

“Keeping WVASBO Members on Their Toes! Current Legal Issues - - and New Laws, Policies, Rulings and Ethics Advisory Opinions -- Affecting School District Business and Finance.”

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 West Virginia Association of School Business Officials

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A Word About This Presentation

- We speak in general terms today. The specific facts of a situation can make a difference in the legal principles that apply
- Do not treat this presentation as legal advice about any specific situation
- Information we present may at any time become outdated by changes in the school laws
- When in doubt, don't act or rely on the information in this presentation without seeking legal advice



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Our Agenda

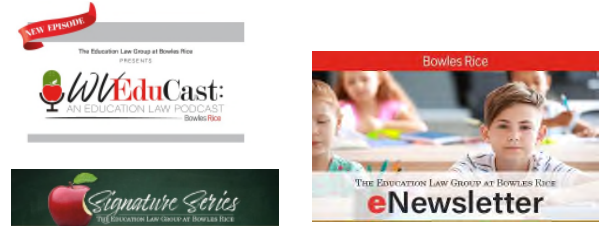
- Keeping up with the school laws
- Bills of special interest that DID pass
- Some recent decisions of interest from the courts and the Grievance Board
- Two Ethics Commission advisory opinions
- As time permits, some special issues

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KEEPING UP-TO-DATE WITH SCHOOL LAW DEVELOPMENTS ALL YEAR LONG

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Education Law Updates



<https://www.bowlesrice.com/education-law-blog>

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Join the Mailing Lists

- Send an email to Sarah Plantz:
 - splantz@bowlesrice.com
- Tell Sarah:
 - Who you are
 - Your position in public education
 - Your school board's name
 - That you want to be added to the mailing lists

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Bills that Passed and Are in Effect

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- | | |
|-----------------|-------------------------|
| 1. Governance | 6. Personnel in general |
| 2. Business | 7. Professionals |
| 3. Safe Schools | 8. Service personnel |
| 4. Attendance | 9. State level change |
| 5. Instruction | 10. Miscellaneous |

1. Governance

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House Bill 5514 Enhancing training requirements for county boards of education members*

In effect June 6, 2024
Handout p. 29

Compensation

- Cap on allowable meeting pay = ~~\$160~~ \$260
- Cap on paid meetings per year = ~~50~~ 40
- Plus, members
 - may be paid for up to 5 more meetings held for certain purposes, e.g., personnel hearings, student expulsion hearings, school closing hearings, to cope with a disaster
 - shall be paid for up to 2 trainings
 - may be paid for up to 12 meetings of multicounty center administrative counsels on which they serve

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- While in default of a training requirement, a member can receive no meeting pay
- Upon completing unfulfilled training within 3 months of default, must be paid for those meetings (without interest)
- Failure to satisfy training requirements is still a ground for removal from office

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- School Board Associations**
- Upon vote of 3 members, a board must join West Virginia School Board Association
 - Boards are still authorized to join NSBA
 - County board must pay WVSBA/NSBA dues if approved by the board
 - Board must pay expenses incurred by members attending WVSBA meetings (upon presentation of receipts)

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Senate Bill 172
Revising requirements of local school improvement councils

In effect May 26, 2024
Handout p. 2

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Senate Bill 159
Prohibiting persons convicted of certain crimes against minors from holding positions on boards of education

In effect June 7, 2024
Handout p. 1

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2. Business

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Senate Bill 217 Authorizing state and subdivisions to negotiate price for construction when all bids received exceed maximum budget*

In effect March 8, 2024
Handout p. 3

18

- If
 - a board establishes a maximum budgeted amount for a construction project,
 - keeps it confidential prior to award of a contract, and
 - the bids exceed that amount:
- the board may negotiate with the lowest qualified responsible bidder, but
 - not if the negotiation results in more than a 10% change in scope or cost from the original base bid, and
 - only if a negotiated award is made within 30 calendar days of the bid opening
- Certain limitations apply depending on the number of responsible bidders

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House Bill 4883 Relating to increasing annual salaries of certain employees of the state*

In effect July 1, 2024
Handout p. 15

20

For school year 2024-2025

- The minimum annual salary schedule for teachers, regardless of education level and years of experience, is increased by \$2,460
- The minimum monthly salary schedule for service personnel, regardless of pay grade and years of experience, is increased by \$140

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**Senate Bill 605
Requiring electronic funds transfer of retirement contributions by participating employers***

In effect May 16, 2024
Handout p. 10

22

- Starting July 1, 2024, payment of all retirement contributions and any fees must be electronic
- Fee for instead sending paper check: \$300 per check
- CPRB Executive Director may waive fees in emergency or extenuating circumstances

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3. Safe Schools

24

**Senate Bill 602
Cardiac Emergency Response Plan Act**

In effect May 20, 2024
Handout p. 9

**House Bill 4845
To prohibit swatting**

In effect June 4, 2024
Handout p. 14

25

26

**Senate Bill 504
Relating to felony offense of sexual intercourse,
intrusion, or contact with student**

In effect June 4, 2024
Handout p. 5

4. Attendance

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Senate Bill 568
Creating multi-tiered system for school
absenteeism

In effect June 7, 2024
 Handout p. 6

29

House Bill 4945
Relating generally to the Hope Scholarship
Program*

In effect June 7, 2024
 Handout, p. 16

30

•The formula is altered for the WVDE's annual budget request to the Legislature for the Hope Scholarship will now use the greater of

- the statewide average net state aid per pupil multiplied by 2% of net public school enrollment, and

- the statewide average net state aid per pupil multiplied by the number of ~~eligible Hope Scholarship applications received by the Hope Scholarship Board~~ **estimated** Hope Scholarship applications

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5. Instruction

32

**House Bill 4863
Patriotic Access to Students in Schools Act**

In effect June 6, 2024
Handout, p. 15

33

**House Bill 5158
Relating to making technical corrections to
the special education code**

In effect June 6, 2024
Handout p. 21

34

**Senate Bill 280
Allowing teachers in public schools to
discuss scientific theories**

In effect June 7, 2024
Handout p. 4

35

**House Bill 4709
Relating to vocational and technical
education programs***

In effect June 4, 2024
Handout p. 11

36

- A 4-year pilot program for middle schools, but without new funding
- To include, at least, an elective 1 semester course to help students participate successfully in CTE programs and improve readiness for college and career, e.g.,
 - how to seek and secure employment
 - developing a plan for post-high school employment
 - exposure to local workplaces, job fairs, post-secondary schools, guest speakers
- The WVDE must create a policy to implement the program, with
 - guidelines for admission to the pilot
 - rules for administration
 - a required certificate for successful program participants

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House Bill 5162
Establish a program to promote creation and expansion of registered apprenticeship programs*

In effect June 7, 2024
 Handout p. 23

38

The Youth Apprenticeship Program

- Pilot programs during 2024-2025, programs for all school systems by 2025-2026
- Students at least 16 years old in grades 11 or 12 may enroll in supervised on-the-job training programs for secondary credit or other relevant credentials for apprenticeship
 - Targeting: skills in manufacturing, engineering technology, administration and office technology, and health care, among others
 - Leading to: a high school diploma AND postsecondary job skill certification

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- Apprenticeship programs must at least provide:
 - a detailed training plan between the employer and the apprentice that identifies specific work tasks that will develop workplace competency
 - a minimum of 135 classroom hours of related academic instruction and training
 - a minimum of 400 hours of on-the-job training
 - a progressive wage schedule established by the participating employer
 - on-site evaluation of the student's performance; and
 - training remediation as necessary at the school site

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- The WVDE will set standards and guidelines for county boards to
 - approve local business and industries to be included in the program
 - grant release time from school for participating students

41

House Bill 5540
Relating to fentanyl prevention and awareness education

In effect May 30, 2024
Handout p. 30

42

Senate Bill 466
Requiring State Board of Education Develop Safety While Accessing Technology education program

In effect June 6, 2024
Handout p. 4

43

6. Personnel

44

House Bill 5650
Allow suspended school personnel to enter school property functions open to the public

In effect June 5, 2024
Handout p. 30

45

Senate Bill 370
Updating Public Employees Grievance Board procedure that certain decisions be appealed to Intermediate Court of Appeals

In effect March 1, 2024
Handout p. 4

46

House Bill 5662
Relating to adding “person in a position of trust” to certain crimes

In effect June 5, 2024
Handout p. 31

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7. Professionals

48

House Bill 5262
Relating generally to teacher's bill of rights*

In effect June 7, 2024
 Handout p. 25

49

Topic #3: Teachers' supplemental duties

•§18A-2A-1. Supplemental duty calendar provisions.

- (a) In this section, "supplemental duty" means a duty other than a duty assigned under an employee's contract that is generally expected to be performed during an educational day and which may be governed by an agreement, other than the employee's contract, between the district and the employee.

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- Provided, That any supplemental duty exceeding the eight hour contracted day shall be by agreement with the employee and preapproved by the county superintendent or by his or her designee, unless the supplemental duty is the result of an unanticipated emergency, and shall be paid in accordance with the agreement between the employee and the county.

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53

House Bill 4860
Providing that a general education teacher may not be responsible for accommodation logs

In effect June 2, 2024
Handout p. 14

54

House Bill 4838
Require county boards of education to provide long-term substitute teachers, upon hiring, with certain information

In effect May 30, 2024
Handout p. 13

55

Senate Bill 487
Requiring periodic review of professional development for teachers and education staff

In effect June 5, 2024
Handout p. 5

56

House Bill 4830
To address the professional development of teachers

In effect June 6, 2024
Handout p. 12

57

House Bill 5405
Providing additional professional development and support to West Virginia educators through teacher and leader induction and professional growth*

In effect June 7, 2024
Handout p. 28

58

- In allocating state funding for county-level implementation of comprehensive systems for teacher and leader induction and professional growth, the WVDE is required to consider two additional factors
 - The number of full-time equivalent teachers employed by the county who are less than fully certified for their teaching positions
 - The number of full-time equivalent principals, assistant principals and vocational administrators employed by the county who are in their first or second year of employment as a principal, assistant principal or vocational administrator

59

House Bill 4951
To facilitate the interstate practice of school psychology in educational or school settings

In effect June 7, 2024
Handout p. 18

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8. Service employees

61

House Bill 4829
Relating to the employment of service personnel
and removing the requirement for a high school
diploma or general education development
certificate

In effect June 6, 2024
Handout p. 12

62

House Bill 5252
Requiring certain minimum experience for the
director or coordinator of services class title
involving school transportation*

In effect June 7, 2024
Handout p. 24

63

- The class titles of Electrician I, Electrical Technician, and HVAC Mechanic I no longer refer to apprenticeships

- The class title of Key Punch Operator is deleted

64

**House Bill 5056
Relating to substitute service personnel
positions***

In effect June 4, 2024
Handout p. 19

65

• Boards may use regular full-time service employees as day-to-day substitutes unless

• there is a qualified substitute service employee available to fill the shift, or

• the shift interferes with the regular employee's job duties or responsibilities, or

• the regular employee is not properly "certified and trained" for that position

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9. State level change

67

**House Bill 5690
Creating a West Virginia Task Force on
Artificial Intelligence**

In effect June 2, 2024
Handout p. 32

68

Senate Bill 146
Creating adult education task force*

In effect June 7, 2024
 Handout p. 1

69

- The State Superintendent must form a taskforce to explore options for direct funding of adult education learning centers

- The taskforce will first meet no later than July 1, 2024

70

House Bill 4986
Relating to computer science and cybersecurity instruction for adult learners*

In effect June 4, 2024
 Handout p. 19

71

- The State Superintendent must apply for and distribute grants or financial assistant from the federal government and other public and private entities to provide computer science and cybersecurity instruction to adults

- Maximum distribution to any recipient: \$300,000

- Non-profit recipients of the funds, which could include school districts, public charter schools, and career and technical centers, among others, must use all or part of the funds to cover the expense of providing computer science and cybersecurity courses to adults

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House Bill 4832
Relating to state superintendent's reports
regarding the finances of school districts*

In effect June 2, 2024
Handout p. 13

73

- The State Superintendent's annual report about the work of that office and the finances of each school district will now be sent to the Legislative Oversight Commission on Education Accountability instead of to the Governor

- County boards that fail to provide the State Superintendent with required financial information will be subject to a reduction in state funding

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Senate Bill 806
Removing certain required reports to Legislative
Oversight Commission on Education
Accountability

In effect June 5, 2024
Handout p. 10

75

10. Miscellaneous

76

House Bill 4919
Relating to the Promise Scholarship

In effect June 5, 2024
Handout p. 15

77

House Bill 5153
**Relating to revising, updating and streamlining
the requirements governing the West Virginia
Science, Technology, Engineering, and
Mathematics Scholarship**

In effect May 13, 2024
Handout p. 20

78

Senate Bill 529
**Including Salem University in PROMISE
Scholarship Program**

In effect June 2, 2024
Handout p. 6

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Senate Bill 507
Relating to the repeal of WV EDGE

In effect May 20, 2024
Handout p. 6

80

*From the United States Court
of Appeals for the 4th Circuit*

handout, page 33

81

*B.P.J. v. West Virginia State
Board of Education*

(transgender youth)

82

*From the West Virginia
Supreme Court of Appeals*

handout, pp. 34-36

83

6.
*Board of Education of the
County of Wyoming v. Dawson*

(correcting mistakes)

84

8.
*Board of Education of the
County of Cabell v. Cabell County
Public Library*

(excess levy proceeds)

85

*From the West Virginia
Intermediate Court of Appeals*

handout, p. 37

86

6.
*Adams v. Boone County Board
of Education*

(grievance process expenses)

87

*From the Public Employees
Grievance Board*

handout, pp. 39-45

88

6.

Barnette v. Putnam County
Board of Education

(200-day v. "as needed" contracts)

89

10.

Baker v. Logan County Board
of Education

(unrecoverable damages)

90

15.

Lovejoy v. Taylor County
Board of Education

(correcting misclassifications)

91

17.

Nelson v. Jefferson County
Board of Education

(regular v. summer seniority)

92

24.
Grimmett v. Logan County
Board of Education

(special ed teacher overage pay)

93

*Ethics Commission Advisory
Opinions*

handout, pp. 36-52

94

No. 2024-01
to Fayette County Board of
Education

(BOE member as unpaid board member of
for-profit that provides health care services
to BOE)

95

No. 2024-03
to a County Superintendent of
Schools

(which board members may receive any
new per-meeting pay)

96

Some specific current issues

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- Overage pay for special education teachers
- Board members' entitlement to financial information
- Public entitlement to financial information
- Board member reimbursement for travel between home and board meetings

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Thank you for taking time to stay on top of developments in our school laws

And thank you for all you do for student safety and success

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