the testing room. In addition, HSE test administrators must complete the required annual HSE training in order to be recertified for testing, as outlined in the West Virginia HSE Test Administrator's Manual.

4.2.a.1. No staff other than the WVDE trained and certified HSE test administrators are permitted to be present in the HSE testing room while a test is in session. Permitting unauthorized individuals in the testing room while a test is in progress will result in the immediate suspension of all testing privileges for the test administrator(s) at the test center, in accordance with the procedures in the West Virginia HSE Test Administrator's Manual.

4.2.b. HSE test administrators must follow all HSE policies and procedures as outlined in the West Virginia HSE Test Administrator's Manual.

4.3. HSE test administrators at non-residential test centers must submit a test center schedule to the Option Pathway teachers and Adult Education instructors in their county jurisdiction no later than September 1 each school year, which includes all test dates and times through the end of June of that school year. This test center schedule must correspond with the online test center schedule that is within the test publisher's scheduling portal, which makes it available to the public. Teachers must be informed of any changes to the schedule at least 30 days in advance and the test center online schedule within the test publisher's scheduling portal updated to reflect these changes.

4.3.a. Test center schedule changes that are necessary due to an emergency closure for inclement weather, test administrator illness, or other unforeseen circumstances shall be communicated to teachers and students as soon as possible.

4.3.b. Test sessions that need to be added to an existing test center schedule are permitted any time it is deemed necessary without the required 30 day notice. These additions shall be communicated to teachers and changed in the outline scheduling portal as soon as possible.

4.4. Test administrators who are found to be in violation of HSE test policies and/or procedures shall be placed on a plan of improvement or suspended from testing, depending on the infraction, in accordance with the procedures outlined in the West Virginia HSE Test Administrator's Manual.

**§126-32-5. Basis for Issuing the State of West Virginia High School Equivalency Diploma.**

5.1. Individuals who take the WVDE-approved HSE test and achieve minimum passing scores as determined by the WVDE shall receive a State of West Virginia High School Equivalency Diploma.

**§126-32-6. Testing of Individuals 16, 17, or 18 Years of Age.**

6.1. Individuals who are 16, 17, or 18 years of age are eligible to sit for the HSE test under any of the following circumstances:

6.1.a. The individual has officially withdrawn from a public high school prior to test registration as evidenced by documentation from the last school/system attended, or by documentation from the county attendance director that includes the withdrawal date as it is defined in W. Va. 126CSR81, Policy 4110, Attendance; or

6.1.b. The individual is enrolled in the Option Pathway; or

6.1.c. The individual, at least 16 years of age, is homeschooled, meets all eligibility requirements as outlined in the West Virginia HSE Test Administrator's Manual, and provides the appropriate documentation as specified by the WVDE; or

6.1.d. The individual is attending Mountaineer Challenge Academy; or

6.1.e. The individual is court-ordered to take the HSE test.

6.2. All individuals meeting one of the requirements above must also provide HSE testing eligibility documentation signed by an AE instructor, an Option Pathway teacher, a WVSDT or MCA staff member, or an HSE test administrator in accordance with the procedures in the West Virginia HSE Test Administrator's Manual.

**§126-32-7. Testing of Individuals 16, 17, or 18 Years of Age Participating in WVSDT or Government Program.**

7.1. Individuals, at least 16 years of age, who are participating in a WVSDT educational program, may test under the following conditions:

7.1.a. the individual is court-ordered to take the HSE test and must provide a copy of the court order to the HSE test administrator even if the individual is still enrolled in school; or

7.1.b. the individual is officially transferred from the public high school to a WVSDT residential facility; or

7.1.c. adjudicated youth 16, 17, or 18 years of age, who are under the control of a court, diagnostic and detention center, group care facility, or probation office may be admitted to testing based on the referral of the WVSDT staff, provided the youth is officially transferred from the public high school to the WVSDT facility.

7.2. Individuals, at least 16 years of age, who are participating in a residential government program, e.g., Job Corps, may test while a resident at the facility provided the individual has passed the compulsory age requirement for school attendance in their state of residence and has been officially withdrawn from a public high school.

7.3. All youth transitioning from a WVSDT residential facility or government program, who have taken but not completed the WVDE-approved HSE test and who are listed in the WVDE vendor's database, are eligible to continue testing at a WVDE-approved HSE test center by presenting a current government-issued photo ID in accordance with the photo ID policy outlined in the West Virginia HSE Test Administrator's Manual.

**§126-32-8. Criteria for Administering Option Pathway in West Virginia Public High Schools and WVSDT Facilities.**

8.1. The Option Pathway program provides the opportunity for an at-risk student to take the HSE test while still enrolled in and attending a West Virginia public high school or WVSDT educational program. Option Pathway (Option 1) blends CTE and the WVDE-approved HSE test and provides an opportunity for at-risk students to stay in school and graduate with a standard high school diploma. Option 1 is designed for the student who has failed major core courses and remains enrolled in high school. To maintain the integrity of the Option Pathway program, teachers, administrators, and staff at WVDE-approved Option Pathway schools must follow all Option Pathway guidelines and policies as outlined in the Option Pathway Organizational Manual which is available upon request by contacting the WVDE Option Pathway Coordinator.

8.1.a. If the Option 1 student successfully passes all content areas of the WVDE-approved HSE test and successfully completes a state-approved CTE program of study as defined in W. Va. 126CSR44M, Policy 2520.13, West Virginia College- and Career-Readiness Programs of Study/Standards for Career Technical Education, or completes the Option Pathway Career Integrated Experiential Learning (CIEL) pathway as outlined in the Option Pathway Organizational Manual, the student shall receive a regular high school diploma and shall be counted as a graduate.

8.1.b. CIEL is an alternate CTE pathway intended to offer at-risk students additional flexibility while meeting their career aspirations by providing them with employability skills and opportunities to test for nationally recognized credentials.

8.2. Option 1 students who do not complete the Option Pathway program while a resident at a WVSDT facility may return to their home high school to complete their graduation requirements as an Option Pathway student, provided the home high school has an approved Option Pathway program.

8.2.a. Option 1 students who do not complete the Option Pathway program while a resident at a WVSDT facility may enroll in their local AE program to complete their high school equivalency test and earn their high school equivalency diploma. To be eligible to take the HSE test through an AE program, the student must be transferred back to their home high school and officially drop out of school. Documentation of their withdrawal from their home high school must be provided to the AE instructor.

**§126-32-9. Criteria for Administering Option Pathway Supplemental Programs.**

9.1. Schools that have an operational Option 1 program may offer seniors, as defined in the Option Pathway Organizational Manual, the HSE test as credit recovery in one core content area. (This is credit recovery of courses the student has attempted and failed; this shall not be used as credit replacement for courses not taken. This supplemental program is referred to as HSE Credit Recovery (Option 2). Schools that are utilizing the Option 2 supplemental program must follow all policies and procedures for Option 2 as outlined in the Option Pathway Organizational Manual, which is available upon request by contacting the WVDE Option Pathway Coordinator.

9.1.a. The Option 2 student continues attending and maintaining passing grades in all other classes as per W. Va. 126CSR42, Policy 2510, Assuring the Quality of Education: Regulations for Education Programs (Policy 2510); and

9.1.b. The Option 2 student shall earn grades according to the county's credit recovery guidelines.

9.2. Schools that have an operational Option 1 program may allow a student who is intent on dropping out of school the opportunity to take the HSE test prior to the student dropping out of school. This supplemental program is referred to as HSE Opportunity (Option 3). Schools that utilize the Option 3 supplemental program must follow all policies and procedures for the Option Pathway program as outlined in the Option Pathway Organizational Manual.

9.2.a. The Option 3 student who passes the HSE test prior to dropping out of school shall receive a State of West Virginia High School Equivalency Diploma and shall not be counted in the public high school's graduation rate. Option 3 students shall not receive grades or credits for passing the HSE test.

9.2.b. The Option 3 student must be at least 17 years of age and have met the official dropout age for their county prior to being permitted to take the HSE test.

9.2.c. The Option 3 student shall continue attending classes until they have taken the HSE test and have officially withdrawn from school.

**§126-32-10. Criteria for Administering the MCA Graduation Pathway.**

10.1. MCA students are required to participate in an approved HSE practice test as determined by the WVDE prior to taking the HSE test. An MCA teacher shall provide necessary enrichment services to assist MCA students in being better prepared for the HSE test.

10.2. A current, valid, original (not photocopy) government-issued photo ID, such as a driver's license, military ID, or passport, which contains the individual's full name, photograph, and signature, must be provided to the test administrator immediately prior to and be present during all testing sessions.

10.2.a. MCA students may use a current photo ID issued by MCA or the West Virginia National Guard while a resident at the facility.

10.3. The high school graduation pathway for MCA is a blend of the NGYCP courses and the WVDE-approved HSE test. To maintain the integrity of the program, MCA must follow all the guidelines and policies specific to MCA as outlined in the Option Pathway Organizational Manual.

10.3.a. A MCA student who successfully passes all content area tests of the WVDE-approved HSE test, successfully completes the four NGYCP courses, and graduates from the MCA program shall receive a regular high school diploma from their home high school and is counted in the home high school's graduation rate.

10.3.b. A MCA student who graduates from the MCA program but who does not meet high school graduation requirements, may return to the public high school to complete the deficient areas of study required for a regular high school diploma as an Option Pathway student in accordance with this policy or as a traditional high school student as provided in Policy 2510.

10.3.c. A MCA student who graduates from the MCA program, but who does not meet high school graduation requirements may enroll in the MJCP and complete their graduation requirements through the Option Pathway program while a resident at MJCP. These students must be transferred from MCA back to their home high school within 30 days of enrollment in the Option Pathway program at MJCP.

10.3.c.1. An Option Pathway student who does not meet high school graduation requirements while a resident at MJCP may return to their home high school to complete the deficient areas of study required for a regular high school diploma as an Option Pathway student per this policy, provided the high school has an Option Pathway program, or as a traditional high school student as provided in Policy 2510.

10.3.d. A MCA student who does not graduate from the MCA program may return to the public high school to complete the deficient areas of study required for a regular high school diploma as a traditional high school student in accordance with Policy 2510. The student may be eligible to enroll in the Option Pathway program if they meet all Option Pathway requirements as outlined in the Option Pathway Organizational Manual.

10.3.e. Upon notification of graduation of an MCA student by the WVDE, the home high school shall update the student's date of graduation, credits, and graduation status in the West Virginia Educational Information System no later than three weeks from notification or prior to the promotion of students, whichever occurs sooner.

**§126-32-11. Residence.**

11.1. Individuals meeting all criteria and demonstrating themselves eligible under the State of West Virginia High School Equivalency Diploma guidelines shall be admitted to testing for the purpose of securing a State of West Virginia High School Equivalency Diploma according to the guidelines of this policy.

11.1.a. Individuals under the age of 19 must meet West Virginia eligibility guidelines for testing as outlined in the West Virginia HSE Test Administrator's Manual, which is available upon request by contacting the WVDE HSE Coordinator.

**§126-32-12. Transcripts of Scores.**

12.1. Names of individuals receiving the State of West Virginia High School Equivalency Diploma shall not be released unless an individual has signed a written permission to release the information.

12.2. The original transcript and diploma shall be issued at no cost by the vendor retained by the WVDE. An additional transcript, verification and/or a replacement copy of the State of West Virginia High School Equivalency Diploma shall be provided for a fee determined by the WVDE vendor.

**§126-32-13. Falsification of the High School Equivalency Assessment Information and/or Center Violations.**

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13.1. Any falsification of information and/or cheating on the HSE test shall result in penalties as outlined in the testing policies and procedures in the West Virginia HSE Test Administrator's Manual which is available upon request by contacting the WVDE HSE Coordinator.

13.2. Testing center violations shall be processed according to the procedures outlined in the West Virginia HSE Test Administrator's Manual, and may include suspension or loss of testing privileges and potential criminal prosecution.

### **§126-32-14. Testing Fees.**

14.1. Testing fees shall be established by the WVDE.

### **§126-32-15. Severability.**

15.1. If any provisions 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.