

## **ATTENDANCE / SCHOOL ATTENDANCE AS CONDITION OF LICENSING FOR PRIVILEGE OF OPERATION OF MOTOR VEHICLE**

### **Philosophy**

McDowell County Board of Education recognizes that a direct relationship exists between students' daily school attendance and academic performance, graduation, and good work habits.

Daily attendance is necessary for students to meet their schools' academic program standards as each day's learning builds on the work previously completed. While students and parents/guardians have the ultimate responsibility for daily school attendance, the laws of West Virginia require school administrators to enforce compulsory school attendance, and to provide an environment conducive to, and encouraging of, attendance.

Parental awareness, support, and involvement are essential to the success of the county attendance policy. Parents/guardians are encouraged to support the attendance policy by sending their children to school regularly. The McDowell County school board recognizes the importance of the home and school connection and encourages parents/guardians to become aware and support the county attendance policy.

The McDowell County Board of Education will strive to increase student attendance through the creation of a positive school climate, helping students develop responsibilities, self-discipline and good work habits. It is believed that with good attendance students can maximize the development of responsibility, self-discipline, and good work habits, which will lead to a higher level of educational achievement.

### **Compulsory School Attendance**

Compulsory school attendance (WV Code §18-8-1A) Beginning with the 2011-2012 high school freshman cohort class of students, and notwithstanding the provisions of section 1 of HB 4593, compulsory school attendance begins with the school year in which the sixth birthday is reached prior to September 1 of such year or upon enrolling in a public supported Kindergarten program and continues to be enrolled in a school system until after the seventeenth birthday.

However, the law states that any person, who is enrolled in school, at any age, is also bound by the compulsory attendance policy as long as they remain enrolled. Failure to comply with the policy could result in being found guilty of a misdemeanor in magistrate court (WV Code §18-8-2).

### **Policy Development**

The McDowell County Schools Attendance Policy has been developed by a committee which included the county attendance director, SBPO (School Based Probation Officer), principals, assistant teachers, counselors, students, Special Education Director, Title 1 Director, and parents. Each revision of the county attendance policy shall be submitted to the WVDE for approval.

Students and their parents/guardians shall be made aware of the county attendance policy and their responsibilities and accountability for regular school attendance through student/parent handbooks, newsletters, the news media, internet websites, and other appropriate means of communication.

### **Definitions.**

Absence - Not being physically present in the school facility for any reason.

Allowable Deductions for Schools - Beginning with the 2016-2017 school year, the only allowable deductions will be absences that result from school approved curricular/co-curricular activities, failure of the bus to run/hazardous conditions, students not in attendance due to disciplinary measures and school/county directed placements outside

the traditional classroom environment including but not limited to homebound placement and in-school suspension.

Attendance - For statistical purposes, attendance will be reported and aggregated to the nearest half day according to the definitions in §126-81-4.3. a. and §126-81-4.3. b.

- Full-day attendance means being present at least .74 of the school day.
- Half-day attendance means being present at .50 of the school day.

Attendance Rate - The number of days present divided by the number of days of membership, multiplied by one hundred, equals attendance rate for students on the attendance registers in grades K-12.

Awaiting Foster Care Placement - Any child or youth who: 1) is in the custody of the West Virginia Department of Health and Human Resources, 2) has been placed in out-of-home care, and 3) is not in a permanent placement. This includes, but is not limited to, children and youth in family foster care, kinship care, emergency shelter care, or in a residential group home.

Dropout - A dropout is a student who:

- was enrolled in school at some time during the previous school year and was not enrolled on October 1 of the current school year; or
- was not enrolled on October 1 of the previous school year although expected to be in membership (i.e., was not reported as a dropout the year before); and
- has not graduated from high school, obtained a Test Assessing Secondary Completion (hereinafter, TASC) diploma, or completed a state- or district-approved education program; and
- does not meet any of the following exclusionary conditions:
  - Transfer to another public school district, private school, home school, or state or district approved education program;
  - Temporary school-recognized absence due to suspension or illness; or
  - Death.

Dropout Date - The school day after the dropout's last day of attendance.

Enrollment - A student is officially enrolled when one of the following conditions occur:

- Student was enrolled the previous year;
- Student appears at school to enroll with or without a parent/guardian; or
- Student and/or parent/guardian appears at school to enroll with or without records.

Enrollment Count - A status count that reports the number of students on the attendance register as required by the West Virginia Department of Education (hereinafter, WVDE).

Excused Student Absences:

- Absences that result from school-approved curricular/co-curricular activities; failure of the bus to run/hazardous conditions, SAT Plan, IEP or 504 Plan meetings; and other county board approved excused absences.
- Personal illness or injury of the student or in the family.
- Medical or dental appointment with written excuse from physician or dentist.
- Documented chronic medical conditions that may require multiple or regular absences. These conditions must be documented annually with a valid physician's note that explains the condition and anticipated impact on attendance. The necessity for the absences must be approved and reviewed quarterly by the SAT, IEP, or 504 team (See §126-81-5.3. c.4.).
- Participation in homebound or hospital instruction due to an illness or injury or other extraordinary circumstances that warrants home or hospital confinement.
- Documented disabilities consisting of any mental or physical impairments that

substantially limit one or more major life activities and are documented each semester with a valid physician's note that explains the disability and the anticipated impact on attendance. The necessity for the absences must be approved and reviewed quarterly by the SAT, IEP, or 504 team (See §126-81-5.3. c.4.).

- Calamity, such as fire or flood.
- Death in the family.
- Judicial obligation or court appearance involving the student.
- Military requirements for students enlisted or enlisting in the military.
- Personal or academic circumstances approved by the principal, and
- Such other situations as may be further determined by the county board: *Provided*, that absences of students with disabilities shall be in accordance with the Individuals with Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in compliance therewith.

Students must bring in an excuse to the school anytime they are absent or the absence will be recorded as unexcused. Parents may write five (5) parent notes per semester and a total ten (10) for the school year. Upon returning to school after an absence, students will have no more than forty-eight hours (2 school days) after the date of return to school to present an excuse for the absence.

Unexcused absence:

- Any absence not specifically included in the definition of "excused absence".

Homeless Children and Youths - As defined in the McKinney-Vento Act means individuals who lack a fixed, regular, and adequate nighttime residence and includes:

- Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;(Will be removed from McKinney-Vento on December 10, 2016).
- Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- Migratory children who qualify as homeless because the children or youth are living in circumstances as described in the above descriptions.

Membership Days –days present plus the days absent.

School of Origin - As defined in the McKinney-Vento Act is the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

Transfer - A process by which a student ends enrollment or attendance in one location and begins enrollment or attendance in a second location (e.g., within a county, between counties, or out-of-state). This can be evidenced through a transcript request or other documentation that the student is continuing elementary or secondary education.

## **Responsibilities**

### **Board of Education**

McDowell County Board of Education has the responsibility to encourage daily attendance and mandate that county schools adequately address student absences including tardiness. McDowell County Board of Education shall use the definitions for allowable deductions set by the WVBE for purposes for state attendance and statistics. Schools should

not be accountable for absences resulting from allowable deductions. These absences shall not be calculated in the school's/county's attendance rate.

McDowell County Board of Education shall employ a certified county director of school attendance as required by W. Va. Code §18-8-3 and support and require the county attendance director to implement and execute the duties as defined in W. Va. Code §18-8-4.

**Attendance Director**

The county attendance director and his/her assistants shall diligently promote regular school attendance. They shall ascertain reasons for unexcused absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age and take such steps as are, in their discretion, best calculated to encourage the attendance of students and to impart upon the parents and guardians the importance of attendance and the seriousness of failing to attend school regularly.

In the case of three (3) total unexcused absences of a student during a school year, the attendance director or assistant may serve written notice to the parent, guardian, or custodian of the student that the attendance of the student at school is required and that if the student has five (5) unexcused absences, a conference with the principal or other designated representative will be required.

In the case five (5) total unexcused absences, the attendance director or assistant shall serve written notice to the parent, guardian or custodian of the student that within five (5) days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the unexcused absences of the student, including the adjustment of unexcused absences based upon such meeting.

In the case of ten (10) total unexcused absences of a student during a school year, the attendance director or assistant may make complaint against the parent, guardian, or custodian before a magistrate of the county. If it appears from the complaint that there is a probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian or custodian may be charged in a complaint. Initial service of the summons or warrant issued pursuant to the provisions of W. Va. Code §18-8-4 shall be attempted within ten (10) calendar days of the receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

When calculating unexcused absences for the purpose of making complaints against a parent, guardian, or custodian before a magistrate, unexcused absences resulting from suspensions or expulsions from school shall not be considered.

The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in W. Va. Code §50-1-8, shall assign the case to a magistrate within ten (10) days of execution of the summons or warrant. The hearing shall be held within twenty (20) days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least ten (10) days advance notice of the date, time, and place of the hearing.

When any doubt exists as to the age of a student absent from school, the attendance director has authority to require a properly attested birth certificate or an affidavit from the parent, guardian, or custodian of the student, stating age of the student. In the performance of his or her duties, the county attendance director has authority to take without warrant any student absent from school in violation of the provisions of this

article and to place the student in the school in which he or she is or should be enrolled.

All attendance directors hired for more than two-hundred days (200) may be assigned other duties determined by the superintendent during the period in excess of two-hundred (200) days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant director also shall perform the following duties: 1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law; 2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible non-enrollees; 3) Cooperate with existing state and federal agencies charged with enforcing child labor laws; 4) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct; 5) Participate in school teachers' conferences with parents and students; 6) Assist in such other ways as the county superintendent may direct for improving school attendance; and 7) Make home visits of students who have excessive unexcused absences, as provided above, or if requested by the chief administrator, principal, or assistant principal.

The attendance director shall serve as the liaison for homeless children and youth as defined in W. Va. Code §18-8-4.

The attendance director shall file with the county superintendent and county board of education, at the close of each month, a report showing activities of the school attendance office and the status of attendance in the county at the time due to provisions in W. Va. Code §18-8-4. The Attendance Director will report all school dropouts to the WVDE through WVEIS/WOW.

Jurisdiction to enforce compulsory school attendance law lies in the county in which a student resides and in the county where the school at which the student is enrolled is located. When the county of residence and enrollment are different, an action to enforce compulsory school attendance may be brought in either county and the magistrates and circuit courts of either county have noncurrent jurisdiction for the trial of offenses arising under W. Va. Code §18-8-4.

### **School Principal**

The principal shall implement and execute the duties as defined in W. Va. Code §18-8-5. The principal or designee shall be responsible for collecting all classroom attendance data and maintaining these records on WVEIS. This shall be the official student attendance record. All absence, tardy and early departures shall be recorded in this system for all students assigned to the school.

The principal shall compare school numbers with school enrollment monthly and monitor student attendance throughout the year. In the case of five (5) total unexcused absences, the principal or a designee shall conduct a conference with a parent or guardian in order to discuss and correct the circumstances causing the unexcused absences of the student, including the adjustment of unexcused absences based upon such meeting.

It shall be the duty of the principal, administrative head, or other chief administrator of each school, whether public or private, to make prompt reports to the county attendance director, or proper assistant, of all cases of unexcused absences arising within the school which require the services of an attendance worker.

A student whose educational services are guided by an existing SAT plan, IEP, or 504 plan may warrant special consideration when a pattern of multiple, single, or chronic absences exist. The child's current status should be reviewed by the SAT, IEP, or 504 team as deemed appropriate and in accordance with state and federal laws.

**Parent or Guardian**

McDowell County Schools believes that parents and families are essential partners in promoting good attendance because they have the bottom-line responsibility for making sure their children get to school every day. Just as parents should focus on how their children are performing academically, they have a responsibility to set expectations for good attendance.

In supporting parents, MCS will focus on the importance of attendance, starting in the early grades and continuing through high school.

Each parent, guardian, or custodian shall be responsible for fully cooperating in and completing the enrollment process by providing: immunization documentation (W. Va. Code §16-3-4), copy of a certified birth certificate or affidavit (W. Va. Code §18-2-5c), signed suspension and expulsion document (W. Va. Code §18-5-15), and any other documents required by federal, state, and/or local policies or code.

**Preventive and Educational Processes and Procedures:**

McDowell County Schools recognizes that a variety of approaches may be successful in maintaining acceptable attendance levels and that individual schools should be free to develop innovative methods within the requirements of this policy.

At the beginning of each school year and throughout, each principal will communicate to the parents the importance of the students arriving to school on time and remaining for the full school day. Parents/guardians shall be advised of their responsibility to report the absence of their children and their accountability for the regular school attendance of their children. Each day a student is absent, the parent shall contact the school to advise that the student will not be in attendance. A written note with parent signature or any allowable excuse documentation should be sent to the school when the student returns with the reason for absence. School Messenger (automated call system) will notify parents/guardian when a student is listed as absent in Homeroom or First Period.

Each school shall develop and maintain a written attendance incentive plan. By July 1 of each school year, the school's attendance incentive plan will be reviewed as a part of the strategic planning process. This plan should be filed with and monitored by principal and or the county attendance director. School attendance incentive plans will incorporate the following areas of responsibility:

- Faithful attendance, positive student recognition with media, award assemblies, and positive behavior supports
- Alternative plans and/or programs to encourage school attendance. These alternatives may include, but are not limited to in-school suspension or afterschool detention. Out of school suspension solely for failure to attend class will not be utilized.
- Procedures for providing counseling for issues related to attendance. The principal may refer students to the guidance counselor before making a referral to the Student Assistance Team(SAT), which will provide a student with an opportunity to receive counseling before any further referrals are made. Parents shall be notified, and invited to attend, Student Assistance Team (SAT) meetings wherein a recommendation concerning attendance is to be considered with respect to their child. If the SAT is unsuccessful in addressing the problems of students who have excessive absences or tardies, the SAT may refer these students to the principal or county attendance director.
- Procedures for interagency involvement. The principal or assistant principal will request the assistance of appropriate agencies to address needs of students not addressed by school resources. It should be

documented that resources of the school have been utilized without evidence of desired outcomes. Interagency Resources shall be used for alternative plans and programs that are positive in nature and encourage improved school attendance. The County Attendance Director shall maintain contact and utilize these outside resources. Parents and students shall be made aware of counseling, mentoring, behavioral, mental health, substance abuse, domestic violence, health, and other services available.

- Procedures for notifying parents/guardians of unexcused absences and procedures for securing parent involvement for improvement.
- Tardy/Early departure procedures. Schools will not convert tardies to days absent. Each school shall schedule classes with ample time allowed between classes to enable students to move from the furthest point of the building without being tardy for class. Students who are consistently tardy for class will be referred to the office of the principal who will follow the student handbook regarding how to handle consequences for tardies.
- Students and parents will be notified of the county Attendance Policy and their responsibilities and accountability for regular school attendance through McDowell County Schools "School Calendar and Student/Parent Handbook at the beginning of the school year. Policy is also on the county website, and brochures will be handed out for the schools to keep on hand. New arrivals during the school year shall also be provided with a copy of the same information.
- Make up work missed due to absences. Absences of Two Days or Less: For students in grades K – 8, it is the teacher's responsibility to provide makeup work within two school days of the return of the student to school. For students in grades 9 – 12 it is the responsibility of the student to request makeup work within two school days of return to school. In cases of extended absences or absences due to extenuating circumstances, the principal has the authority to grant an extension of time for submission of assignments. Students absent due to curricular, co-curricular, and leaves of educational value may be required to obtain assignments prior to the activity and submit them upon the student's return.

#### **Attendance Appeal Procedure**

A student or parent may make an appeal of an attendance decision to the school principal. A final appeal may be made to the attendance director, and a committee which shall include the principal, County Attendance Director, school counselor, or other school personnel as needed to address the appeals.

#### **Maintenance of Records**

Accurate attendance records and related documentation shall be maintained for every student enrolled in public school. Students who are physically absent from school must be documented as absent. This document may become a legal document.

#### **School attendance as condition of licensing for privilege of operation of motor vehicle.**

Any student at least fifteen, but less than eighteen years of age, who is satisfactory standing with regard to attendance, school behavior, academic progress and 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, WVDVMV) when making application for, or reinstatement of, an instruction permit or license to operate a motor vehicle.

In order to obtain a Driver Eligibility Certificate a student's absences cannot exceed ten (10) consecutive unexcused or fifteen (15) unexcused absences in a year pursuant to West Virginia Code § 18-8-11. Also, a student must earn five credits annually (three of the five credits must be from the core requirements identified in West Virginia Board of Education Policy 2510). In order to obtain a Driver Eligibility Certificate a student may not be suspended or expelled for any of 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 regardless of the time or place of the action; b) possessing deadly weapons; c) sale of a narcotic drug; d) committing an act or engaging in conduct that would constitute a felony under either federal law or the West Virginia Code if committed by an adult; 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.* The foregoing are reasons to deny a driver eligibility certificate or to revoke a driver's license. Expulsion or suspension shall not be considered a circumstance beyond the control of the student. Relating to attendance, a semester of satisfactory school attendance, not to exceed five (5) consecutive or ten (10) total unexcused absences, shall be required for reinstatement of a revoked license.

In accordance with the provisions of W. Va. Code §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 eighteen who 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: (1) is enrolled and making satisfactory progress in a course leading to a GED/TASC from a state approved institution or organization, or has obtained such certificate; (2) is enrolled in a secondary school of this state; (3) is a West Virginia resident enrolled in an out-of-state school; (4) is excused from such requirement due to circumstances beyond his or her control; (5) is enrolled in an institution of higher education as a full-time student in this state or any other state or (6) has provided documentation that they are attending a private or home school.

Academic progress will be reviewed at the end of each school year and school behavior shall be reviewed after all disciplinary suspension or expulsions have been served. All forms require the signature of the principal and the County Attendance Director. Students who are on homebound for medical reasons should submit a physician's statement indicating that the student's condition does not impair the student's driving ability. For the purposes of this section and pursuant to W.Va. Code §18-8-11, withdrawal is defined as more than ten consecutive, or fifteen days total, unexcused absences during a school year. 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 person. If suspended, the West Virginia Division of Motor Vehicles may not reinstate a license before the end of the semester following that in which the withdrawal occurred. Excuses for absences must be turned in to the school secretary within two days of student's return. Any excuse(s) turned in after the allotted time will not be accepted for driver's eligibility approval unless approved by the principal or attendance director.

No later than five days after following appropriate due process from the date of withdrawal, the attendance director or chief administrator of the school system shall notify the WVDVM of the withdrawal from school of any student fifteen years of age, but less than eighteen years of age, except as provided in W. Va. Code §18-8-11(d).

For the purposes of this section and pursuant to W. Va. Code §18-8-11, withdrawal is defined as more than five consecutive, or fifteen days total, unexcused absences during a school year. 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 person. If suspended, the WVDVM may not reinstate a license before the end of the semester following that in which the withdrawal occurred.

If a student's withdrawal from school is beyond the control of the student and such student is applying for a license, the attendance director or chief administrator of the school system shall provide the student with documentation to present to the WVDVM to excuse the student from the provisions of W. Va. Code §18-8-11(d). The school district superintendent (or the appropriate school official of any private secondary school), with the assistance of the county attendance director, or any other staff or school personnel, shall be the sole judge of whether such withdrawal is due to circumstances beyond the control of such person.



**Severability.**

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

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