

R 11-12-19 School Attendance and Satisfactory Academic Progress as Conditions of Licensing for Privilege of Operation of Motor Vehicle

Any student at least 15, but less than 18 years of age, who is properly enrolled in a West Virginia public school, or who is a West Virginia resident enrolled in an out-of-state school, or who is properly enrolled in an Exemption A, B, or K non-public school may request from the attendance director or chief administrator of the appropriate school system documentation of enrollment/attendance status. This documentation must be provided on a form approved by the WVDE for presentation to the West Virginia Division of Motor Vehicles (hereinafter WVDVM) when making application for, or reinstatement of, an instruction permit or license to operate a motor vehicle.

In accordance with the provisions of WVC §17B-2-3 and §17B-2-5, the WVDVM shall deny a license or instruction permit for the operation of a motor vehicle to any person under the age of 18 whom does not at the time of application present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state, or documentation that the person:

- ❖ is enrolled and making satisfactory progress in a course leading to a GED from a state approved institution or organization, or has obtained such certificate; or
- ❖ is enrolled in a secondary school of this state and making satisfactory academic progress; or
- ❖ is a West Virginia resident enrolled in an out-of-state school; or
- ❖ is excused from such requirement due to circumstances beyond his or her control; or
- ❖ is enrolled in an institution of higher education as a full-time student in this state or any other state.

Definitions:

- ❖ **Circumstances Outside the Control of the Student**—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.
- ❖ **Driver's Eligibility Certificate**—documentation provided by the county to the student verifying that he/she has met the attendance, behavioral and academic expectations set forth by WVC §18-8-11 that are required to obtain a license or instruction permit to drive a motor vehicle.
- ❖ **Satisfactory Academic Progress** – means the attaining and maintaining of grades sufficient to allow for graduation and course-work in an amount sufficient to allow graduation in five years or by age 19, whichever is earlier (beginning with the completed 2008-2009 school year).
 - A student must earn a minimum of five credits each year to allow graduation in five years based upon the graduation requirements set forth in SBP 2510.
 - Three of the five credits earned annually must be from the core requirements identified in SBP 2510.
- ❖ **Withdrawal**—for the purpose of driver's license eligibility, withdrawal is defined as the following reasons for which the school system shall deny or revoke a Driver's Eligibility Certificate from any student at least 15 but less than 18 years of age:

- More than 10 consecutive or 15 total days unexcused absences during a school year; or
- Suspension pursuant to WVC §18A-5-1a and §18A-5-1b which includes the following behaviors when committed on the premises of an educational facility, at 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 West Virginia Code if committed by an adult; and/or
 - Unlawfully possessing a control substance governed by the uniform controlled substances act as described in WVC §60A-1-1 et seq.

Issuing a Driver's Eligibility Certificate:

The Coordinator of Attendance or Superintendent shall upon request provide a Driver's Eligibility Certificate on a form approved by the Department of Education to any student at least 15 but less than 18 years of age who is properly enrolled and is making satisfactory academic progress in the Preston County School system. The student's record must also verify that s/he is maintaining a satisfactory standing with regard to attendance. The student may use the Certificate to apply to the Division of Motor Vehicles for or reinstatement of an instruction permit or a license to operate a motor vehicle.

Consequences for Withdrawal from School or Failure to Maintain Satisfactory Academic Progress:

The Coordinator of Attendance or the Superintendent shall notify the WVDMV whenever a student at least 15 but less than 18 years of age withdraws from school (more than 10 consecutive or 15 total days unexcused absences during a school year), is suspended pursuant to WVC §18A-5-1a and §18A-5-1b, and/or fails to maintain satisfactory academic progress, except when the situation is owing 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 or determination of failure to maintain satisfactory academic progress.

The Board may not include attainment by a student of any certain grade point average as a measure of satisfactory progress toward graduation

Whenever the withdrawal from school of the student, the student's failure to enroll in a course leading to or to obtain a GED or high school diploma is due to a circumstance or circumstances beyond the control of the student, or the withdrawal from school is for the purpose of transfer to another school as confirmed in writing by the student's parent or guardian, no notice shall be sent to the Division of Motor Vehicles to suspend the student's motor vehicle operator's license and if the student is applying for a license, the Coordinator of Attendance or the Superintendent shall provide the student with documentation to present to the Division of Motor Vehicles to excuse the student from the provisions of this section.

Student's Right to a Hearing before the Superintendent:

Within five days of receipt of a withdrawal notice, the Division of Motor Vehicles shall send notice to the student that his/her instruction permit or license to operate a motor vehicle will be suspended

under the provisions WVC §17B-3-6 on the 30th day following the date the notice was sent unless documentation of compliance with the provisions of WVC §18-8-11 is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the Superintendent or his/her designee concerning whether the student's withdrawal from school or failure to maintain satisfactory academic progress was due to a circumstance or circumstances beyond the control of the student. If suspended, the division may not reinstate an instruction permit or license until such time as the student returns to school and shows satisfactory academic progress or until such time as the student attains 18 years of age.

The Superintendent with the assistance of the Attendance Coordinator and any other staff or school personnel shall be the sole judge of whether any of the grounds for denial or suspension of a license as provided by this section are due to a circumstance or circumstances beyond the control of the student.

Hearing before the WVDMV:

Upon written request of a student, within 10 days of receipt of a notice of suspension as provided by the code, the Division of Motor Vehicles shall afford the student the opportunity for an administrative hearing. The scope of the hearing shall be limited to determining if there is a question of improper identity, incorrect age, or some other clerical error.

Reinstatement of Driver's Eligibility Certificate:

Students may have their Driver's Eligibility Certificate reinstated by the Preston County Board of Education upon demonstration of satisfactory progress as follows:

- ❖ Reinstatement requests related to withdrawal for unexcused absences shall be reviewed, as outlined in *SBP 4110: Attendance*, at the end of the semester following that in which the withdrawal occurred;
- ❖ Reinstatement requests related to withdrawal for failure to make satisfactory academic progress shall be reviewed at the end of each school year;
- ❖ Reinstatement requests related to withdrawal for suspension pursuant to WVC §18A-5-1a and §18A-5-1b shall be reviewed after all disciplinary sentences have been served.
(WVC §18-8-11, §17B-2-3, §17B-2-5; SBP 4110; SBP 4150 and SBP 4372)