



**WEST VIRGINIA SECRETARY OF STATE**

**KRIS WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Secondary School Activities Commission TITLE-SERIES: 127-06

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Violations of the Rules

CITE STATUTORY AUTHORITY: W. Va. Constitution, Article XII, §2 and W. Va. Code §18-2-25.

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/06/2026 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Wayne Ryan, Executive Director

ADDRESS: 2875 Staunton Turnpike  
Parkersburg, West Virginia 26104

EMAIL: wayne.ryan@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:

These rules govern the procedures for protests, contested cases and waiver of rules.

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

Most secondary public schools and several private schools in West Virginia belong to the WVSSAC. 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 Board of Education for review and approval pursuant to W. Va. Code §18-2-25(b). This revised rule is the result of a committee established for the purpose of reviewing and making recommendations on WVSSAC rules, including editorial and technical amendments. It was approved by the WVSSACs Board of Control on March 31, 2026. The WVBE approved this rule for filing on June 3, 2026.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

The WVSSAC is a non-profit, private, voluntary association of public, private, and parochial West Virginia Secondary Schools and is not a state agency; therefore, there will be no impact on the revenues of State Government.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

The WVSSAC is a non-profit, private, voluntary association of public, private, and parochial West Virginia Secondary Schools and is not a state agency; therefore, there will be no impact on revenue accounts.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

The WVSSAC is a non-profit, private, voluntary association of public, private, and parochial West Virginia Secondary Schools and is not a state agency; therefore, it is not anticipated that there will be any economic impact to the state or its residents.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
<b>Personal Services</b>	0	0	0
<b>Current Expenses</b>	0	0	0
<b>Repairs and Alterations</b>	0	0	0
<b>Assets</b>	0	0	0
<b>Other</b>	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No state costs or revenue will be impacted by the proposed amendment of W. Va. 127CSR2, Athletics Provisions Governing Eligibility. The WVSSAC is a non-profit, private, voluntary association of public, private, and parochial West Virginia Secondary Schools and is not a state agency. Also, the Secondary School Activities Commission currently enforces a similar rule and the amendment as proposed by its Constitution and Bylaws Committee and adopted by member schools on a 147-0 vote, is not anticipated to provide any substantial change to the enforcement cost of such. Further, all West Virginia Secondary School Activities Commission funds have been found to not be public funds by the Supreme Court of West Virginia in Mayo v. Secondary Schools Activities Com'n, 223 W. Va. 88, (W. Va. 2008).

**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.**

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**TITLE 127  
LEGISLATIVE RULE**

**WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION**

**SERIES 6  
VIOLATIONS OF THE RULES**

**§127-6-1. General.**

1.1. Scope. -- These rules govern the procedures for protests, contested cases and waiver of rules.

1.2. Authority. -- W. Va. Constitution, Article XII, §2 and W. Va. Code §18-2-25.

1.3. Filing Date. -- ~~July 13, 2007.~~

1.4. Effective Date. -- ~~September 11, 2007.~~

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. 127CSR3, West Virginia Secondary School Activities Commission Series 3, Provisions Governing Contests, filed ~~June 7, 2002~~ July 13, 2007, and effective ~~August 6, 2002~~ September 11, 2007 .

**§127-6-2. Powers of the Board of Directors to Impose Penalties.**

2.1. All violations of rules and questions of dispute are within the power of the Board of Directors to investigate, through the Executive Director, or other authorized person or persons, and to impose such penalties as are prescribed elsewhere in this Constitution and Bylaws and as listed below.

2.2. If the Board of Directors finds a school guilty of violating the provisions of this Constitution and Bylaws, said Board of Directors has the power to:

2.2.1. Declare the school ineligible for championship honors or other activities for the current year in the activity in which the offense occurred.

2.2.2. Place the school on probation for a period of time not to exceed 365 days from date of such finding. Such probation may include the loss of voting rights for the member and/or the loss of the privilege of the member school to participate in any or all interscholastic events which are sanctioned, controlled or sponsored by this Commission, and/or the imposition of other restrictive measures as the Board of Directors may deem advisable.

2.2.3. Assess such fines as are deemed necessary and just.

2.2.4. Impose such other additional penalties as may seem justifiable in the particular case considered.

**§127-6-3. Method for Protests - Deputies.**

3.1. If charges against any member of the Commission cannot be satisfactorily resolved by the Deputy

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Board Member in the region in which such charges originate, then the charges shall be submitted in writing to the Executive Director of the West Virginia Secondary School Activities Commission (WVSSAC).

3.2. If the Executive Director is unable to resolve the charges in a manner satisfactory to the schools concerned, he shall submit the protest to the Board of Directors and the decision of said Board shall be final except as provided in Section 127-1-13.3.1 of the Constitution.

3.3. In no case shall a protest be heard by said Board unless the principal bringing the charges notifies in writing the principal of the school being protested. A copy of such notification shall accompany the protest sent to the Executive Director.

3.4. The principal of a school against which charges have been preferred shall be permitted to appear before the Board of Directors.

### **§127-6-4. Method of Protests - Executive Director.**

4.1. If the Executive Director has reason to believe that any member of the WVSSAC has or is violating the rules of the Commission he shall make such investigation as he deems necessary to determine the innocence or guilt of the suspected member.

4.2. The Executive Director shall then report his findings to the principal of the offending school and set a time and place for a meeting with the principal of the school, at which meeting the principal shall be permitted to submit any pertinent evidence in defense of his school.

4.2.a. The following defines the different types of disciplinary action which may be assessed for violation of any WVSSAC rule by a member school, administrator, coach, athlete or contest official:

4.2.a.1. Warning. A warning may be given by the Executive Director or Assistant Executive Director. It is official notice that an inexcusable, unethical, or unsportsmanship action has occurred, is a matter of record, and that such an occurrence must not be repeated.

4.2.a.2. Probation. Probation is a much more severe type of warning and may be expressed two ways: 1) a school, coach, student, or team attendant on probation is told that further violations will lead to a fine or suspension; and/or 2) a school on probation is on conditional WVSSAC membership but may engage in its regular schedule, sanctioned events, and all WVSSAC tournament play, providing a program is filed with the Executive Director of the WVSSAC indicating measures to be taken to alleviate this problem which caused the school to be placed on probation.

4.2.a.3. Suspension. A school/coach suspended from the WVSSAC may not meet in interscholastic competition of any kind with a WVSSAC member school or a school that is a member of another state associated with the National Federation of State High School Associations.

4.2.a.4. Fine. A fine may be levied by the Executive Director.

4.2.a.5. Each of these sanctions (Warning, Probation, Suspension, and Fine) may be imposed or levied separately, or in a combination of one or more sanctions.

4.3. If the principal is not then satisfied with the decision of the Executive Director, a request may be

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made for a hearing before the Board of Directors at such time and place as is convenient for both the principal and the Board.

4.4. In no case shall the Board of Directors hear charges and render a decision unless the principal is given an opportunity to appear in defense of his school. After all evidence has been submitted, the Board of Directors shall render a decision which shall be final except as provided in §127-1-13.3 of the Constitution.

### **§127-6-5. Method of Protests - Contested Cases.**

5.1. Commencement of an appeal in a contested case by an aggrieved party, hereinafter named the petitioner, shall be instituted by the filing of a verified petition which shall contain:

- 5.1.1. The name and address of the petitioner.
- 5.1.2. The interest of the petitioner.
- 5.1.3. A statement of facts.
- 5.1.4. A statement of jurisdiction.
- 5.1.5. A designation of the applicable rule or rules involved.
- 5.1.6. An assignment of errors relied upon.
- 5.1.7. A statement of the relief requested.

5.2. Petitions for appeal shall be served upon the WVSSAC by registered or certified mail.

5.3. The Executive Director, or any other interested party, may file an answer, but failure to file an answer will be interpreted as a denial of the allegations contained in the petition. If they elect to file an answer, it shall contain the following:

- 5.3.1. Allegation of facts with denials, additional facts or other pertinent data.
- 5.3.2. A statement of other applicable rules and statutes.
- 5.3.3. A statement of objections, if any, to the parties or other portion of the petition.
- 5.3.4. Designation of other interested parties.

5.4. All answers shall be filed with the Board of Directors within five (5) days after receipt of the petition for appeal.

5.5. In the event that the parties are unable to dispose of the issues without a hearing or if the Board of Directors elects to proceed without a pre-hearing conference, the Executive Director shall notify all parties in writing of the date, time and place set for a hearing on the appeal. The notice shall be given at least seven (7) days in advance of the time set for the hearing and shall contain a short and plain statement

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of the issues involved. Said hearing shall be conducted in conjunction with a regularly scheduled meeting of the Board of Directors. In this event, costs for such a meeting shall not be taxed against the petitioner(s).

5.6. The matter may be heard at a special meeting of the Board of Directors provided the petitioner(s) agrees in writing to pay all costs incidental to such meeting. Such costs shall not exceed the actual expenses incurred. The Board of Directors, at its discretion, may require the petitioner(s) to post adequate security for such costs with the Executive Director.

5.7. If the petitioner(s)' appeal should prevail at the special meeting of the Board of Directors or at a subsequent hearing before the Review Board, the security deposit or the posted costs shall be returned to the petitioner(s).

5.8. All parties to any appeal may represent themselves or be represented by an attorney licensed to practice law in the State of West Virginia.

5.9. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Objections to evidentiary offers shall be noted in the record. Any party to any such hearings may vouch the record as to any excluded testimony or other evidence.

5.10. All evidence, including papers, records, Commission staff memoranda, and documents, in the possession of the Commission, of which it desires to avail itself, shall be offered and made a part of the record in the case. Documentary evidence may be received in the form of copies of excerpts or by incorporation by reference.

5.11. Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

5.12. All of the testimony and evidence of any such hearing shall be reported by stenographic notes and characters or by mechanical means. All rulings on the admissibility of testimony and evidence shall also be reported. The Board of Directors shall prepare an official record, which shall include reported testimony and exhibits in each contested case, and all Commission staff memoranda and data used in consideration of the case, but it shall not be necessary to transcribe the reported testimony unless required for purpose of rehearing or review. Informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order or default.

### **§127-6-6. Review Board.**

~~6.1. Any decision of the Board of Directors involving penalty, protest or interpretation of the rules and regulations of this Commission may be appealed to the Review Board in the manner hereinafter described. Said appeal may be made by any member of the aggrieved party which is directly affected by the decision of the Board of Directors and aggrieved by such decision of the Board of Directors.~~

~~6.2. Appeals must be filed with the State Superintendent of Schools of West Virginia within fifteen days after any final decision of the Board of Directors of the WVSSAC.~~

~~6.3. Upon receipt of said appeal, the State Superintendent of Schools shall immediately notify each member of the Review Board of said appeal and the Chairman of said Review Board who shall forthwith~~

set a date, time and place for hearing and shall immediately notify all interested parties, in writing, of the same.

~~6.4. 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 on any appeal, at its discretion, the Board of Directors may grant a stay of enforcement upon such terms as it deems proper.~~

~~6.5. Proceedings for review shall be instituted by filing a petition, in quintuplicate, with the State Superintendent of Schools within fifteen 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.~~

~~6.6. Within fifteen 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, said Commission or said Executive Director shall transmit to such 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 said 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, said 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 said 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.~~

6.71. Appeals taken on questions of law, fact or both, shall be heard upon assignment of error filed in the cause 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.

6.82. 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.

6.93. After hearing all evidence and arguments, the Review Board shall render a decision in one of three forms: (1) sustaining the ruling of the Board of Directors; (2) reversing the ruling of the Board of Directors; or (3) remanding the matter to the Board of Directors for further action. The Board of Review 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 of the administrative findings, inferences, conclusions, decisions or order are (1) in violation of constitutional or statutory provisions; or (2) in excess of the statutory authority or jurisdiction of the Commission; or (3) made upon unlawful procedures; or (4) affected by other error of law; or (5) clearly wrong in view of the reliable probative and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

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6.104. Four members, present and voting, shall constitute a quorum for the Review Board to transact all business.

6.115. A majority vote of those members of the Review Board in attendance at any hearing shall be required to render a decision. A tie vote shall result in the decision of the Board of Directors being sustained. Such decision shall be final and binding on all parties concerned.

6.126. Within thirty (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 of Schools, the Executive Director of the WVSSAC, the aggrieved party bringing the said appeal and, upon written request, to other interested parties. The order may be transmitted by email.

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

6.148. ~~The~~ To the extent the Constitution §§127-1-8.5 and Rules 127-6-2, 127-6-3.2 and 127-6-4.4 ~~which~~ infer or state that decisions of the Board of Directors are final, such are hereby modified only to the extent that such final ~~ruling~~ decision of the Board of Directors may be appealed within the time limit in the manner prescribed elsewhere in this Article and affirmed, reversed or remanded by the Board of Review.