



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

3/11/2021 11:46:07 AM

Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Education TITLE-SERIES: 126-084

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

RULE NAME: Student Driver Eligibility Certificate (4150)

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: 04/12/2021 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Margaret Williamson, Director

ADDRESS: WVDE School Improvement Services, Capitol Bldg. 6, Room 700  
1900 Kanawha Blvd., E, Charleston, WV 25305

EMAIL: mgwillia@k12.wv.us

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Policy 4150 provides guidelines for the uniform implementation of driver eligibility criteria for students at least 15 but less than 18 years of age.

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

Language in Policy 4150 has been revised to reflect changes in Policy 2510, Assuring the Quality of Education: Regulations for Education Programs, as well as to update formatting and correct grammatical inconsistencies.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

No costs or revenue will be impacted by the proposed amendment of W. Va. 126CSR84, Policy 4150.

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 W. Va. 126CSR84, Policy 4150.

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

There will be no economic impact to the state or its residents as a result of the proposed amendment of W. Va. 126CSR84, Policy 4150.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2021 Increase/Decrease (use "-")	2022 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):

No costs, revenue, or economic impact to the state or its residents will result from the proposed amendment of W. Va. 126CSR84, Policy 4150.

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

Yes

**Michele L Blatt -- 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.**

**Policy 4150, Student Driver Eligibility Certificate  
Executive Summary**

---

---

**West Virginia Department of Education  
Office of Support and Accountability/School Improvement Services**

**Policy Cycle:**     30 day Comment Period                                     Adoption of Policy

**Policy Process:**     Revision             Repeal and Replace             New

**Introduction:** Policy 4150 is being revised to align with updates within Policy 2510.

**Background:** This policy was created in 2008. Language needed to be revised to reflect the changes in Policy 2510 as well as update formatting and grammatical consistencies.

**Proposed Changes:**

- Revising the language from core requirements to graduation requirements.
- Clarification of language.
- Consistencies in formatting and language.

**Impact:** Proposed revisions will align Policy 4150 with Policy 2510.

---

**Action:**

- Release for 30 day public comment
- Approve by WVBE with effective date \_\_\_\_/\_\_\_\_/20\_\_\_\_.

**Policy 4150, Student Driver Eligibility Certificate  
List of Stakeholders**

---

**West Virginia Department of Education**

**External Stakeholders**

- Paul McCLanahan, Principal, Putnam County Schools
- Adam Holley, West Virginia Division of Motor Vehicles
- Mike May, West Virginia Division of Motor Vehicles
- Debbie Ferguson, West Virginia Division of Motor Vehicles
- Cecil Loyd, West Virginia Division of Motor Vehicles
- Terri Lynn Queen, Attendance Director, Wayne County Schools
- Chris Rutherford, Attendance Director, Wood County Schools

**Internal Stakeholders**

- Margaret Williamson, Director, School Improvement Services
- Charlene Coburn, Senior Officer, Office of Support and Accountability
- Derek Lambert, Coordinator, Middle and Secondary Learning Services
- Joshua Grant, Coordinator, Middle and Secondary Learning Services
- Georgia Hughes-Webb, Manager, Data Management and Information Systems
- Tim Conzett, Senior Officer, Office of Data Management and Information Systems
- Nanette Argabite, Director, West Virginia Education Information System

126CSR84

TITLE 126  
LEGISLATIVE RULE  
BOARD OF EDUCATION

SERIES 84  
STUDENT DRIVER ELIGIBILITY CERTIFICATE (4150)

**§126-84-1. General.**

1.1. Scope. -- This rule provides guidelines for the uniform implementation of driver eligibility criteria for students at least ~~fifteen~~ 15 but less than ~~eighteen~~ 18 years of age.

1.2. Authority. -- West Virginia Constitution, Article XII, §2, and W. Va. Code §§17B-2-3a, 17B-3-6, 18-2-5, and 18-8-11.

1.3. Filing Date. -- ~~August 15, 2008.~~

1.4. Effective Date. -- ~~September 15, 2008.~~

1.5. Repeal of ~~Former Rule.~~ -- ~~None. This is a new rule. This legislative rule amends W. Va. 126SR84, Policy 4150, Student Driver Eligibility Certificate, filed August 15, 2008, and effective September 15, 2008.~~

**§126-84-2. ~~Rationale.~~ Purpose.**

2.1. The West Virginia Board of Education (~~hereinafter~~ WVBE) recognizes that driving a vehicle is a privilege and that West Virginia Code requires young people, at least ~~fifteen~~ 15 but less than ~~eighteen~~ 18 years of age, to maintain specified driver eligibility requirements related to school attendance, personal behavior, and academic progress in order to obtain and maintain a West Virginia license or instruction permit for the operation of a motor vehicle. While the West Virginia Department of Motor Vehicles (~~hereinafter~~ WVDMV) has the authority to deny and suspend a license or instruction permit for the operation of a motor vehicle, ~~the West Virginia Code~~ places certain responsibilities on school administrators to identify students who do not meet any or all of the driver eligibility requirements and to communicate this information to the WVDMV. The identification of students not meeting the driver eligibility requirements must be ~~done~~ performed using uniform measures across ~~all of the fifty five~~ 55 ~~counties school districts~~; the definitions provided in this policy have been designed to assure consistent application of driver eligibility throughout West Virginia.

**~~§126-84-3. Policy Development.~~**

~~3.1. Each county board of education must incorporate the content of this policy where appropriate within its existing county policies related to attendance, student code of conduct, and academic requirements.~~

**§126-84-43. Definitions.**

~~43.1. Circumstances Outside~~ Beyond the Control of the Student -- Circumstances shall include, but not be limited to, medical reasons, familial responsibilities, and the necessity of supporting oneself or another. Suspension or expulsion from school or imprisonment in a jail or a West Virginia correctional

facility is not a circumstance beyond the control of the student; and ~~for purposes of this policy,~~ shall be considered an unexcused absence.

43.2. Driver's Eligibility Certificate – ~~d~~ Documentation provided by the county to the student verifying that the student has met the attendance, behavioral, and academic expectations set forth by W. Va. Code §18-8-11 that are required to obtain a license or instruction permit to drive a motor vehicle.

43.3. Satisfactory Academic Progress – ~~a~~ Attaining and maintaining grades sufficient to allow ~~for~~ graduation and course-work in an amount sufficient to ~~allow permit~~ graduation in five years or by age ~~nineteen 19~~, whichever is earlier ~~(beginning with the completed 2008-09 school year).~~

43.3.1a. This ~~would calculate~~ ~~in~~ includes the minimum annual earning of five credits to be on track to allow graduation in five years based on the graduation requirements set forth in §126CSR42, WVBE Policy 2510; Assuring the Quality of Education; Regulations for Education Programs (Policy 2510).

43.3.2b. Three of the five credits earned annually must be from the ~~core~~ graduation requirements identified in ~~W. Va. §126CSR42, WVBE Policy 2510; Assuring the Quality of Education, Regulations for Education Programs.~~

43.4. Withdrawal – ~~f~~ For the purpose of driver's license eligibility, withdrawal is defined as the following reasons for which the county board of education shall deny or revoke a Driver's Eligibility Certificate from any student at least ~~fifteen 15~~ but less than ~~eighteen 18~~ years of age:

43.4.1a. ~~M~~ more than ten 10 consecutive or ~~fifteen 15~~ total days unexcused absences during a school year.

4.4.2. ~~Suspension pursuant to W. Va. Code §18A-5-1a and §18A-5-1b which include the following behaviors when committed on the premises of an educational facility, at a school-sponsored function, or on a school bus:~~

- ~~a. assault and/or battery on school employees,~~
- ~~b. possessing deadly weapons,~~
- ~~c. sale of a narcotic drug,~~
- ~~d. committing an act or engaging in conduct that would constitute a felony under West Virginia Code if committed by an adult, and/or~~
- ~~e. unlawfully possessing a control substance governed by the uniform controlled substances act as described in W. Va. Code §60A-1-1 et seq.~~

3.4.b. suspensions pursuant to W. Va. Code §18A-5-1a and §18A-5-1b which include the following behaviors when committed on the premises of an educational facility, at a school-sponsored function, or on a school bus: assault and/or battery on school employees; possessing deadly weapons; sale of a narcotic drug; committing an act or engaging in conduct that would constitute a felony under W. Va. Code if committed by an adult; and/or unlawfully possessing a control substance governed by the uniform controlled substances act as described in W. Va. Code §60A-1-101, et seq.

**§126-84-54. Responsibilities.**

**4.1. WVBE responsibilities.**

~~54.1.a.~~ ~~The WVBE has the responsibility to e~~ Encourage daily attendance and appropriate student conduct, ~~to~~ set academic graduation requirements for public schools, ~~and to~~ mandate that county school systems collect and report student performance data regarding these student behaviors.

~~54.21.b.~~ ~~The WVBE has the responsibility for de~~ Defining Driver's Eligibility Certificate criteria in uniform quantifiable measures to assure that the process is applied equally to all students ages ~~fifteen~~ 15 to ~~eighteen~~ 18 who are enrolled in West Virginia public schools.

~~54.32.~~ ~~Each county board of education shall~~ County board of education responsibilities:

~~54.32.1a.~~ ~~s~~Support and require the county attendance director and all school administrators to implement and execute the duties defined in W. Va. §126CSR81, ~~WVBE Policy 4110:~~ Attendance (Policy 4110).

~~54.32.2b.~~ ~~i~~ncorporate the appropriate components of this ~~rule~~ policy into existing county attendance, student code of conduct, ~~and~~ academic requirement policies ~~respectively~~.

~~54.32.3c.~~ ~~s~~Support and require the county attendance director and all school administrators to implement and execute the following duties defined in W. Va. Code §18-8-11. ~~Regarding driver's eligibility for a license or instruction permit to operate a motor vehicle:~~

~~a~~4.2.c.1. ~~provide, upon request, a Driver's Eligibility Certificate on a form (hard-copy or electronic) approved by West Virginia Department of Education (hereinafter WVDE) to any student at least~~ ~~fifteen~~ 15 but less than ~~eighteen~~ 18 years of age who is in satisfactory standing with regard to attendance, behavior, ~~and~~ academic progress in a school under the jurisdiction of the official for presentation to the WVDMV on application for or reinstatement of an instruction permit or license to operate a motor vehicle.

~~b~~4.2.c.2. ~~provide notification to the WVDMV whenever a student,~~ at least ~~fifteen~~ 15 but less than ~~eighteen~~ 18 years of age, withdraws from school, is suspended pursuant to W. Va. Code §18A-5-1a and §18A-5-1b, section 3.4.b. and/or fails to maintain satisfactory academic progress, except when the withdrawal or failure to make satisfactory academic progress is due to circumstances outside the control of the student. Notification must be provided to the WVDMV no later than five days from the date of the withdrawal and/or suspension. Notification must be provided to the WVDMV no later than five days from the end of the school year for failure to maintain satisfactory academic progress.

~~c~~4.2.c.3. ~~provide the opportunity, upon request, for a student who has been denied a Driver's Eligibility Certificate or has received a revocation notice, to have a hearing before the county superintendent of schools or his/her designee concerning whether the student's withdrawal from school or failure to make satisfactory academic progress was due to a circumstance or circumstances beyond the control of the student. The county superintendent, with the assistance of appropriate staff, shall be the sole judge of whether any of the grounds for denial or suspension of a license or instruction permit are due to a circumstance or circumstances beyond the control of the student.~~



## 126CSR84

~~54.32.4d.~~ provide a review process that allows students to have their Driver's Eligibility Certificate reinstated upon demonstration of satisfactory progress as follows:

~~a4.2.d.1.~~ reinstatement requests related to withdrawal for unexcused absences shall be reviewed, as outlined in ~~W. Va. §126CSR81, WVBE Policy 4110: Attendance,~~ at the end of the semester following that in which the withdrawal occurred.

~~b4.2.d.2.~~ reinstatement requests related to failure to make satisfactory academic progress shall be reviewed at the end of each school year for the purpose of reinstating the Driver's Eligibility Certificate.

~~e4.2.d.3.~~ reinstatement requests related to withdrawal for suspension pursuant to W. Va. Code §18A-5-1a and §18A-5-1b shall be reviewed after all disciplinary sentences have been served for the purpose of reinstating the Driver's Eligibility Certificate.

### ~~§126-84-65.~~ Severability.

~~65.1.~~ If any provision of this ~~rule policy~~ or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ~~rule policy~~.

**W. Va. 126CSR84, Policy 4150, Student Driver Eligibility Certificate  
Comment Response Form**

---

**Comment Period Ends:** April 12, 2021

**NOTICE:** *Comments, as submitted, shall be filed with the West Virginia Secretary of State's Office and open for public inspection and copying for a period of not less than five years.*

The following form is provided to assist those who choose to comment on Policy 4150, Student Driver Eligibility Certificate. 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"/> Superintendent             | <input type="checkbox"/> Higher Educator   | <input type="checkbox"/> Parent/Family    |
| <input type="checkbox"/> Principal                  | <input type="checkbox"/> Teacher           | <input type="checkbox"/> Community Member |
| <input type="checkbox"/> Professional Support Staff | <input type="checkbox"/> Service Personnel | <input type="checkbox"/> Other            |

COMMENTS/SUGGESTIONS
§126-84-1. General.
§126-84-2. Purpose.
§126-84-3. Definitions.
§126-84-4. Responsibilities.
§126-84-5. Severability.

Please direct all comments to:

Margaret Williamson, Director  
School Improvement Services  
West Virginia Department of Education  
Capitol Building 6, Room 700  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0330  
E-Mail Address: mgwillia@k12.wv.us  
Telephone No.: 304.558.3199.