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APPENDIX**

§126-26-1 et seq., West Virginia Board of Education
Policy 2436.10, "Participation in Extracurricular Activities" **TITLE 126**

**LEGISLATIVE RULE
WEST VIRGINIA BOARD OF EDUCATION**

**SERIES 26
PARTICIPATION IN EXTRACURRICULAR ACTIVITIES (2436.10)**

§126-26-1. General.

1.1. Scope. — This legislative rule establishes academic eligibility of students to participate in extracurricular activities both during and after normal school hours in West Virginia public schools.

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

1.3. Filing Date. — May 16, 2008.

1.4. Effective Date. — June 16, 2008.

1.5. Repeal of Former Rule. — This legislative rule amends W. Va. 126CSR26, West Virginia Board of Education Policy 2436.10, Participation in Extracurricular Activities, filed August 10, 1984 and effective September 10, 1984.

§126-26-2. Applicability.

2.1. This policy applies only to interscholastic athletics, student government, and class officers in grades 6-12. Excluded from this policy are co-curricular activities which are closely related to identifiable academic programs/areas of study and which serve to complement academic curricular activities such as vocational, linguistic, mathematical, scientific, forensic, theatrical, musical, journalistic and other similar academic cocurricular activities.

§126-26-3. Eligibility.

3.1. In order to participate in the extracurricular activities to which this policy applies, a student must meet all state and local attendance requirements and:

3.1.1. Maintain a 2.0 average.

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

b. For purposes of achieving the clearest and most uniform application of the policy for those schools which use a numerical grading system, all numerical grades shall be converted to the corresponding letter grade. Each letter grade shall be assigned the appropriate value as set forth above, and the average thereof computed to determine whether the student is eligible. No enhanced value should be given for a "plus" or "minus" designation, such as "B+" or "C-"; all grades with the same letter designation have the same numerical value in the 4.0 scale.

c. In computing a student's "grade-point average" (GPA) for purposes of this policy, all subjects undertaken by the student and for which a final grade is recorded are to be considered. Athletic practice may not be counted as a subject. The total number of classes taken is divided into the total number of "grade points" earned to determine the GPA. Classes for which a pass/fail is awarded will be included in computing the GPA only if the student failed the class.

d. A student's eligibility will be determined for each semester by his or her GPA the previous semester (or, in schools which do not use the traditional semester approach, during the previous eighteen week period).

e. If a student does not maintain a 2.0 average for the semester, he or she will be ineligible for participation for the following semester. Students not meeting eligibility requirements shall be reviewed at the mid-point of the second semester (the nine week point) to determine whether the student has achieved a 2.0 average.

f. If a student does not earn a 2.0 average by the end of the second semester, he or she may attend summer school to raise the GPA so that he or she is eligible for participation at the beginning of the next school year. For purposes of computing the GPA after summer school, all of the student's grades from the second semester plus his or her grade from the summer school will be used to determine the GPA.

g. A student who has not achieved a 2.0 GPA for the previous semester may have his or her eligibility reinstated at midsemester if the student has attained at least a 2.0 GPA. In schools and/or counties where the traditional semester approach is not used, the nine week point shall be utilized in place of the midsemester.

h. In the case of students with exceptionalities as set forth in West Virginia Board of Education Policy 2419, *Regulations for the Education of Students with Exceptionalities* (W. Va. 126CSR16), if grades are given, all grades received from placements in regular classrooms and special education classrooms should be included when computing the GPA. Exceptional students placed in ungraded programs will be eligible for participation in extracurricular activities if their records indicate that they are making satisfactory progress in meeting the objectives of their individualized education program (IEP).

i. Students who have had a break in public school attendance for any reason may be required to establish eligibility after re-enrollment in the public school. If the county school system accepts the transfer of credits/grades earned in the non-public setting, then those credits/grades shall be used in determining academic eligibility. If the county school system does not accept the transfer of credits/grades earned in the non-public setting, then eligibility must be established after re-enrollment in the public school setting. Eligibility shall be gained at midsemester (nine week point) if the student has attained at least a 2.0 GPA. In schools and/or counties where the traditional semester approach is not used, the nine week point shall be utilized in place of the midsemester.

j. Students who are entering public schools or other Secondary Schools Activities Commission (SSAC) member schools for the first time will be eligible for participation as follows:

(A) Students who have not earned grades that the receiving school will accept for credit upon transfer will be eligible upon enrollment and must have a 2.0 GPA at the end of the semester in which they enroll to remain eligible.

(B) Students who have earned grades that the receiving school will accept for credit upon transfer must have earned a 2.0 GPA in the previous semester to be eligible upon enrollment. If not eligible upon enrollment, the student shall become eligible at the midsemester (nine week point) if the student has attained at least a 2.0 GPA.

k. Homeschooled students participating in interscholastic athletics pursuant to W.Va. Code §18-2-25(d) will be eligible for participation, provided that the student (1) has demonstrated satisfactory evidence of academic progress for the immediate preceding academic year; and provided further, that the student's average test results within the year period are within or above the fourth stanine in all subject areas; and (2) is enrolled in at least one virtual instructional course per semester, consistent with the applicable virtual instruction policies of the county board in which the home-schooled student lives and the applicable virtual instruction policies of the State Board. A home-schooled student who fails to receive "C" grade or higher at the conclusion of the virtual instructional course or semester, whichever is earliest, shall be ineligible to continue participation and remain ineligible for the following semester.

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TITLE 127 LEGISLATIVE RULE

WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION

SERIES 2 ATHLETICS, PROVISIONS GOVERNING ELIGIBILITY

§127-2-1. General.

1.1. Scope. — These rules establish the provisions governing student eligibility to participate in interscholastic athletics.

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 11, 2019.

1.4. Effective Date. — September 9, 2019.

1.5. Repeal of Former Rule. — This legislative rule amends W. Va. 127CSR2, West Virginia Secondary School Activities Commission Series 2, Athletics, Provisions Governing Eligibility, filed August 10, 2018, and effective October 9, 2018.

§127-2-2. Waivers.

2.1. The West Virginia Secondary School Activities Commission (WVSSAC/Commission) Board of Directors (Board of Directors) is authorized to grant a waiver to a rule when it determines the rule fails to accomplish the purpose for which it is intended or when the rule causes extreme and undue hardship upon the student.

2.2. Speculative loss of college scholarship is not considered a basis for granting a waiver to these rules.

§127-2-3. Enrollment and Team Membership.

3.1. To be eligible for participation in interscholastic athletics, a student must be enrolled fulltime in a member school as described in §127-2-6 on or before the 11th instructional day of the academic year. Enrollment must be continuous after the student has officially enrolled in the school.

3.2. Students can participate in interscholastic activities only in schools in which they are enrolled; however, an exception may be granted by the Board of Directors as follows:

3.2.a. if a feeder school does not afford students the opportunity to participate and they are otherwise eligible.

3.2.b. for students from the West Virginia Schools for the Deaf and the Blind (WVSDb) to participate at Hampshire High School or Romney Middle School (only in sports not available at WVSDb).

3.2.c. Member schools containing grades 6 and/or 7 and/or 8 may combine students from two or more schools within the county to form one interscholastic team in a sport. Requests for permission to

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combine students from two or more schools in the same private/parochial or public school system must be submitted annually to the WVSSAC in writing by the superintendent of the private/parochial or public school system. Schools which are combining to form one team must be feeder schools for the same high school, and at least one school must have sufficient numbers for a team. If more than two schools are involved, principals are to evaluate the number of available participants in each school and shall combine schools to provide as many teams as sufficient numbers allow. Sufficient numbers will be defined as the number of a starting line-up plus 50% (for odd number line-ups, round up).

3.2.d. Students enrolled in the 9th grade may participate only on high school teams. Sixth grade students of a K-6 elementary feeder school may participate on their middle school team if granted permission by the county board of education or governing body of a private/parochial school and the school principals involved. Members of a 9th grade team at a high school may be grouped for practice with members of the varsity team. However, if a 9th grade student participates in a varsity scrimmage or game, that student becomes ineligible for the 9th grade team. Participation is defined as dressing and being available to play in a game, regardless if the player enters the game.

3.2.e. Students at a middle feeder school who are not provided the opportunity to participate because of age may move up to their high school if granted permission by the county board of education or governing body of a private/parochial school and the school principals involved.

3.3. A student academically ineligible by rule may begin practicing 15 school days immediately prior to the dates of regaining full eligibility provided all other eligibility requirements are met.

3.4. Students enrolled in the following grades in member schools will be eligible for middle school participation.

3.4.a. Grades 6, 7, and 8 may compete with and against schools/teams of the same configuration.

3.4.b. Stand-alone 9th grade programs at a high school may compete with and against schools/teams of the same grade configuration. An 8th grade student not provided the opportunity to participate at their member school because the sport is not offered may choose to participate on a standalone 9th grade team at their feeder high school, provided the student is otherwise eligible.

3.5. Sixth grade students are eligible to participate in all interscholastic sport teams, including football, in the middle/feeder elementary school in which they are enrolled.

3.6. Students who are enrolled in a grade below the 9th are not eligible for a high school team. Students enrolled in a grade below the 6th will not be eligible for a middle school team.

3.7. Twelfth grade students will be eligible for spring sports until the close of the school's season.

3.8. Schools may sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill. If a school sponsors a team in a particular sport for members of one sex but sponsors no such team for members of the other sex, and athletic opportunities for members of that sex previously have been limited, members of the excluded sex must be allowed to try out for the team offered. For example, because overall athletic opportunities for females have previously been limited, females will be allowed to try out for baseball, but males will not be allowed to try out for volleyball or softball.

3.9. Students enrolled at West Virginia School for the Deaf will be allowed to participate in sports at the West Virginia School for the Blind. Students from the West Virginia School for the Blind will be allowed to participate in sports at the West Virginia School for the Deaf.

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3.10. Boarding students at member schools, with the exception of students at the WVSD, are not eligible. (Definition: A boarding student is one who receives room and board that is provided by the school unless such residence is based on Court Order or State Action.)

3.11. Homeschooled students receiving home instruction pursuant to W.Va. Code §18-8-1(c), shall be considered eligible for participating in interscholastic athletic events and other extracurricular activities of public secondary school serving the attendance zone in which the student lives who (1) has been homeschooled for at least one year immediately preceding interscholastic athletic participation; (2) has demonstrated satisfactory evidence of academic progress for the immediately preceding academic year; (3) is enrolled in at least one virtual instructional course per semester, consistent with the applicable virtual instruction policy of the county board in which the home schooled student lives and the applicable virtual instruction policy of the State Board of Education; and (4) is otherwise eligible to participate as a result of being subject to all other eligibility rules applicable to a non-homeschooled students.

§127-2-4. Age.

4.1. A student in high school who becomes 19 before August 1 and a student in middle school who becomes 16 before August 1 shall be ineligible for interscholastic competition.

4.2. A student in grade 8 or below who becomes 15 before August 1 shall be ineligible for interscholastic competition at that level.

4.3. A student in grade 8 or below who becomes 15 on or after August 1 shall remain eligible for the entire academic year at that level.

§127-2-5. Semester and Season.

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 9th grade.

5.2. While in grades 6, 7, and 8, a student shall not participate in more than three seasons in any single interscholastic activity.

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

5.5. 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. 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.

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

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5.7.a. The Board of Directors is authorized to consider cases in which a student entering 9th 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. The Board of Directors may provide release from the continuous enrollment restriction provided no participation has occurred during the semester(s) in question.

5.7.c. In no event may a student be allowed to participate for more than four seasons in any one sport in grades 9-12.

5.8. The Board of Directors may also 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.

§127-2-6. Scholarship.

6.1. A student is required to be enrolled in the equivalent of four content area courses toward graduation.

6.1.a. If a student is taking a multiple period course, such as block or vocational courses for a full morning or afternoon, it may be counted as more than one course.

6.1.b. If a student has been declared ineligible according to the standards outlined above, the student may attend summer school and have eligibility reinstated if the student meets the standards at the conclusion of summer school.

6.1.c. If a student has been declared ineligible according to the standards outlined above, the student may have eligibility reinstated at midpoint of the course if the student is meeting the standards at that time.

6.2. A student not attempting four full credit subjects during a semester must complete nine weeks of school work to regain consideration for eligibility. (Revised 2009-10)

6.3. Any student who withdraws from school and does not re-enroll within ten school days of that withdrawal date will lose eligibility for the remainder of that semester.

6.4. Credit deficiencies cannot be made up after the last day of the semester except in a case where a student whose final examinations and course credit are delayed due to illness verified by a physician or as established by local board of education policy.

6.5. The official school transcript will be used to determine a student's eligibility and will be regarded as final.

6.6. In accordance with §126CSR26, West Virginia Board of Education (WVBE) Policy 2436.10, Participation in Extracurricular Activities (C Rule), students must maintain a 2.0 grade point average to participate in interscholastic athletics.

§127-2-7. Residence-Transfer. (Revised 2008-09; 2019-20)

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7.1. Part A - Residence - This residence rule applies to all students enrolled in grades 6-12 in all member schools.

7.1.a. A student shall be eligible in the school located in the attendance zone in which the student's parents reside. Public secondary school attendance zones shall be established by official action by each county board of education. The attendance zones of a private/parochial member school shall be identical with the attendance zone of the public school in which the private/parochial member school is located. In the event of overlapping attendance zones, a student shall be eligible at the school in which the student first chooses to enroll upon entering the 9th grade.

7.1.b. When a town or city is located in two counties and only one public secondary school is located in the town or city, students living in the town or city may attend this secondary school if mutually agreed upon by the two county boards of education and approved by the Board of Directors. A student shall be eligible at the school in which the student first chooses to enroll upon entering 9th grade.

7.1.c. A student who is in the care of the West Virginia Department of Health and Human Resources (WVDHHR) shall be eligible to participate in interscholastic athletics as a member of the athletic teams of the secondary school in the zone in which the WVDHHR places the student in a home, provided the student is otherwise eligible.

7.1.d. A student entering a school as an "unaccompanied youth" under the conditions of the federal McKinney-Vento Act may be granted eligibility for interscholastic competition by the Board of Directors in accordance with §127-2-1.

7.1.e. A student may be eligible outside the specified zone of attendance if the student has been in attendance in that zone the immediate preceding year (365 days). There can be no change of residence involving change of attendance zone during the immediate preceding year (365 days).

7.1.f. A student whose parents have resided in the school zone for a minimum of one academic year, during which the student has been in attendance for a minimum of one academic year, and whose parents make a bona fide change of residence to a new school zone during the academic year may:

7.1.f.1. Retain eligibility as long as the student retains continuous enrollment and attendance, or;

7.1.f.2. Transfer at time of change of residence to the school in the attendance zone in which the parents are now residing and be eligible in that school, or;

7.1.f.3. Transfer at any time prior to the start of the next academic year to the school in the attendance zone in which the student's parents are residing and be eligible for interscholastic activities at the receiving school.

7.1.f.4. However, a student who has started participation in a sport, which would include practice or contest, that they were participating in at a WVSSAC member school, may not participate in that sport for that sport season at the WVSSAC member school to which they transferred, so long as that transfer was within one contiguous county of their former member school. (Revised 2015-16)

7.1.g. A student whose parents have resided in the school zone for less than one academic year, during which the student has been in attendance for less than one academic year, and whose parents make a bona fide change of residence to a new school zone during the school term may:

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7.1.g.1. Retain eligibility for the balance of the academic year, provided the student retains continuous enrollment and attendance; or

7.1.g.2. Transfer at time of change of residence to the school in the attendance zone in which the parents are now residing and be eligible in that school; or

7.1.g.3. If a student chooses to remain enrolled at the school outside the attendance zone in which the student's parents reside at the conclusion of the academic year the student will be ineligible for the next academic year.

7.1.h. Foreign exchange students, attending a member school under the auspices of a Council on Standards for International Educational Travel (CSIET) student exchange program, shall be considered eligible regarding residence for a maximum period of one calendar year. A foreign exchange student may not be a graduate of the secondary school of the home country and must maintain eligibility in a member school. A foreign exchange program must assign students to schools by a method which insures that no student, school, or other interested party may influence the assignment for athletic purposes.

7.1.i. A student returning from an approved foreign exchange program may resume interscholastic competition in the member school in which the student was enrolled at the point of interruption, provided the student does not fulfill graduation requirements while participating in the exchange program and provided the student meets all requirements relative to age and semesters of eligibility.

7.2. Part B - Transfer. (Revised 2008-09)

7.2.a. If a student transfers during the academic year from one secondary school to another secondary school, the student shall be ineligible for 365 days from date of enrollment, absent a bona fide change of residence. Determination of a bona fide change of residence depends upon the facts of each case and is defined as, but not limited to: (Revised 2010-11)

7.2.a.1. The original residence must be abandoned as a residence; in that the original residence is sold, rented, or disposed of as a residence, and must not be used as a residence by the immediate family;

7.2.a.2. The change is being made with the intent that the move is permanent;

7.2.a.3. The entire family must make the change;

7.2.a.4. Documentation of connection of utilities to the residence (e.g. power, water, waste, sewer);

7.2.a.5. Change of voter's registration, driver's license, mailing address, etc.;

7.2.a.6. If a student returns to a previously abandoned residence, the student shall be ineligible for 365 days from the date of enrollment. (Revised 20018-19)

7.2.b. If the transfer is from a private/parochial 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.

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7.2.c. A student may be transferred from one attendance zone to another zone within the same county by a county board of education and maintain eligibility. The transfer must be initiated by county board of education personnel to fulfill certain special education program(s) not available in the attendance zone from which the student is transferred. Upon the completion of the special program, the student must return to the attendance zone of the student's residence.

7.2.d. For the purpose of athletic eligibility, the Commission does not recognize emancipated minor status as it relates to transfer, except as might occur in marriage and relocation to another school zone.

7.2.e. Notwithstanding any other provisions of WVSSAC rules and regulations, if a student transfers for athletic reasons, the student will be ineligible for 365 days from the date of enrollment. A transfer for athletic reasons depends upon the facts of each case and is defined as, but not limited to:

7.2.e.1. Seeking a superior athletic team;

7.2.e.2. Seeking a team consistent with the student's ability;

7.2.e.3. Seeking relief from conflict with the philosophy or action of an administrator, teacher, or coach relating to athletics;

7.2.e.4. Seeking a means to nullify punitive action by the previous school.

7.2.f. If a student enrolls who has been released and accepted by formal actions of county boards of education or similar governing bodies of a private/parochial school which have verified that such transfer is not for athletic purposes, the student will be granted immediate eligibility provided all other rules are met. The enrollment transfer must occur at the beginning of the 9th grade 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. With respect to a student whose parents reside in an attendance zone containing more than one member school, at the time of enrollment in an outofdistrict school at the beginning of the student's 9th grade academic year, the student must identify a "home" school. In the event the student later elects to utilize "transfer back" (§127-2-7.2.g), the student is only eligible to transfer back to the identified "home" school. 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. (Revised 2012-13; 2017-18)

7.2.g. Transfer Back. During the 9th, 10th, 11th, and 12th grades, a student shall be entitled to one transfer back from a school located outside the attendance zone where the student's parents reside into the member school located within the attendance zone where the student's parents reside. This school must be the home school identified in the initial enrollment in the out of district school. Any student transferring under the provisions of this rule will not become eligible until the completion of the academic year in which the transfer occurs. Eligibility will begin with the succeeding fall sports season, or immediately if the transfer back is completed on or before the eleventh instructional day of the beginning of the academic year. 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.

7.2.h. If a member middle school student is released and accepted by formal actions of county board of education or governing body of a private/parochial school which have verified that such transfer is not for athletic purposes, 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

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with the parents. 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.

7.2.i. The eligibility of a student whose parents are divorced or legally separated is determined by court decree establishing residency with one parent.

7.2.j. After establishing initial residency with one parent, all subsequent transfers will require a period of ineligibility for 365 days from date of enrollment unless a change of residency is decreed by the court.

7.2.k Any homeschooled students participating in interscholastic athletics pursuant to W. Va. Code §18-2-25(d) who leaves a member school during the school year is subject to the same rules protocols that apply to non-homeschool student transfers.

§127-2-8. Adoption/Guardianship.

8.1. A student shall be eligible to participate in interscholastic athletics and activities only if: (1) residing with one or both of the parents; (2) residing with a testamentary guardian following the death of the parents; or (3) residing in a location where the student was placed by the WVDHHR pursuant to §1272-7.1.c.

8.2. The residence of a testamentary guardian shall constitute the residence of the ward when, and only when: (1) the testamentary guardian has been duly appointed by the last will and testament of the student's last surviving parent; (2) the testamentary guardian has duly qualified as such before the proper tribunal in West Virginia; and (3) the student is actually residing in the household of the testamentary guardian at the time of the student's sport participation.

8.3. Notwithstanding any other provision of the WVSSAC rules and regulations, any student residing with a guardian/custodian other than a testamentary guardian may not compete for a school in any sport on the varsity level but may compete at the junior varsity level. If a student elects to participate at the junior varsity level pursuant to this rule, the student may not participate at the varsity level even after being enrolled at the school for 365 days. However, if a student elects to participate at the junior varsity level pursuant to this rule, and then commences to reside with a custodial parent, the student may participate at the varsity level notwithstanding the fact that the student had previously participated at the junior varsity level pursuant to this rule.

8.4. Notwithstanding any other provisions of WVSSAC rules and regulations, legal guardian/custodian may not be changed for athletic reasons. A transfer for athletic reasons is defined in §127-2-7.2.e.1-4.

§127-2-9. Undue Influence - Recruiting.

9.1. The use of influence by a person or group, connected or not connected with the school, to secure or retain a student for athletic participation is not permitted and may cause the student to be ineligible and may cause certain sanctions to be placed against the member school.

9.2. An employee of the school system shall not initiate any communication regarding athletic participation or enrollment with a student, parent of a student, guardian, or family member, in person or through a third party, prior to enrollment. This does not include the introduction of athletic programs to students at feeder schools. (Revised 2014-15)