



# 2019 Green Book

***Summary of Public Education Bills  
Enacted During the 2019 Regular  
Session and 1st Extraordinary Session***



**West Virginia Board of Education  
2019-2020**

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## FOREWORD

The West Virginia Department of Education (WVDE) is pleased to issue the 2019 Green Book, Summary of Public Education Bills Enacted During the 2019 Regular Session and 1st Extraordinary Session. This document is intended to assist educators and others in understanding and implementing various education bills passed by the Legislature and signed into law over the course of the past six months.

This document should be placed with your most current copy of the School Laws of West Virginia as it contains new language/laws that must be reviewed in conjunction with the School Laws book.

Please note that this document should not be considered as official interpretations of the State Superintendent of Schools, but rather short summaries of each piece of passed legislation. Formal interpretations to specific questions may be provided upon request. Contact information for WVDE staff is listed alongside each bill should you have specific questions about its contents.

We hope that the 2019 Green Book will be a helpful reference tool during the upcoming school year. Suggestions for improving this document as a service to the WVDE's clientele are always welcome. This document is also available online at the following address: <https://wvde.us/legal-services/education-law/>.

Should you need information or have questions regarding education legislation not included in this publication, or from past years, please contact Sarah Stewart (sarah.a.stewart@k12.wv.us; 304.558.3667).

A handwritten signature in black ink that reads "Steven L. Paine". The signature is written in a cursive style with a large, prominent initial "S".

Steven L. Paine, Ed.D.  
State Superintendent of Schools



# CODE CHANGES

Code	Bill	Code	Bill	Code	Bill	Code	Bill
§5-16-2	HB206	§18-5-48	SB632	§18-9B-22	HB206	§18C-9-5	SB1
§5-16-22	HB206	§18-5-49	HB206	§18-9F-10	HB2541	§18C-9-6	SB1
§9-6-11	HB2492	§18-5A-2	HB206	§18-20-5	HB206	§19-37-1	HB2396
§10-1-14a	HB2853	§18-5A-3	HB206	§18-20-11	SB632	§19-37-2	HB2396
§11-15-9s	HB206	§18-5A-5	HB206	§18A-2-5	HB2662	§19-37-3	HB2396
§15-1B-24	HB 206	§18-5E-8	HB2009	§18A-2-8	SB632	§21-1E-1	HB2004
§16-56-1	SB640	§18-5G-1	HB206	§18A-3-6	HB2378	§21-1E-2	HB2004
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§16-56-3	SB640	§18-5G-3	HB206	§18A-4-5	HB206	§21-1E-4	HB2004
§16-56-4	SB640	§18-5G-4	HB206	§18A-4-5a	HB206	§29-3-9	HB2004
§17C-12-7	SB238	§18-5G-5	HB206	§18A-4-7a	HB206	§29-12-5a	HB206
§18-2-6	SB1	§18-5G-6	HB206	§18A-4-8a	HB206	§30-1E-1	HB2004
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§18-2-9	HB2422	§18-5G-8	HB206	§18A-4-10	HB206	§30-1E-3	HB2004
§18-2-12	SB267	§18-5G-9	HB206	§18B-3C-4	HB2004	§30-1E-4	HB2004
§18-2-25a	SB605	§18-5G-10	HB206	§18B-3C-16	SB1	§49-2-809	HB2492
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§18-2-42	HB2004	§18-5G-12	HB206	§18C-4-2	HB206		
§18-2E-8g	SB329	§18-7A-3	SB26	§18C-4-3	HB206		
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§18-2E-14	HB206		HB206	§18C-4A-1	HB206		
§18-5-13d	SB154	§18-8-4	HB206	§18C-4A-2	HB206		
§18-5-16	HB206	§18-9A-2	SB1	§18C-4A-3	HB206		
§18-5-16a	HB206		HB206	§18C-9-1	SB1		
§18-5-18a	HB206	§18-9A-8	HB206	§18C-9-2	SB1		
§18-5-18b	HB206	§18-9A-9	HB206	§18C-9-3	SB1		
§18-5-46	HB206	§18-9A-19	HB206	§18C-9-4	SB1		

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- **Black** designates amended code.
- **Blue** designates new code.

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## **Senate Bill 1: Increasing access to career education and workforce training**

*Effective Date:* June 5, 2019

*Code Reference:* Amends: §18-2-6; §18-9A-2  
Adds: §18-2E-11; §18B-3C-16; §18C-9-1; §18C-9-2; §18C-9-3; §18C-9-4; §18C-9-5; §18C-9-6

*WVDE Contact:* Kathy D'Antoni, Associate Superintendent, Division of Technical Education & Governor's Economic Initiative

*Bill Summary:* The bill requires any combination of secondary and postsecondary entities (Community and Technical Colleges (CTCs), public baccalaureate institutions, Career Technical Education (CTE) centers and county boards of education) to establish partnerships for advanced career education (ACE) pathways. ACE pathways are curriculum pathways that begin when a student is in secondary education and that ultimately lead to either an advanced certification or associate degree that are deemed by the Commerce Secretary to satisfy a workforce need. The Department of Commerce shall at least annually notify WVBE, CTC, and HEPC of the areas of workforce need in the state. The stated goals of ACE programs are to provide additional opportunities to and number of students that attain advanced certifications and college credentials leading to associate degrees at little/no cost. The WVBE and CTC are to jointly establish guidelines for the administration of ACE programs.

The partnership agreements for the ACE programs are to be in writing and approved by the State Superintendent, the CTC Chancellor and the HEPC Chancellor. The WVBE and CTC are to report annually to LOCEA on the ACE programs.

The bill states that students completing a secondary education program and continue to be enrolled in a program leading to an advanced certification or an ACE program qualify for funding under the school aid formula under 18-9A-2(i). The State Superintendent, CTC Chancellor, HEPC Chancellor and Commerce Secretary are authorized to designate additional programs that provide valuable workplace credentials, and students enrolled in such programs also qualify for funding under 18-9A-2(i). The maximum number of students that may qualify for funding under 18-9A-2(i) is increased from 1000 to 2500.

## CHAPTER 18. EDUCATION.

### ARTICLE 2. STATE BOARD OF EDUCATION.

#### **§18-2-6. Classification and standardization of schools; standards for degrees and diplomas; certificates of proficiency; establishment of alternative education programs.**

(a) The state board shall promulgate rules for the accreditation, classification and standardization of all schools in the state, except institutions of higher education, and shall determine the minimum standards for granting diplomas, [advanced certifications](#), and certificates of proficiency by those schools.

(1) The certificates of proficiency shall include specific information regarding the graduate's skills, competence and readiness for employment or honors and advanced education and shall be granted, along with the diploma, to every eligible high school graduate.

(2) The certificate of proficiency shall include the program of study major completed by the student only for those students who have completed the required major courses, or higher level courses, advanced placement courses, college courses or other more rigorous substitutes related to the major, and the recommended electives.

[\(3\) Students who have completed a secondary education program in a public, private, or home school and have continued to be enrolled in a program leading to an advanced certification or an advanced career education program shall be considered adults enrolled in regular secondary programs in accordance with §18-9A-2\(i\) of this code: Provided, That the State Superintendent of Schools, the Chancellor for the Council for Community and Technical College Education, the Chancellor of the Higher Education Policy Commission, and the Secretary of the Department of Commerce may designate additional programs that provide valuable workplace credentials and students enrolled in such programs shall also be considered adults enrolled in regular secondary programs in accordance with §18-9A-2\(i\) of this code.](#)

(b) An institution of less than collegiate or university status may not grant any diploma or certificate of proficiency on any basis of work or merit below the minimum standards prescribed by the state board.

(c) A charter or other instrument containing the right to issue diplomas or certificates of proficiency may not be granted by the State of West Virginia to any institution or other associations or organizations of less than collegiate or university status within the state until the condition of granting or issuing the diplomas or other certificates of proficiency has first been approved in writing by the state board.

(d) The state board shall promulgate a rule for the approval of alternative education programs for disruptive students who are at risk of not succeeding in the traditional school structure.

(1) This rule may provide for the waiver of other policies of the state board, the establishment and delivery of a nontraditional curriculum, the establishment of licensure requirements for alternative education program teachers, and the establishment of performance measures for school accreditation.

(2) This rule shall provide uniform definitions of disruptive student behavior and uniform standards for the placement of students in alternative settings or providing other interventions including referrals to local juvenile courts to correct student behavior so that they can return to a regular classroom without engaging in further disruptive behavior.

(e) The state board shall establish up to five pilot projects at the elementary or middle school levels, or both, that employ alternative schools or other placements for disruptive students to learn appropriate behaviors so they can return to the regular classroom without further disrupting the learning environment. The state board shall report to the Legislative Oversight Commission on Education Accountability by December 1, 2010, on its progress in establishing the pilot projects and by December 1 in each year after that for the duration of the pilot projects on the effect of the projects on maintaining student discipline.

(f) If a student attends an approved alternative education program or the Mountaineer Challenge Academy, which is designated as a special alternative education program pursuant to §15-1B-24 of this code, and the student graduates or passes the ~~General Equivalency Development (GED) Test~~high school equivalency tests within five years of beginning ninth grade, that student shall be considered graduated for the purposes of calculating the high school graduation rate used for school accreditation and school system approval, subject to the following:

(1) The student shall be considered graduated only to the extent that this is not in conflict with any provision of federal law relating to graduation rates;

(2) If the state board determines that this is in conflict with a provision of federal law relating to graduation rates, the state board shall request a waiver from the United States Department of Education; and

(3) If the waiver is granted, notwithstanding the provisions of ~~subdivision §18-2-6(f)~~(1) of this ~~subsection~~code, the student graduating or passing the ~~General Educational Development (GED) Test~~high school equivalency tests within five years shall be considered graduated.

(g) The state board shall promulgate a rule to support the operation of the National Guard Youth Challenge Program operated by the Adjutant General and known as the Mountaineer Challenge Academy which is designated as a special alternative education program pursuant to §15-1B-24 of this code for students who are at risk of not succeeding in the traditional school structure. The rule shall set forth policies and procedures applicable only to the Mountaineer Challenge Academy that provide for, but are not limited to, the following:

(1) Implementation of provisions set forth in §15-1B-24 of this code;

(2) Precedence of the policies and procedures designated by the National Guard Bureau for the operation of the Mountaineer Challenge Academy special alternative education program;

(3) Consideration of a student participating in the Mountaineer Challenge Academy special alternative education program at full enrollment status in the referring county for the purposes of funding and calculating attendance and graduation rates, subject to the following:

(A) The student shall be considered at full enrollment status only for the purposes of calculating attendance and graduation rates to the extent that this is not in conflict with any provision of federal law relating to attendance or graduation rates;

(B) If the state board determines that this is in conflict with a provision of federal law relating to attendance or graduation rates, the state board shall request a waiver from the United States Department of Education;

(C) If the waiver is granted, notwithstanding the provisions of [paragraph §18-2-6\(g\)\(3\)](#) (A) of this [subdivision code](#), the student shall be considered at full enrollment status in the referring county for the purposes of calculating attendance and graduation rates; and

(D) Consideration of the student at full enrollment status in the referring county is for the purposes of funding and calculating attendance and graduation rates only. For any other purpose, a student participating in the academy is considered withdrawn from the public school system;

(4) Articulation of the knowledge, skills and competencies gained through alternative education so that students who return to regular education may proceed toward attainment or may attain the standards for graduation without duplication;

(5) Consideration of eligibility to take the [General Educational Development \(GED\) Test](#) [high school equivalency tests](#) by qualifying within the extraordinary circumstances provisions established by state board rule for a student participating in the Mountaineer Challenge Academy special alternative education program who does not meet any other criteria for eligibility; and

(6) Payment of tuition by a county board to the Mountaineer Challenge Academy for each student graduating from the academy with a high school diploma that resides in that county board's school district. For purposes of this subdivision, "tuition" means an amount equal to 75 percent of the amount allotted per pupil under the school aid formula.

(h) Nothing in this section or the rules promulgated under this section compels the Mountaineer Challenge Academy to be operated as a special alternative education program or to be subject to any other laws governing the public schools except by its consent.

(i) The Legislature makes the following findings regarding students at risk:

(1) Defeated and discouraged learners. —

(A) Any child who is unlikely to graduate on schedule with both the skills and self esteem necessary to exercise meaningful options in the areas of work, leisure, culture, civic affairs and personal relationships may be defined as being an at-risk student;

(B) Problems associated with students at risk often begin for them in the early grades as they gradually fall further behind in the essential skills of reading, writing and math;

(C) These problems may be accompanied by such behavior patterns as poor attendance, inattentiveness, negative attitudes and acting out in class. These patterns are

both symptoms of and added catalysts for students to become increasingly defeated and discouraged learners;

(D) By the middle grades, students with growing skill deficits usually know they are behind other students and have good reason to feel discouraged. A growing lack of self confidence and self worth, limited optimism for the future, avoidance of school and adults and a dimming view of the relationship between effort and achievement are among the characteristics of defeated and discouraged learners;

(E) Public schools are expected to address the needs of all students, minimizing the likelihood that they will become at risk and giving additional attention to those who do; however, the circumstances involved with a [child](#) becoming at risk often are complex and may include influences both within and outside of the school environment; and

(F) In fragile homes, a child who is at risk and is becoming a discouraged and defeated learner often lacks adequate support and may develop peer relationships that further exacerbate the difficulty of reengaging him or her in learning, school and responsible social behavior.

(2) The Legislature further finds that the public schools should not be deterred from seeking and assisting with enrollment of students in an alternative program that helps remedy the discouragement, lessens skill deficits and facilitates a successful return to public school.

(j) For this purpose, subject to approval of the county superintendent, a student enrolled in the public schools of the county may continue to be enrolled while also enrolled in an alternative program subject to the following conditions:

(1) The alternative program is approved by the state board;

(2) The student meets the general description of an at-risk student and exhibits behaviors and characteristics associated with a discouraged and defeated learner;

(3) The alternative program complies with all requests of the county superintendent for information on the educational program and progress of the student;

(4) The alternative program includes a family involvement component in its program. This component shall include, but is not limited to, providing for student and parent participation in activities that help address the challenging issues that have hindered the student's engagement and progress in learning;

(5) The alternative program includes an on-site boarding option for students;

(6) The alternative program provides an individualized education program for students that is designed to prepare them for a successful transition back into the public schools; and

(7) The parents or legal guardian of the student make application for enrollment of the student in the alternative program, agree to the terms and conditions for enrollment, and enroll the student in the program.

## **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

### **§18-2E-11. Advanced Career Education**

(a) The Legislature hereby makes the following findings:

(1) Preparing West Virginia students to achieve post-secondary career education and to excel in the workforce is a responsibility shared among all state education agencies and institutions. The state's education agencies and institutions can fulfill this responsibility by establishing partnerships that enable students to attain advanced career education and valuable workforce skills in a more efficient and advantageous manner;

(2) The formation of partnerships between public secondary schools and community and technical colleges or public baccalaureate institutions which establish advanced career education programs would ensure that a full range of community and technical college programs and services are provided in all areas of the state;

(3) Programs which create clear and efficient pathways that begin during secondary education and lead to obtaining advanced certifications and associate degrees will increase the number of students that ultimately obtain a post-secondary credential or degree; and

(4) West Virginia's economic prosperity is directly tied to the level and quality of its workforce career education. Providing the students of this state with increased access to career education will not only improve the general well-being of its citizens, but greatly enhance the economic prosperity of the state.

(b) The purpose of this section and the Advanced Career Education (ACE) programs authorized herein is to connect secondary schools with community and technical colleges or public baccalaureate institutions that provide associate degrees to accomplish the following:

(1) Prepare secondary students for success in post-secondary education and the workforce; and

(2) Provide more opportunities for secondary students to earn post-secondary college credits, certifications, and associate degrees.

(c) To effectuate the purposes set forth in §18-2E-11(b) of this code, community and technical colleges, public baccalaureate institutions, career technical education centers, and county boards of education, or any combination of such secondary and postsecondary entities, shall establish partnerships that provide for ACE programs which feature defined pathways that begin when a student is in secondary education and that ultimately lead to advanced certifications or associate degrees awarded by community and technical colleges or baccalaureate institutions. ACE programs shall be equally available to public, nonpublic, and homeschool students.

(d) ACE programs shall include pathways that consist of a curriculum of courses leading to advanced certifications or an associate degree that have been deemed to satisfy a workforce need as determined by the Department of Commerce.

(1) The Department of Commerce shall, on occasion, but at least annually, provide written notification to the State Board of Education, the West Virginia Council for Community and Technical College Education and the West Virginia Higher Education Policy Commission of a determination of areas of workforce need within the state.

(2) The Department of Commerce, in consultation with the council, the commission, and business partners, will develop a hierarchy of high demand skilled professions and workforce needs with shortages, which shall be given priority in administration of the program.

(e) The State Superintendent of Schools, the Chancellor of the Council for Community and Technical College Education, and the Chancellor of the Higher Education Policy Commission, or their designees, shall facilitate the ACE programs. At a minimum, an ACE program shall satisfy the following objectives:

(1) Provide additional opportunities to students in this state to attain advanced certifications and college credentials leading to associate degrees through ACE pathways;

(2) Increase the number of students in this state that attain advanced certifications and college credentials leading to associate degrees through ACE pathways;

(3) Allow students in this state to attain advanced certifications and college credentials leading to associate degrees through ACE pathways at little or no cost;

(4) Ensure that ACE pathways provide a clear roadmap to the courses and requirements necessary to attain advanced certifications and college credentials leading to associate degrees; and

(5) Ensure that course requirements within ACE pathways are not duplicated.

(f) The board and council shall jointly promulgate guidelines for the administration of ACE programs and pathways, which must be affirmatively adopted by the board and the council. At a minimum, such guidelines shall provide for the following:

(1) That ACE program partnerships established between community and technical colleges, public baccalaureate institutions, career technical education centers, and county boards of education, or any combination of such secondary and postsecondary entities, shall be reduced to written partnership agreements;

(2) The information required to be contained within partnership agreements;

(3) That ACE programs and pathways must meet the requirements of the accrediting entity for the community and technical college or public baccalaureate institution awarding the associate degrees or advanced certificates;

(4) That partnership agreements shall be approved by the State Superintendent of Schools, the Chancellor for the Council for Community and Technical College Education and the Chancellor of the Higher Education Policy Commission; and

(5) Any other provisions necessary to effectuate the purposes of this section.

(g) The board and the council shall maintain and annually report to the Governor and the Legislative Oversight Commission on Education Accountability the following information about ACE programs:

(1) The identity and number of partnership agreements;

(2) The ACE programs and pathways that are being utilized by career technical education centers, county boards of education, community and technical colleges, and public baccalaureate institutions; and

(3) The nature and number of degrees and certifications awarded to students participating in ACE programs by each community and technical college, public baccalaureate institution and career technical education center.

## **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

### **§18-9A-2. Definitions.<sup>1</sup>**

For the purpose of this article:

(a) “State board” means the West Virginia Board of Education.

(b) “County board” or “board” means a county board of education.

(c) “Professional salaries” means the state legally mandated salaries of the professional educators as provided in §18A-4-1 *et seq.* of this code.

(d) “Professional educator” shall be synonymous with and shall have the same meaning as “teacher” as defined in §18-1-1 of this code, and includes technology integration specialists.

(e) “Professional instructional personnel” means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director, or school psychologist. A professional educator having both instructional and administrative or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance, or psychologist duties.

(f) “Professional student support personnel” means a “teacher” as defined in §18-1-1 of this code who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor’s degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. Professional student support personnel shall also include professional personnel providing direct social and emotional support services to

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<sup>1</sup>This section of code was subsequently amended during the First Extraordinary Legislative session by HB206, and changes that were made pursuant to that bill are also included herein.



students, as well as professional personal addressing chronic absenteeism. For all purposes except for the determination of the allowance for professional educators pursuant to §18-9A-4 of this code, professional student support personnel are professional educators.

(g) "Service personnel salaries" means the state legally mandated salaries for service personnel as provided in §18A-4-8a of this code.

(h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by 200: Provided, That the computation for any service person employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code shall be calculated as one-half an employment day.

(i) "Net enrollment" means the number of pupils enrolled in special education programs, kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net enrollment further shall include:

(1) Adults enrolled in ~~regular secondary~~ vocational programs, ~~subject to the following: Provided, That (A)~~ net enrollment includes no more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in ~~regular secondary~~ vocational programs ~~in the prior year~~ counted on the basis of full-time equivalency: *Provided further,* That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code; ~~and~~

~~(B) Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;~~

(2) Students enrolled in early childhood education programs as provided in §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) A pupil may not be counted more than once by reason of transfer within the county or from another county within the state, and a pupil may not be counted who attends school in this state from another state;

(4) The enrollment shall be modified to the equivalent of the instructional term and in accordance with the eligibility requirements and rules established by the state board; and

(5) For the purposes of determining the county's basic foundation program only, for any county whose net enrollment as determined under all other provisions of this definition is less than 1,400, the net enrollment of the county shall be increased by an amount to be determined in accordance with the following:

(A) Divide the state's lowest county student population density by the county's actual student population density;

(B) Multiply the amount derived from the calculation in §18-9A-2(i)(5)(A) of this code by the difference between 1,400 and the county's actual net enrollment;

(C) Add the amount derived from the calculation in paragraph (B) of this subdivision to the county's actual net enrollment and increase that total amount by 10 percent; and

~~(C)-(D)~~ If the increase in net enrollment as determined under this subdivision plus the county's net enrollment as determined under all other provisions of this subsection is greater than 1,400, the increase in calculated net enrollment shall be reduced ~~so that the total does not exceed to~~ 1,400; and

~~(D)~~ (E) During the 2008-2009 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review this subdivision to determine whether ~~or not~~ these provisions properly address the needs of counties with low enrollment and a sparse population density.

(j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is less than five.

(k) "Low-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than five but less than 10.

(l) "Medium-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than 10 but less than 20.

(m) "High-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than 20.

(n) "Levies for general current expense purposes" means ~~90~~ 85 percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.

(o) "Technology integration specialist" means a professional educator who has expertise in the technology field and is assigned as a resource teacher to provide information and guidance to classroom teachers on the integration of technology into the curriculum.

(p) "State aid eligible personnel" means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution, or other specific funding source not listed.

(q) The amendments to this section during the 2019 First Extraordinary Session of the

Legislature shall be effective for the 2019-2020 funding year, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for funding years prior to the 2019-2020 funding year.

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.**

#### **§18B-3C-16. Encouragement of collaborative agreements between community and technical colleges and federally registered apprenticeship programs.**

(a) The Legislature finds that apprenticeship programs provide a valuable educational opportunity that can be enhanced by community and technical colleges that offer associate degrees. Accordingly, the Legislature hereby encourages, but is not requiring, community and technical colleges that offer associate degrees to enter into collaborative agreements with federally registered apprenticeship programs that are registered with the United States Department of Labor.

(b) On or before January 1 of each year, the council shall provide to the Legislature and the Governor a report regarding the collaborative agreements between community and technical colleges and federally registered apprenticeships programs. The report should identify those community and technical colleges that have entered into a collaborative agreement with federally registered apprenticeship programs, the number of students participating in such apprenticeship programs, the number of community and technical colleges credits earned by students in such apprenticeship programs, the number of students employed in a relevant field of study during such apprenticeship programs and for the year after completion of such apprenticeship programs, and the average compensation of the students employed in a relevant field of study during their enrollment in such apprenticeship programs and for the year after completion of such apprenticeship programs.

## **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

### **ARTICLE 9. WEST VIRGINIA INVESTS GRANT PROGRAM.**

#### **§18C-9-1. Short title.**

This article shall be known and may be cited as the WV Invests Grant Program.

#### **§18C-9-2. Legislative findings and purpose.**

(a) The Legislature hereby finds and declares that:

(1) Every West Virginian should have access to education and training that will lead directly to quality employment opportunities within the state. In order for West Virginia to retain and attract business and industry, it must ensure that its workforce has such education and training;

(2) West Virginia currently faces a human capital crisis, as the state regularly ranks amongst the lowest states in the nation in workforce participation rates. Improving the state's workforce participation rates and the level of the workforce's career education is critical to economic development and making West Virginia a more prosperous state;

(3) The 2017 West Virginia Forward Report, a strategy for economic development and job growth, found that "investments in improving human capital are considered the most significant opportunity for improvement in West Virginia, especially because access to a specialized workforce is a significant factor for investment attraction...";

(4) According to the United States Department of Labor's Bureau of Labor Statistics, the median yearly earnings of an individual with an associate's degree is approximately \$6,604 more than an individual with only a high school diploma. Therefore, any investment by the state into a citizen obtaining such a degree would be repaid multiple times over through the citizen's increased contributions to the economy and tax base;

(5) West Virginia is currently facing a devastating drug epidemic, and the hope that comes with increased access to career education and higher quality employment opportunities is an indispensable tool against the spread of drug addiction; and

(6) An investment by the state into increasing access to post-secondary career education will provide its citizens the hope and opportunity for better career opportunities, and provide the state with the trained workforce needed to attract significant economic development.

(b) The purpose of this article is to provide West Virginians with hope and economic prosperity by increasing access to a higher level of career education that is needed to fulfill the needs of today's workforce and provide for further economic development.

### **§18C-9-3. Definitions.**

As used in this article:

"Council" means the West Virginia Council for Community and Technical College Education;

"Commission" means the West Virginia Higher Education Policy Commission;

"Eligible institution" means a public community and technical college under the authority of the West Virginia Council for Community and Technical College Education or a public baccalaureate institution that grants associate degrees satisfying the requirements of participating in Advanced Career Education (ACE) program partnerships in accordance with §18-2E-11 of this code;

"Eligible post-secondary program" means a curriculum of courses leading to a certificate or associate degree at an eligible institution which satisfies a course of study that has been deemed by the Department of Commerce to satisfy a workforce need as determined by the department in accordance with §18-2E-11(d) of this code; and

“Tuition” means the semester or term charges imposed by an eligible institution and, additionally, all mandatory fees required as a condition of enrollment by all students.  
§18C-9-4. WV Invests Grant Program.

(a) There is hereby created a grant program known as the WV Invests Grant Program, which shall be administered by the vice chancellor for administration in accordance with this article.

(b) The council shall award WV Invests Grants pursuant to the following terms and conditions:

(1) A WV Invests Grant may only be awarded to applicants satisfying the requirements provided in §18C-9-5 of this code;

(2) The maximum amount of a WV Invests Grant shall be the cost of tuition charged to all students for coursework leading to completion of the chosen associate degree or certificate, less all other state and federal scholarships and grants for which the student is eligible. All other state and federal scholarships and grants for which the grant recipient is eligible shall be deducted from the amount of the WV Invests Grant for each individual student. The amount of a WV Invests Grant at an eligible public baccalaureate institution shall not exceed the average cost of tuition and mandatory fees of the community and technical colleges.

(3) Grant payments shall be made directly to the eligible institutions;

(4) If a grant recipient transfers from one eligible institution to another, the grant is transferable only with approval of the vice chancellor for administration;

(5) A WV Invests Grant may be used at any eligible institution to seek an associate degree or certificate in an eligible post-secondary program. An institution is not required to accept a grant recipient for enrollment and may enforce its own admission requirements, standards, and policies; and

(6) If a WV Invests Grant recipient terminates enrollment for any reason during the academic year, the unused portion of the grant shall be returned by the institution to the council in accordance with the council’s policy for issuing refunds. The council shall transfer such funds to the WV Invests Fund for allocation and expenditure.

(c) On or before January 1 annually, the council shall provide to the Legislature and the Governor a report on the WV Invests Grant Program, which shall include, but not be limited to, research and data concerning student success and grant retention.

(d) The council shall propose legislative rules for legislative approval pursuant to §29A-3A-1 et seq. of this code to implement the provisions of this article, which shall provide for:

(1) Application requirements and deadlines fully implementing requirements of this article;

(2) Appeal procedures for the denial or revocation of the grant; and

(3) Any other provisions necessary to effectuate the purposes of this article.

(e) The Legislature hereby declares that an emergency situation exists and, therefore, the council may establish, by emergency rule, under the procedures of §29A-3A-1 et seq. of this code, a rule to implement the provisions of this article.

(f) Beginning with the 2021 fiscal year, and for every fiscal year thereafter, any appropriation by the Legislature to support and or alleviate the cost to citizens in this state to obtain advanced certifications and associate degrees shall only be distributed to those community and technical colleges or public baccalaureate institutions that form one or more partnerships to establish ACE programs and pathways. Once distributed, such funds may be used to support any eligible post-secondary program or pathway provided by an eligible institution leading to the award of such degree or certification.

#### **§18C-9-5. Eligibility requirements; agreements.**

(a) To be eligible for a WV Invests Grant, an individual must satisfy the following requirements:

(1) Be a citizen or legal resident of the United States and have been a resident of West Virginia for at least one year immediately preceding the date of application for a grant;

(2) Have completed a secondary education program in a public, private, or home school;

(3) Have not been previously awarded a post-secondary degree;

(4) Be at least 18 years of age: Provided, That individuals younger than 18 years of age may qualify for the grant upon completion of a secondary education program in a public, private, or home school;

(5) Meet the admission requirements of, and be admitted into, an eligible institution;

(6) Satisfactorily meet any additional qualifications of enrollment, academic promise, or achievement as established by the council through rule;

(7) Have filed a completed free application for federal student aid for the academic year in which the grant award is sought;

(8) Be enrolled in an eligible post-secondary program;

(9) Be enrolled in at least six credit hours per semester;

(10) Have completed a WV Invests Grant application as provided by the council in accordance with a schedule established by the council; and

(11) Have, prior to the start of each semester, satisfactorily passed a drug test administered by the eligible institution: Provided, That the applicant shall be responsible for the actual cost of the drug test.

(b) Each grant may be renewed until the course of study is completed as long as the following qualifications, as determined by the vice chancellor for administration and the council, are satisfied:

(1) Maintaining satisfactory academic standing, including a cumulative grade point average of at least 2.0;

(2) Making adequate progress toward completion of the eligible post-secondary program;

(3) Satisfactory participation in a community service program authorized by the council. The council shall include in the legislative rules, required by §18C-9-4 of this code, provisions for the administration of community service requirements, including, but not limited to, requiring completion of at least eight hours of unpaid community service during the time of study, which may include, but is not limited to, participating with nonprofit, governmental, institutional, or community-based organizations designed to improve the quality of life for community residents, meet the needs of community residents, or foster civic responsibility;

(4) Continued satisfaction of eligibility requirements provided by §18C-9-5(a) of this code; and

(5) Satisfaction of any additional eligibility criteria established by the council through legislative rule.

(c) Each recipient of a WV Invests Grant shall enter into an agreement with the vice chancellor for administration, which shall require repayment of an amount of the grant or grants awarded to the recipient, in whole or in part, if a recipient chooses to reside outside the state within two years following obtainment of the degree or certificate for which the grant or grants were awarded. The council may not require a recipient to repay grants, in whole or in part, unless the prospective recipient has been informed of this requirement in writing before initial acceptance of the grant award. Each WV Invests Grant agreement shall include the following:

(1) Disclosure of the full terms and conditions under which assistance under this article is provided and under which repayment may be required; and

(2) A description of the appeals procedure required to be established under this article.

(d) WV Invests Grant recipients found to be in noncompliance with the agreement entered into under §18C-9-5(c) of this code shall be required to repay the amount of the grant awards received, plus interest, and, where applicable, reasonable collection fees, on a schedule and at a rate of interest prescribed in rules promulgated by the council. The council

shall also provide for proration of the amount to be repaid by a recipient who maintains employment in the state for a period of time within the time period required under §18C-9-5(c) of this code.

(e) A recipient is not in violation of an agreement entered into pursuant to §18C-9-5(c) of this code during any period in which the recipient is meeting any of the following conditions:

(1) Pursuing a half-time course of study at an accredited institution of higher education;

(2) Serving as a member of the armed services of the United States;

(3) Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician; or

(4) Satisfying the provisions of any additional repayment exemptions prescribed by the council through rule.

#### **§18C-9-6. WV Invests Fund; established.**

(a) The WV Invests Fund is hereby created in the State Treasury as a special revenue account. The fund shall be administered by the vice chancellor for administration and may consist of:

(1) All appropriations by the Legislature for the WV Invests Fund;

(2) Any gifts, grants, or contributions received for the WV Invests Fund; and

(3) All interest or other income earned from investment of the WV Invests Fund.

(b) The WV Invests Fund shall be expended for the purpose of administering the WV Invests Grant Program, including the awarding of grants authorized by this article. Any funds remaining in the fund at the close of the fiscal year are carried forward for use in the next fiscal year.

(c) Nothing in this section requires any specific level of funding by the Legislature nor guarantees or entitles any individual to any benefit or grant of funds.

*Bill Sponsors: Senators Carmichael (Mr. President), Sypolt, Cline, Takubo, Boso, Clements, Swope, Smith, Ihlenfeld, Baldwin, Stollings, Weld, and Plymale*



## **Senate Bill 26: Permitting certain employees of educational service cooperatives participate in state’s teacher retirement system**

*Effective Date:* May 26, 2019

*Code Reference:* Amends: §18-7A-3; §18-7B-2

*WVDE Contact:* Sarah Stewart, Government Affairs Counsel, Office of Legal Services

*Bill Summary:* The bill clarifies that employees of educational service cooperatives (ESCs) are eligible to participate in the state teachers retirement system.

### **CHAPTER 18. EDUCATION.**

#### **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

##### **§18-7A-3. Definitions.<sup>2</sup>**

As used in this article, unless the context clearly requires a different meaning:

“Accumulated contributions” means all deposits and all deductions from the gross salary of a contributor plus regular interest.

“Accumulated net benefit” means the aggregate amount of all benefits paid to or on behalf of a retired member.

“Actuarially equivalent” or “of equal actuarial value” means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: Provided, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, “actuarially equivalent” shall be computed using the mortality tables and interest rates required to comply with those requirements.

“Annuities” means the annual retirement payments for life granted beneficiaries in accordance with this article.

“Average final salary” means the average of the five highest fiscal year salaries earned as a member within the last 15 fiscal years of total service credit, including military service as provided in this article, or if total service is less than 15 years, the average annual salary for the period on which contributions were made: Provided, That salaries for determining

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<sup>2</sup>This section of code was subsequently amended during the First Extraordinary Legislative session by HB206, and changes that were made pursuant to that bill are also included herein.

benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code.

“Beneficiary” means the recipient of annuity payments made under the retirement system.

“Contributor” means a member of the retirement system who has an account in the Teachers Accumulation Fund.

“Deposit” means a voluntary payment to his or her account by a member.

“Employer” means the agency of and within the state which has employed or employs a member.

“Employer error” means an omission, misrepresentation, or violation of relevant provisions of the West Virginia Code, or of the West Virginia Code of State Regulations, or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required. A deliberate act contrary to the provisions of this section by a participating public employer does not constitute employer error.

“Employment term” means employment for at least 10 months, a month being defined as 20 employment days.

“Gross salary” means the fixed annual or periodic cash wages paid by a participating public employer to a member for performing duties for the participating public employer for which the member was hired. Gross salary shall be allocated and reported in the fiscal year in which the work was done. Gross salary also includes retroactive payments made to a member to correct a clerical error, or made pursuant to a court order or final order of an administrative agency charged with enforcing federal or state law pertaining to the member’s rights to employment or wages, with all retroactive salary payments to be allocated to and considered paid in the periods in which the work was or would have been done. Gross salary does not include lump sum payments for bonuses, early retirement incentives, severance pay, or any other fringe benefit of any kind including, but not limited to, transportation allowances, automobiles or automobile allowances, or lump sum payments for unused, accrued leave of any type or character.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

“Member” means any person who has accumulated contributions standing to his or her credit in the State Teachers Retirement System. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited, or until cessation of membership pursuant to §18-7A-13 of this code.

“Members of the administrative staff of the public schools” means deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

“Members of the extension staff of the public schools” means every agricultural agent, boys and girls club agent, and every member of the agricultural extension staff whose work is not primarily stenographic, clerical, or secretarial.

“New entrant” means a teacher who is not a present teacher.

“Nonteaching member” means any person, except a teacher member, who is regularly employed for full-time service by: (A) Any county board of education or educational services cooperative; (B) the State Board of Education; (C) the Higher Education Policy Commission; (D) the West Virginia Council for Community and Technical College Education; or (E) a governing board, as defined in §18B-1-2 of this code; or (F) a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article and §18-7B-1 et seq. of this code, subject to §18-7B-7a: Provided, That any person whose employment with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, or a governing board commences on or after July 1, 1991, is not considered a nonteaching member.

“Plan year” means the 12-month period commencing on July 1 and ending the following June 30 of any designated year.

“Present member” means a present teacher or nonteacher who is a member of the retirement system.

“Present teacher” means any person who was a teacher within the 35 years beginning July 1, 1934, and whose membership in the retirement system is currently active.

“Prior service” means all service as a teacher completed prior to July 1, 1941, and all service of a present member who was employed as a teacher and did not contribute to a retirement account because he or she was legally ineligible for membership during the service.

“Public schools” means all publicly supported schools, including colleges and universities in this state.

“Refund beneficiary” means the estate of a deceased contributor or a person he or she has nominated as beneficiary of his or her contributions by written designation duly executed and filed with the retirement board.

“Regular interest” means interest at four percent compounded annually, or a higher earnable rate if set forth in the formula established in legislative rules, series seven of the Consolidated Public Retirement Board, 162 CSR 7.

“Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

“Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar

year in which the member retires or ceases covered employment under the system after having attained the age of 70 and one-half years.

“Retirant” means any member who commences an annuity payable by the retirement system.

“Retirement board” means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq.* of this code.

“Retirement system” means the State Teachers Retirement System established by this article.

“Teacher member” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, the State Department of Education, or the State Teachers Retirement Board, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections, the Division of Health, or the Division of Human Services; (K) an employee of the State Board of School Finance, if that person was formerly employed as a teacher in the public schools; (L) employees of an educational services cooperative who are performing services of an educational nature; and (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the State Teachers Retirement System provided in this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement system under this code and §18-7B-1 *et seq.* of this code.

“Total service” means all service as a teacher or nonteacher while a member of the retirement system since last becoming a member and, in addition thereto, credit for prior service, if any.

Age in excess of 70 years shall be considered to be 70 years.

## **ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.**

### **§18-7B-2. Definitions.<sup>3</sup>**

As used in this article, unless the context clearly requires a different meaning:

“Annual addition” means, for purposes of the limitations under Section 415(c) of the Internal Revenue Code, the sum credited to a member’s account for any limitation year of: (A) Employer contributions; (B) employee contributions; and (C) forfeitures. Repayment of cash-outs or contributions as described in Section 415(k)(3) of the Internal Revenue Code, rollover contributions and picked-up employee contributions to a defined benefit plan may not be treated as annual additions, consistent with the requirements of Treasury Regulation §1.415(c)-1.

“Annuity account” or “annuity” means an account established for each member to record the deposit of member contributions and employer contributions and interest, dividends, or other accumulations credited on behalf of the member.

“Compensation” means the full compensation actually received by members for service whether or not a part of the compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions: Provided, That annual compensation for determining contributions during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code: Provided, however, That solely for purposes of applying the limitations of Section 415 of the Internal Revenue Code to any annual addition, “compensation” has the meaning given it in §18-7B-13d of this code.

“Consolidated board” or “board” means the Consolidated Public Retirement Board created and established pursuant to §5-10D-1 *et seq.* of this code.

“Defined contribution system” or “system” means the Teachers’ Defined Contribution Retirement System created and established by this article.

“Employer” means the agency of and within the State of West Virginia which has employed or employs a member.

“Employer contribution” means an amount deposited into the member’s individual annuity account on a periodic basis coinciding with the employee’s regular pay period by an employer from its own funds.

“Employment term” means employment for at least 10 months in any plan year with a month being defined as 20 employment days.

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<sup>3</sup>This section of code was subsequently amended during the First Extraordinary Legislative session by HB206, and changes that were made pursuant to that bill are also included herein.

“Existing employer” means any employer who employed or employs a member of the system.

“Existing retirement system” means the State Teachers Retirement System established in §18-7A-1 *et seq.* of this code.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

“Member” or “employee” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, or the State Department of Education, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and the Department of Health and Human Resources; (K) any person who is regularly employed for full-time service by any county board of education, educational services cooperative, or the State Board of Education; (L) the administrative staff of the public schools including deans of instruction, deans of men and deans of women, and financial and administrative secretaries; and (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the Teachers’ Defined Contribution Retirement System established by this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article, subject to §18-7B-7a, and §18-7A-1 *et seq.* of this code.

“Member contribution” means an amount reduced from the employee’s regular pay periods, and deposited into the member’s individual annuity account within the Teachers’ Defined Contribution Retirement System.

“Permanent, total disability” means a mental or physical incapacity requiring absence from employment service for at least six months: Provided, That the incapacity is shown by an examination by a physician or physicians selected by the board: Provided, however, That for employees hired on or after July 1, 2005, “permanent, total disability” means an inability to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months and the incapacity is so severe that the member is likely to be permanently unable to perform the duties of the position the member occupied immediately prior to his or her disabling injury or illness.

“Plan year” means the 12-month period commencing on July 1 of any designated year and ending on the following June 30.

“Public schools” means all publicly supported schools, including normal schools, colleges, and universities in this state.

“Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

“Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar year in which the member retires or otherwise ceases employment with a participating employer after having attained the age of 70 and one-half years.

“Retirement” means a member’s withdrawal from the active employment of a participating employer and completion of all conditions precedent to retirement.

“Year of employment service” means employment for at least 10 months, with a month being defined as 20 employment days: Provided, That no more than one year of service may be accumulated in any 12-month period.

*Bill Sponsors: Senator Blair*

## **Senate Bill 154: Using school facilities for funeral and memorial services for certain community members**

*Effective Date:* June 5, 2019

*Code Reference:* [Adds: §18-5-13d](#)

*WVDE Contact:* Sarah Stewart, Government Affairs Counsel, Office of Legal Services

*Bill Summary:* The bill requires county boards of education to allow school facilities to be used for funeral or memorial services for distinguished community members that served in the military under honorable conditions or served as a first responder. County boards are not responsible for the costs associated with holding such services at school facilities, and are not to disrupt or interfere with classroom instruction or scheduled school events. County boards are to establish a process for receiving and handling requests to use school facilities for such purposes.

### **CHAPTER 18. EDUCATION.**

#### **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

##### **§18-5-13d. Use of school facilities for funeral and memorial services.**

(a) Public schools in this state serve as an integral part of the community and the death of a community member of distinction who was a military service member or veteran who served under honorable conditions, or who served as a first responder, can have a significant impact on students and the surrounding community.

(b) Notwithstanding any other provision of this code or any policy currently in place, county boards of education shall allow school facilities in the county to be used for the funeral or memorial service, or both funeral and memorial services, of a community member of distinction who was a military service member or veteran who served under honorable conditions or who served as a first responder, consistent with this section. County boards may set up a process by which requests to use school facilities for such purposes may be made. County boards may not be responsible for additional costs incurred as a result of holding the funeral or memorial service at the school facility.

(c) Any funeral or memorial service held at a school facility may not disrupt or interfere with classroom instruction, any other scheduled school event or activity, or other official governmental use, such as when a school serves as a polling place for an election.

*Bill Sponsors:* Senators Jeffries, Baldwin, Stollings, Lindsay, Plymale, Hamilton, and Boso



## Senate Bill 238: Increasing certain penalties for illegal passing stopped school bus

Effective Date: June 5, 2019

Code Reference: Amends: §17C-12-7

WVDE Contact: Amy Willard, Executive Director, Office of School Finance

Bill Summary: The bill increases the criminal and administrative penalties for passing a school bus as follows:

	Criminal	Administrative
1st Offense	Increases from \$250-\$500 to \$500-\$1,000	Increases license suspension from 30 days to 60 days
2nd Offense	Increases from \$500-\$1,000 to \$1,000-\$1,500	Increases license suspension from 90 days to 180 days
3rd Offense	Increases from \$1,000 fine to \$2,000 fine	Increases license suspension from 180 days to 360 days

The fine for a person passing a school bus that causes serious bodily injury to another is increased from \$500-\$2,000 to \$2,000-\$5,000.

The fine for a person passing a school bus that causes death is increased from \$1,000-\$3,000 to \$5,000-\$10,000.

The bill also requires county boards of education to install forward and rear facing cameras on all school buses purchased on/after July 1, 2019. Funding for such cameras is included in Step 4 of the funding formula.

### CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.

#### ARTICLE 12. SPECIAL STOPS REQUIRED.

##### **§17C-12-7. Overtaking and passing school bus; penalties; signs and warning lights upon buses; requirements for sale of buses; mounting of cameras; educational information campaign; limitation on idling.**

(a) The driver of a vehicle, upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children, shall stop the vehicle before reaching the school bus when there is in operation on the school bus flashing warning signal lights, as referred to in §17C-12-8 of this [articlecode](#), and the driver may not proceed until the school bus resumes motion, or is signaled by the

school bus driver to proceed or the visual signals are no longer actuated. This section applies wherever the school bus is receiving or discharging children including, but not limited to, any street, highway, parking lot, private road or driveway: Provided, That the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a school bus which is on a different roadway or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

(b) Any driver acting in violation of subsection (a) of this section is guilty of a misdemeanor and, upon conviction for a first offense, shall be fined not less than ~~\$250~~ \$500 or more than ~~\$500~~ \$1,000, or confined in jail not more than six months, or both fined and confined. Upon conviction of a second violation of subsection (a) of this section, the driver shall be fined not less than ~~\$500~~ \$1,000 nor more than ~~\$1,000~~ \$1,500, or confined in jail not more than six months, or both fined and confined. Upon conviction of a third or subsequent violation of subsection (a) of this section, the driver shall be fined ~~\$1,000~~ \$2,000 and confined not less than 48 hours in jail but not more than six months.

(c) Where the actual identity of the operator of a motor vehicle operated in violation of subsection (a) of this section is unknown but the license plate number of the motor vehicle is known, it may be inferred that the operator was an owner or lessee of the motor vehicle for purposes of the probable cause determination. Where there is more than one registered owner or lessee, the inference created by this subsection shall apply to the first listed owner or lessee as found on the motor vehicle registration: Provided, That a person charged with a violation of subsection (a) of this section under the provisions of this subsection where the sole evidence against the owner or lessee is the presence of the vehicle at the scene at the time of the offense shall only be subject to the applicable fine set forth in subsection (b) of this section upon conviction: Provided, however, That, the offenses set forth in subsections (f) and (g) of this section are separate and distinct from that set forth in subsection (a) of this section.

(d) Service of process of a complaint issued pursuant to subsection (c) of this section shall be effected consistent with West Virginia Rule of Criminal Procedure 4.

(e) In addition to the penalties prescribed in subsections (b) of this section, the Commissioner of Motor Vehicles shall, upon conviction, suspend the driver's license of the person so convicted:

(1) Of a first offense under subsection (b) of this section, for a period of ~~thirty~~ 60 days;

(2) Of a second offense under subsection (b) of this section, for a period of ~~ninety~~ 180 days; or

(3) Of a third or subsequent offense under subsection (b) of this section, for a period of ~~one hundred eighty days~~ one year.

(f) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this section and the violation causes serious bodily injury to any person other than the driver, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than one year nor more than three years and fined not less than ~~\$500~~ \$2,000 nor more than \$2,000 \$5,000.

(g) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this section, and the violation causes death, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than one year nor more than 10 years and fined not less than ~~\$1,000~~ \$5,000 nor more than ~~\$3,000~~ \$10,000.

(h) Every bus used for the transportation of school children shall bear upon the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height. When a contract school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school, all markings on the contract school bus indicating "school bus" shall be covered or concealed. Any school bus sold or transferred to another owner by a county board of education, agency or individual shall have all flashing warning lights disconnected and all lettering removed or permanently obscured, except when sold or transferred for the transportation of school children: Provided, "That every county board of education shall install forward-facing and rear-facing cameras on all school buses purchased on or after July 1, 2019, for the purpose of enforcing this section and for any other lawful purpose.

~~(i) Every county board of education is hereby authorized to mount a camera on any school bus for the purpose of enforcing this section or for any other lawful purpose.~~

~~(j)~~ To the extent that state, federal or other funds are available, the State Police shall conduct an information campaign to educate drivers concerning the provisions of this section and the importance of school bus safety.

~~(k)~~ ~~(j)~~ The State Board of Education shall promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code governing the idling of school buses.

*Bill Sponsors: Senators Baldwin, Cline, Jeffries, and Lindsay*

## **Senate Bill 267: Requiring State Board of Education adopt policy detailing level of computer science instruction**

*Effective Date:* May 12, 2019

*Code Reference:* Amends: §18-2-12

*WVDE Contact:* Jan Barth, Assistant Superintendent, Division of Teaching & Learning

*Bill Summary:* The bill requires the WVBE to adopt a policy detailing the appropriate level of computer science instruction for students at each programmatic level. It further requires the WVDE to develop and offer appropriate professional learning opportunities to educators providing computer science instruction. The WVDE may partner with high-quality computer science professional learning providers in developing/ offering the professional learning opportunities.

### **CHAPTER 18. EDUCATION.**

#### **ARTICLE 2. STATE BOARD OF EDUCATION.**

##### **§18-2-12. Computer science courses of instruction; learning standards; state board plan development.**

(a) Legislative findings:

(1) Computer technology increasingly is pervasive in nearly every function of society from consumer products to transportation, communications, electrical infrastructure, logistics, agriculture, medical treatments, research, security and financial transactions;

(2) The U.S. Bureau of Labor Statistics predicts that by 2024, there will be more than 800,000 new jobs in the STEM fields and more than two-thirds of these directly will be in computing occupations;

(3) Studying computer science prepares students to enter many career areas, both within and outside of computing, teaching them logical reasoning, algorithmic thinking, design and structured problem solving skills applicable in many contexts from science and engineering to the humanities and business;

(4) Computer science is an established discipline at the collegiate and post-graduate levels but, unfortunately, computer science concepts and courses have not kept pace in the K-12 curriculum to the point that the nation faces a serious shortage of computer scientists at all levels that is likely to continue for the foreseeable future; and

(5) Organizations such as the Computer Science Teachers Association, the International Society for Technology in Education and technology industry leaders have developed recommendations for standards, curriculum and instructional resources for computer technology learning in K-12 schools.

(b) Prior to the 2017 regular legislative session, the state board shall submit a plan to the Legislative Oversight Commission on Education Accountability for the implementation of computer science instruction and learning standards in the public schools. The Plan shall include at least the following:

(1) Recommendations for a core set of learning standards designed to provide the foundation for a complete computer science curriculum and its implementation at the K-12 level including, but not limited to:

(A) Introducing the fundamental concepts of computer science to all students, beginning at the elementary school level;

(B) Presenting computer science at the secondary school level in a way that is both accessible and worthy of an academic curriculum credit and may fulfill a computer science, math, or science graduation credit;

(C) Encouraging schools to offer additional secondary-level computer science courses that will allow interested students to study facets of computer science in more depth and prepare them for entry into the work force or college; and

(D) Increasing the availability of rigorous computer science for all students.

(2) Recommendations for teaching standards and secondary certificate endorsements if necessary for teachers to deliver curriculum appropriate to meet the standards;

(3) Recommendations for units of instruction or courses in academic and vocational technical settings that complement any existing K-12 computer science and IT curricula where they are already established, especially the advanced placement computer science curricula and professional IT certifications; and

(4) Proposals for implementation of the recommendations over a period not to exceed four years and estimates of any associated additional costs.

(c) Nothing in this section requires adoption or implementation of any specific recommendation or any level of appropriation by the Legislature.

(d) Recognizing the importance of computer science instruction and how computer science instruction will assist students in their transition to post-secondary opportunities, prior to the 2020-2021 school year, the state board shall adopt a policy detailing the appropriate level of computer science instruction that shall be available to students at each programmatic level.

(e) The West Virginia Department of Education shall develop and offer professional development opportunities to ensure educators are equipped with the requisite knowledge and skill to deliver computer science instruction as outlined in this section. The department may partner with high-quality computer science professional learning providers in developing and offering the professional development opportunities.

*Bill Sponsors: Senators Carmichael (Mr. President) and Prezioso (Governor's Bill)*



**Senate Bill 605:**

**Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries.**

*Effective Date:*

June 6, 2019

*Code Reference:*

Amends: §18-2-25a; §18-2-25b

*WVDE Contact:*

Sarah Stewart, Government Affairs Counsel, Office of Legal Services

*Bill Summary:*

The bill requires that the SSAC add the following professions to its list of professionals that may clear a student to return to play following a concussion: licensed physical therapists and licensed or registered athletic trainers.

The bill directs that any member school that fails to follow SSAC protocols regarding concussion management will be subject to SSAC disciplinary action. The SSAC is instructed to adopt a rule establishing guidelines for noncompliance and related disciplinary action for failure to follow concussion management protocols. Minimum requirements for the rule are set forth in statute, and include:

- Concussion information sheets must be signed by athlete and athlete’s parent/guardian annually prior to participating in an athletic activity.
- All head coaches must annually complete approved training on concussion recognition and return-to-play protocol.
- Requirements for when athletes suspected of suffering a head injury are to be removed from play, and when they may return to play.
- Reporting requirements for member schools when an athlete has suffered/suspected of suffering a concussion.

Similar disciplinary action language is included in the bill with respect to failure to follow SSAC rules relating to Emergency Action Plans. Specifically, any member school that fails to follow SSAC protocols regarding Emergency Action Plans will be subject to SSAC disciplinary action, and the SSAC is instructed to adopt a rule establishing guidelines for noncompliance and related disciplinary action.

## CHAPTER 18. EDUCATION.

### ARTICLE 2. STATE BOARD OF EDUCATION.

#### **§18-2-25a. Management of concussions and head injuries in athletics at West Virginia Secondary Schools Activities Commission member high school or middle school.**

(a) The Legislature makes the following findings:

(1) Concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities. The Centers for Disease Control and Prevention estimates that as many as 3.9 million sports-related and recreation-related concussions occur in the United States each year;

(2) A concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk of catastrophic injuries or death is significant when a concussion or head injury is not properly evaluated and managed;

(3) Concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally functions;

(4) Concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other or with obstacles;

(5) Concussions occur with or without loss of consciousness, but the vast majority occur without loss of consciousness;

(6) The interscholastic athlete who continues to play or practice with a concussion or symptoms of head injury is especially vulnerable to greater injury and even death; and

(7) Even with generally recognized return-to-play-and-practice standards for concussion and head injury, some affected interscholastic athletes are prematurely returned to play or practice resulting in increased risk of physical injury or death to the athletes in the state of West Virginia.

(b) For the purposes of this section, “interscholastic athlete” means any athlete who is participating in interscholastic athletics at a high school or middle school that is a member of the West Virginia Secondary School Activities Commission. “Licensed health care professional” means a health care provider whose licensed scope of practice includes the ability to diagnose and treat an injury or disease.

(c) The West Virginia Secondary School Activities Commission shall promulgate rules pursuant to §18-2-25 of this [article code](#) that address concussions and head injuries in interscholastic athletes: Provided, That prior to state board approval and notwithstanding the exemption provided in §29A-1-3 of this code, the state board shall submit the rule to the Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9 of ~~said~~ [chapter this code](#).



(d) The rules required by this section shall include, but are not limited to, the following:

(1) Guidelines and other pertinent information to inform and educate appropriate school administrators, coaches, interscholastic athletes, and their parents or guardians of the nature and risk of concussion and head injury including the risks of continuing to play or practice after a concussion or head injury;

(2) A concussion and head injury information sheet that shall be signed and returned by the interscholastic athlete and the athlete's parent or guardian on an annual basis before the interscholastic athlete begins practice or competition;

(3) A requirement that each head coach of an interscholastic sport at a high school or middle school who is a member of the West Virginia Secondary School Activities Commission complete a commission-approved concussion and head injury recognition and return-to-play protocol course annually;

(4) A requirement that an interscholastic athlete who is suspected by a licensed health care professional or by his or her head coach or licensed or registered athletic trainer of having sustained a concussion or head injury in a practice or game shall be removed from competition at that time;

(5) A requirement that an interscholastic athlete who has been removed from play or practice may not return to play or practice until the athlete is evaluated by a licensed health care professional trained in the evaluation and management of concussions and receives written clearance to return to play and practice from the licensed health care professional;

(6) A list of the respective categories of licensed health care professionals including, but not limited to, licensed physical therapists and licensed or registered athletic trainers who, if properly trained in the evaluation and management of concussions, are authorized to provide written clearance for the interscholastic athlete to return to play; and

(7) A requirement that all member schools must submit a report to the West Virginia Secondary School Activities Commission within 30 days of an interscholastic athlete suffering or being suspected of suffering a concussion or head injury in a practice or game. The report must state whether an evaluation by a licensed health care professional verified that a concussion or head injury was actually suffered, whether the athlete received written clearance to return to play or practice and, if written clearance was given, the number of days between the incident and the actual return to play or practice. If written clearance to return to play is given after 30 days of the incident, a report update shall be submitted. The West Virginia Secondary School Activities Commission shall compile and submit the reports to the appropriate state and national organization or agencies to analyze and make determinations on whether the rule required by this section needs to be amended or if equipment worn by interscholastic athletes needs to be changed accordingly. The West Virginia School Activities Commission also shall submit the reports to the Legislative Oversight Commission on Health and Human Resources Accountability.

(e) Any member school not complying with the requirements of this section, and rules promulgated thereof, shall be subject to the disciplinary actions ordered by the West Virginia Secondary School Activities Commission: Provided, That the West Virginia Secondary School Activities Commission shall promulgate rules to establish guidelines for noncompliance and related disciplinary actions: Provided, however, That prior to state board approval and notwithstanding the exemption provided in §29A-1-3 of this code, the state board shall submit the rule to the Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9 of this code.

**§18-2-25b. Emergency action plans for athletics.**

(a) No later than August 1, 2017, the West Virginia Secondary Schools Athletics Commission shall promulgate rules to establish guidelines for emergency action plans for athletics designed to respond to athletic injuries that occur on school property during school-sponsored athletic events. The rules shall address, at a minimum:

(1) Protocols for practices and for games;

(2) Directives for personnel or equipment which should be available on sports fields or in school buildings for both girls' and boys' teams; and

(3) Training needed for school or volunteer personnel on an as-needed basis.

(b) All member schools shall submit an emergency action plan for athletics to the West Virginia Secondary Schools [Athletics Activities](#) Commission and their county boards of education by December 31, 2017: Provided, That the county boards shall keep the emergency plan of each school in the county on file and, unless otherwise provided for, provide a copy of each school's emergency action plan for athletics to each local emergency response agency that has a role in the plan.

(c) Any person licensed by, or certified or registered in, this state to provide health care or professional health care services who renders services of a medical nature to students under this section, who has an agreement with a county board of education that defines the scope of his or her duties as such, and for which no remuneration is demanded or received, is not liable for any civil damages as a result of rendering such services, or as a result of any act or failure to act in providing or arranging further medical treatment.

(1) The limitation of liability only applies if the services are provided in accordance with acceptable standards of care and the licensed health care provider is not grossly negligent or does not demonstrate willful misconduct.

(2) Any liability is limited to the applicable limits of the professional liability insurance provided by the State Board of Risk and Insurance Management in effect at the time.

(3) Nothing in this subsection nullifies the immunity from civil liability as granted pursuant to §55-7-15 of this code or federal law except to the extent to which the actions are covered within the applicable limits of the professional liability insurance provided by the

State Board of Risk and Insurance Management pursuant to this section and in effect at the time.

(d) Any member school not complying with the requirements of this section, and rules promulgated thereof, shall be subject to the disciplinary actions ordered by the West Virginia Secondary School Activities Commission: Provided, That the West Virginia Secondary School Activities Commission shall promulgate rules to establish guidelines for noncompliance and related disciplinary actions: Provided, however, That prior to state board approval and notwithstanding the exemption provided in §29A-1-3 of this code, the state board shall submit the rule to the Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9 of this code.

*Bill Sponsors: Senators Rucker, Boso, Maroney, Tarr, Baldwin, Cline, and Sypolt*

## **Senate Bill 632: Improving student safety**

*Effective Date:* July 1, 2019

*Code Reference:* Amends: §18A-2-8  
Adds: §18-5-48; §18-20-11

*WVDE Contact:* Heather Hutchens, General Counsel, Office of Legal Services

*Bill Summary:* The bill requires county boards of education and multi-county vocational centers (MCVCs) to annually assess the safety and security of their facilities and to upgrade when necessary to ensure student safety. County Boards are required to annually report the safety measures it has in place to the WVDE, and the WVDE is required to report the same to LOCEA.

The bill creates the Safe Schools Fund to be funded with legislative appropriations and “other sources.” The WVDE is annually required to request an appropriation for safety and security measures based on requests received from county boards. Annually, money in the Safe Schools Fund is to be distributed equally to each public school throughout the state and must be spent to support that school (i.e., the county board cannot combine and use one school’s money to support upgrades at another school). The bill specifically states that monies from Safe Schools Fund may be used to install cameras in self contained special education classrooms as outlined in the following section of the bill. Money in the Safe Schools Fund is carried forward at the end of each fiscal year, and fund balances are to be invested with the state’s Consolidated Investment Fund; all interest earned is to be deposited back in the Safe Schools Fund.

The bill requires, subject to legislative appropriation, county boards of education to install cameras in self-contained special education classrooms. The bill defines a self-contained special education classroom as a public school classroom where a majority of the students therein are provided special education instruction and as further defined in WVBE policy. Cameras need to be capable of monitoring all areas of the classroom, including side rooms attached to the classroom and recording all audio of the classroom; however, the camera is not to monitor a restroom or changing area attached to the classroom. The principal is the custodian of the camera, all recordings, and controls access to the recordings. Schools are required to provide written notice to parents/guardians, county board, and school employees working in the self-contained classroom that a camera will be installed in the classroom.

Schools are required to retain camera recordings for at least 3 months, and then the recording is to be deleted. Schools can retain the recordings for a longer period of time in order to allow an appropriate person to view the recording or if a recording is necessary for a legal/ administrative proceedings. The bill lays out a process for requesting/ viewing a recording when appropriate, and makes clear that recordings are otherwise confidential and may not be used in teacher evaluations. Additionally, students cannot be disciplined for inappropriate conduct in a video that is not related to the underlying alleged incident, unless that inappropriate action itself constitutes a separate incident.

The bill makes clear that the legislation does not waive immunity from liability of a school district or employee or create liability or a cause of action against the school or employee. Ultimately, school districts are to comply with FERPA in allowing any viewing of the video, and persons dissatisfied with how a school handles a recording may appeal to the state board. Any unforeseen issues that arise from this legislation are to be addressed by state board via policy.

The bill adds language that allows a county board to suspend/dismiss an employee upon a finding of abuse by DHHR, or upon conviction of a misdemeanor that has a rational nexus to the employee's job.

Finally, the bill requires the State Superintendent to maintain a confidential database of employees that are suspended/dismissed for misconduct. County superintendents are required to report such action to the WVDE. Access to the database is limited to county HR directors, county superintendents, and the State Superintendent.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

#### **§18-5-48. Safety and security measures for school facilities; Safe Schools Fund created.**

(a) Each county board of education and multicounty vocational center shall annually assess the safety and security of each of the school facilities within its boundaries. Safety and security measures of each facility shall be upgraded when necessary to ensure, to the best of the county board's ability, the safety of the students within each facility. Each county board of education shall report annually the safety and security measures it has put in place, including upgrades thereto, to the State Department of Education. Annually, the State Department of Education shall compile the information from the county boards of education, and report the information to the Legislative Oversight Commission on Education Accountability.

(b) As used in this section, "safety and security measures" means action taken by a

county board of education or multicounty vocational center that improves the security of a school facility and the safety of the students within such facility, including, but not limited to, hiring a school resource officer, installing weapon detection systems, upgrading facility doors or windows, etc.

(c) There is hereby created in the State Treasury a special revenue fund to be known as the Safe Schools Fund. The fund shall consist of all moneys received from legislative appropriations and other sources to further the purpose of this section: Provided, That annually, the West Virginia Department of Education shall request an appropriation based on the requests of the county boards of education. Subject to legislative appropriation, the funds appropriated annually to the School Safety Fund shall be distributed to the county boards of education and multicounty vocational centers, with the funding amount per school determined by dividing the total annual appropriation by the total number of public schools throughout the state. All moneys distributed from this fund shall be used to support the purpose and intent of this section and all moneys must be spent to support the school for which the funding was derived: Provided, however, That moneys distributed from this fund also may be used for the purposes of §18-20-11 of this code, relating to video cameras in certain special education classrooms. Any moneys remaining in the fund at the close of the fiscal year shall be carried forward for use in the next fiscal year. Fund balances shall be invested with the state’s Consolidated Investment Fund and any and all interest shall be used solely for the purposes that moneys deposited in the fund may be used pursuant to this article.

## **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

### **§18-20-11. Video cameras required in certain special education classrooms.**

(a) Upon appropriation of funds by the Legislature, a county board of education shall ensure placement of video cameras in self-contained classrooms as defined in state board policy.

(b) As used in this section:

(1) “Incident” means a raised suspicion by a teacher, aide, parent, or guardian of a child, of bullying, abuse, or neglect of a child or of harm to an employee of a public school by:

(A) An employee of a public school or school district; or

(B) Another student;

(2) “Self-contained classroom” means a classroom at a public school in which a majority of the students in regular attendance are provided special education instruction and as further defined in state board policy; and

(3) “Special education” means the same as defined in §18-20-1 *et seq.* of this code.

(c) A county board of education shall provide a video camera to a public school for each self-contained classroom that is a part of that school which shall be used in every self-contained classroom. The principal of the school shall be the custodian of the video camera, all recordings generated by the video camera, and access to those recordings pursuant to this section.

(d)(1) Every public school that receives a video camera under this section shall operate and maintain the video camera in every self-contained classroom that is part of that school.

(2) If there is an interruption in the operation of the video camera for any reason, a written explanation should be submitted to the school principal and the county board explaining the reason and length for which there was no recording. The explanation shall be maintained at the county board office for at least one year.

(e)(1) A video camera placed in a self-contained classroom shall be capable of:

(A) Monitoring all areas of the self-contained classroom, including, without limitation, a room attached to the self-contained classroom and used for other purposes; and

(B) Recording audio from all areas of the self-contained classroom, including, without limitation, a room attached to the self-contained classroom and used for other purposes;

(2) A video camera placed in a self-contained classroom shall not monitor a restroom or any other area in the self-contained classroom where a student changes his or her clothes except for incidental monitoring of a minor portion of a restroom or other area where a student changes his or her clothes because of the layout of the self-contained classroom.

(3) A video camera placed in a self-contained classroom is not required to be in operation during the time in which students are not present in the self-contained classroom.

(f) Before a public school initially places a video camera in a self-contained classroom pursuant to this section, the public school shall provide written notice of the placement to:

(1) The parent or legal guardian of a student who is assigned to the self-contained classroom;

(2) The county board; and

(3) The school employee(s) who is assigned to work with one or more students in the self-contained classroom.

(g)(1) A public school shall retain video recorded from a camera placed under this section for at least three months after the date the video was recorded after which the recording shall be deleted or otherwise made unretrievable.

(2) If a person requests to view a recording under subsection (k) of this section, the public school shall retain the recording from the date of the request until:

(A)(i) Except as provided in §18-20-11(g)(2)(A)(ii) of this code, the person views the recording;

(ii) A person who requests to view a recording shall make himself or herself available for viewing the recording within 30 days after being notified by the public school that the person's request has been granted; and

(B) Any investigation and any administrative or legal proceedings that result from the recording have been completed, including, without limitation, the exhaustion of all appeals.

(h) This section does not:

(1) Waive any immunity from liability of a public school district or employee of a public school district; or

(2) Create any liability for a cause of action against a public school or school district or employee of a public school or school district.

(i) A public school or school district shall not:

(1) Allow regular, continuous, or continual monitoring of video recorded under this section; or

(2) Use video recorded under this section for:

(A) Teacher evaluations; or

(B) Any purpose other than the promotion of the health, well-being, and safety of students receiving special education and related services in a self-contained classroom.

(j) Except as provided under subsections (k) and (l) of this section, a video recording of a student made under this section is confidential and shall not be released or viewed.

(k) Within seven days of receiving a request, a public school or school district shall allow viewing of a video recording by:

(1) A public school or school district employee who is involved in an alleged incident that is documented by the video recording and has been reported to the public school or school district;

(2) A parent or legal guardian of a student who is involved in an alleged incident that is documented by the video recording and has been reported to the public school or school district;

(3) An employee of a public school or school district as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the public school or school district;



(4) A law-enforcement officer as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the law-enforcement agency; or

(5) The Department of Health and Human Resources as part of a child abuse and neglect investigation: Provided, That any access provided to the Department of Health and Human Resources pursuant to this subdivision shall comply with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g.

(l) When a video is under review as part of the investigation of an alleged incident, and the video reveals a student violating a disciplinary code or rule of the school, which violation is not related to the alleged incident for which the review is occurring, and which violation is not already the subject of a disciplinary action against the student, the student is not subject to disciplinary action by the school for such unrelated violation unless it reveals a separate incident as described in §18-20-11(b)(1) of this code.

(m) It is not a violation of subsection (j) of this section if a contractor or other employee of a public school or school district incidentally views a video recording under this section if the contractor or employee of a public school or school district is performing job duties related to the:

(1) Installation, operation, or maintenance of video equipment; or

(2) Retention of video recordings.

(n) This section does not limit the access of a student's parent or legal guardian to a video recording regarding the student under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, or any other law.

(o) A public school or school district shall:

(1) Take necessary precautions to conceal the identity of a student who appears in a video recording but is not involved in the alleged incident documented by the video recording for which the public school allows viewing under subsection (j) of this section, including, without limitation, blurring the face of the uninvolved student; and

(2) Provide procedures to protect the confidentiality of student records contained in a video recording in accordance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, or any other law.

(p)(1) Any aggrieved person may appeal to the State Board of Education an action by a public school or school district that the person believes to be in violation of this section.

(2) The state board shall grant a hearing on an appeal under this subsection within 45 days of receiving the appeal.

(q)(1) A public school or school district may use funds distributed from the Safe

Schools Fund created in §18-5-48 of this code to meet the requirements of this section.

(2) A public school or school district may accept gifts, grants, or donations to meet the requirements of this section.

(r) The state board may promulgate a rule in accordance with §29A-3B-1 et seq. of this code to clarify the requirements of this section and address any unforeseen issues that might arise relating to the implementation of the requirements of this section.

## **CHAPTER 18A. SCHOOL PERSONNEL.**

### **ARTICLE 2. SCHOOL PERSONNEL.**

#### **§18A-2-8. Suspension and dismissal of school personnel by board; appeal.**

(a) Notwithstanding any other provisions of law, a board may suspend or dismiss any person in its employment at any time for: Immorality, incompetency, cruelty, insubordination, intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the Department of Health and Human Resources in accordance with §49-1-1 et seq. of this code the conviction of a misdemeanor or a guilty pleas or a plea of nolo contendere to a misdemeanor charge that has a rational nexus between the conduct and performance of the employee's job, the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.

(b) A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation pursuant to §18A-2-12 of this articlecode. The charges shall be stated in writing served upon the employee within two days of presentation of the charges to the board.

(c) The affected employee shall be given an opportunity, within five days of receiving the written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions of §6C-2-1 et seq. of this code, except that dismissal for a finding of abuse or the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, or child abuse may be reassigned to duties which do not involve direct interaction with pupils pending final disposition of the charges.

(d) A county board of education has the duty and authority to provide a safe and secure environment in which students may learn and prosper; therefore, it may take necessary steps to suspend or dismiss any person in its employment at any time should the health, safety, and welfare of students be jeopardized or the learning environment of other students has been impacted.

(e) It shall be the duty of any county superintendent to report any employee suspended or dismissed in accordance with this section, including the rationale for the suspension or dismissal, to the state superintendent. The state superintendent shall

maintain a database of all individuals suspended or dismissed for jeopardizing the health, safety, and welfare of students, or for impacting the learning environment of other students. The database shall also include the rationale for the suspension or dismissal. The database shall be confidential and shall only be accessible to county human resource directors, county superintendents, and the state superintendent.

*Bill Sponsors: Senators Maynard, Azinger, Blair, Boso, Cline, Roberts, Rucker, Smith, Sypolt, Tarr, Trump, and Jeffries*

## **Senate Bill 640: Regulating sudden cardiac arrest prevention**

*Effective Date:* June 6, 2019

*Code Reference:* Adds: §16-56-1; §16-56-2; §16-56-3; §16-56-4

*WVDE Contact:* Sarah Stewart, Government Affairs Counsel, Office of Legal Services

*Bill Summary:* The bill establishes the Sudden Cardiac Arrest Prevention Act with the purpose of promoting education regarding prevention of sudden cardiac arrest. The WVDE, in conjunction with DHHR, is charged with developing educational materials and guidelines (symptoms, warning signs, etc.) on sudden cardiac arrest as well as training materials for parents, students, coaches, and administrators. These materials are to be posted on websites of the WVDE, DHHR and public schools.

The bill requires schools to annually hold informational meetings for students and parents/guardians regarding the warning signs of sudden cardiac arrest. Students are precluded from participating in an athletic activity until his or her parent/guardian signs a form indicating they have received and reviewed information regarding sudden cardiac arrest. Additionally, coaches are required to receive an annual training course on sudden cardiac arrest that is approved by the WVDE and DHHR.

Students exhibiting symptoms of sudden cardiac arrest are prohibited from participating in an athletic activity until the student is cleared for return in writing by an appropriate medical professional. County boards of education are required to establish penalties for coaches that allow students to play that have exhibited sudden cardiac arrest symptoms and not yet been properly cleared to return to play. The bill includes a limitation of liability clause for schools, school districts, employees, and volunteers, unless any negligence alleged is willful or wanton misconduct.

Finally, the bill provides rulemaking authority to the WVBE to effectuate the provisions of the Act.

### **CHAPTER 16. PUBLIC HEALTH.**

#### **ARTICLE 56. SUDDEN CARDIAC ARREST PREVENTION ACT.**

##### **§16-56-1. Purpose.**

This article shall be known and may be cited as the Sudden Cardiac Arrest Prevention Act. In the United States there are more than 356,000 out-of-hospital cardiac arrests annually

and nearly 90 percent of them are fatal. The purpose of this article is to promote education regarding sudden cardiac arrest and thereby prevent sudden cardiac arrest from occurring.

### **§16-56-2. Definitions.**

The following words and phrases when used in this article have the meanings given to them in this section unless the context clearly indicates otherwise.

“Athletic activity” means all the following:

(a) Interscholastic athletics;

(b) An athletic contest or competition that is sponsored by or associated with a school entity, including cheerleading, club-sponsored sports activities, and sports activities sponsored by school-affiliated organizations;

(c) Noncompetitive cheerleading that is sponsored by school-affiliated organizations;  
and

(d) Practices, interschool practices, and scrimmages for all of the activities described in this section.

“School” means any school under the jurisdiction of a county board of education.  
§16-56-3. Applicability, educational materials, removal from play, and training.

(a) The Department of Education, working in conjunction with the State Health Officer of the Department of Health and Human Resources, shall develop educational materials and guidelines, including a warning sign information sheet, regarding sudden cardiac arrest, including, but not limited to, symptoms and warning signs for students of all ages and risks associated with continuing to play or practice after experiencing the following symptoms: Fainting or seizures during exercise, unexplained shortness of breath, chest pains, dizziness, racing heart, or extreme fatigue. Training materials shall be developed for the use of parents, students, coaches, and administrators.

(b) The educational materials and other relevant materials shall be posted on the website of the Department of Education, Department of Health and Human Resources, and public schools to inform and educate parents, students, and coaches participating, or desiring to participate in, an athletic activity about the nature and warning signs of sudden cardiac arrest.

(c) Prior to the start of each athletic season, a school subject to this section shall hold an informational meeting for students, parents, guardians, or other persons having care or charge of a student regarding the warning signs of sudden cardiac arrest for children of all ages.

(d) No student may participate in an athletic activity until the student has submitted to a designated school official, a form signed by the student and the parent, guardian, or other person having care or charge of the student stating that the student and the parent, guardian, or other person having care or charge of the student have received and reviewed a

copy of the information developed by the departments of health and education and posted on their respective webpages. A completed form shall be submitted each school year in which the student participates in an athletic activity.

(e) No individual may coach an athletic activity unless the individual has completed, on an annual basis, the sudden cardiac arrest training course approved by the Department of Education and Department of Health and Human Resources.

(f) A student shall not be allowed to participate in an athletic activity if either of the following is the case:

(1) The student is known to have exhibited syncope or fainting at any time prior to or following an athletic activity and has not been evaluated and cleared for return after exhibiting syncope or fainting; or

(2) The student experiences syncope or fainting while participating in, or immediately following, an athletic activity.

(g) If a student is not allowed to participate in or is removed from participation in an athletic activity under subsection (f) of this section, the student shall not be allowed to return to participation until the student is evaluated and cleared for return in writing by any of the following:

(1) A physician authorized under §30-3-1 *et seq.* and §30-14-1 *et seq.* of this code;

(2) A certified nurse practitioner, clinical nurse specialist, or certified nurse midwife; or

(3) A physician assistant licensed under §30-3E-1 *et seq.* and §30-14A-1 *et seq.* of this code.

(h) The licensed health care professional may consult with any other licensed or certified health care professionals in order to determine whether a student is ready to participate in the athletic activity.

(i) The governing body of a school shall establish penalties for a coach found in violation of the requirements of subsection (f) of this section.

(j) A school district, member of a school district, board of education, school district employee or volunteer, including a coach, is not liable for damages in a civil action for injury, death, or loss to person or property allegedly arising from providing services or performing duties under this section, unless the act or omission constitutes willful or wanton misconduct. This section does not eliminate, limit, or reduce any other immunity or defense that a school district, member of a board of education, or school district employee or volunteer, including a coach, may be entitled to under the law of this state.

#### **§16-56-4. Rulemaking.**

The Department of Education, acting in conjunction with the Department of Health and Human Resources, may propose rules for legislative approval in accordance with §29A-3-1

[et seq. of this code that are necessary to effectuate the provisions of this article.](#)

*Bill Sponsors: Senators Stollings and Maroney*

**House Bill 2004: Providing for a program of instruction in workforce preparedness**

Effective Date: June 6, 2019

Code Reference: Amends: §18B-3C-4; §29-3-9

Adds: §18-2-7d; §18-2-42; §21-1E-1; §18-21-1E-2; §18-21-1E-3; §21 1E 4; §30-1E-1; §30-1E-2; §30-1E-3; §30-1E-4

WVDE Contact: Kathy D’Antoni, Associate Superintendent, Division of Technical Education & Governor’s Economic Initiatives

Bill Summary: The bill requires the WVBE to adopt a policy that sets forth a program for workforce and career preparedness. The program must include guidelines for schools to work through their local school improvement council (LSIC) and business partners to communicate to students the common skills and attributes desired by employers.

The WVBE and CTC are required to coordinate efforts to collect and disseminate information about CTE clusters and certain major programs of study starting in middle school. All postsecondary credits earned by a student while in high school are to be transcribed and provided to the student by the postsecondary institution.

The bill refocuses the priority of the CTE/CTC consortium to identify high pay/demand jobs and integrate those skills and requisite certifications/degrees into secondary/postsecondary study. Similar to SB1, there is a strong emphasis in the bill establishing a seamless transition between secondary coursework and postsecondary coursework. The WVBE and CTC are required to jointly adopt guidelines for administration of consortia. The State Superintendent and CTC Chancellor are required to approve consortia partnership agreements. It also allows the annual report prepared by the consortia to meet federal requirements to also serve as the state annual report.

Finally, the bill pulls in the articles dealing with the occupations regulated by the Commissioner of Labor, the Fire Marshal and Chapter 30 Boards (professional licensing boards). It requires, starting July 1, 2019, applicants for licensure for a license regulated by one of these entities to be allowed to apply training hours earned via career technical education towards the requirements for certification/licensure. The identified entities are provided rulemaking authority to effectuate this requirement.



## **CHAPTER 18. EDUCATION.**

### **ARTICLE 2. STATE BOARD OF EDUCATION.**

#### **§18-2-7d. Program in workforce preparedness.**

(a) The Legislature finds that, in addition to specialized skills relating to specific professions and trades, students will be better prepared to enter the workforce and succeed in their chosen fields of employment or education by having the opportunity to participate in training related to general workforce preparedness, productive workplace skills and processes, time management and efficiency, and teamwork and leadership competencies in the workplace. The Legislature further finds that employers in the state are the best source for articulating the general skills and attributes they, in common, seek in future employees and that employers may collaborate in the development of a graduate profile incorporating these skills and attributes.

(b) The state board shall promulgate a rule pursuant to 29A-3B-1 et seq. of this code that adopts a program of instruction in general workforce and career preparedness for all students. The program of instruction shall include guidelines for schools working through their local school improvement councils and business partners to communicate to students the common skills and attributes sought by employers in prospective employees.  
§18-2-42. Providing career and technical education program information to students and parents; transcript of post-secondary credit; career technical education student participation in graduation ceremony.

(a) The State Board of Education, the Council for Community and Technical College Education, and the Department of Commerce shall coordinate efforts for the collection and dissemination of information on the career and technical cluster and major programs of study established for the public schools including, but not limited to, the following:

(1) Programs of study and the curriculum of courses at the secondary and post-secondary level established pursuant to §18B-3C-4 of this code that lead to an industry-recognized credential, a certificate of applied science degree or an associate degree that satisfy a workforce need;

(2) Programs of study and the curriculum of courses at the secondary level recognized pursuant to §21-1E-1 et seq. of this code, §29-3-9 of this code and §30-1E-1 et seq. of this code as satisfying a portion of the requirements for an apprenticeship and other employer sponsored training programs, as well as any associated programs of study and the curriculum of courses at the post-secondary level that enable the student to also satisfy the requirements for an associate degree; and

(3) The EDGE program, established by §18-13-1 et seq. of this code, which provides the opportunity for the student to obtain articulated credits that count toward high school graduation requirements, as well as count toward the student's achievement of a certificate or associate degree.

(b) The dissemination of the information on programs of study as provided in subsection (a) of this section shall be easily accessible to all students and their parents beginning in the middle school grades.

(c) All post-secondary credits earned by a public school student through the EDGE program and any other articulated credit and dual credit program shall be transcribed and provided to the student by the post-secondary institution at which the credit was earned.

(d) Any career technical education student who fulfills the high school graduation requirements required of other students in the district in which he or she is enrolled shall be eligible to participate in the graduation ceremony in the same manner as all other students in the district.

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 3C. COMMUNITY AND TECHNICAL COLLEGE SYSTEM.**

#### **§18B-3C-4. Community and technical college/career and technical education consortia planning districts.**

(a) Unless otherwise designated, the presidents of the community and technical colleges facilitate ~~the~~ formation of community and technical college/career and technical education consortia in the state. Each consortium includes representatives of community and technical colleges, public career and technical education centers and state baccalaureate institutions offering associate degrees. The consortium is responsible for carrying out the following actions:

(1) Completing a comprehensive assessment of the district to determine what education and training programs are necessary to meet the short- and long-term workforce development needs of the district and to identify the high-demand; high-wage occupations within the service district and develop programs of study, based on the findings, that consist of a curriculum of courses leading to an industry-recognized credential, a certificate of applied science degree or an associate degree;

(2) Coordinating efforts with regional labor market information systems to identify the ongoing needs of business and industry, both current and projected, and to provide information to assist in an informed program of planning and decision-making. The priority of each consortium is to identify the high-demand, high-wage occupations within the service district and, in conjunction with the public schools, develop integrated secondary and post-secondary programs of study that lead to an industry-recognized credential, a certificate of applied science degree or an associate degree;

(3) Developing integrated secondary and post-secondary programs of study that lead to an industry-recognized credential, a certificate of applied science degree or an associate degree to satisfy a workforce need as determined by the Department of Commerce. The Department of Commerce shall on occasion, but at least annually, provide written notification to the State Board of Education and the West Virginia Council for Community and Technical College Education a determination of areas of workforce need;

(4) Increasing the integration of secondary and post-secondary curriculum and programs that are targeted to meet regional and state labor market needs, including implementing seamless programs of study, including West Virginia EDGE, Advanced Career Education, Registered Apprenticeships and any program that allows students to earn college credit while they are still in high school;

(5) Ensuring that the programs of study include coherent and rigorous content aligned with challenging academic standards and relevant career and technical education content. The programs shall provide for student movement through a coordinated, nonduplicative progression of courses that align secondary education with community and technical college education to prepare students to succeed at the community and technical college level and in high-wage, high-demand occupations;

~~(6) Increasing the integration of secondary and post-secondary curriculum and programs that are targeted to meet regional labor market needs, including implementing seamless programs of study, including West Virginia EDGE, and the Collaborative Degree-Completion Program:~~

~~(A) Research shows that well-planned, well-coordinated programs of study have a positive impact on school attendance, student grades, achievement scores, retention rates and career planning. To be successful, programs of study must include coherent and rigorous content aligned with challenging academic standards and relevant career and technical education content. They must provide for student movement through a coordinated, nonduplicative progression of courses that align secondary education with community and technical college education to prepare students to succeed at the community and technical college level and in high wage, high-demand occupations;~~

~~(B) Therefore, the focus of each consortium is to identify the high-demand, high-wage occupations within the service district and develop programs of study, based on the findings, that lead to an industry-recognized credential, a certificate of applied science degree or an associate degree;~~

~~(C) The initial consortium compact and each annual update required in subsection (d) of this section shall identify the programs of study that are to be implemented in the district service area~~

~~(3) (6) Planning and developing a unified effort between the community and technical colleges and public career and technical education to meet the documented workforce development needs of the district and state through individual and cooperative programs; shared facilities, faculty, staff, equipment and other resources; and the development and use of distance learning and other education technologies;~~

~~(4) (7) Collaborating and developing jointly the collaborative programming for adults between the community and technical colleges and the public career and technical centers. The focus of these collaborative efforts is the development of advanced skill programming that builds on the secondary curriculum and allows career and technical education graduates to acquire more in-depth preparation in their occupational area of interest;~~

~~(5)~~ (8) As a consortium, regularly reviewing and revising curricula to ensure that the work force needs are met; developing new programs and phasing out or modifying existing programs, as appropriate, to meet such needs; and streamlining procedures for designing and implementing customized training programs;

~~(7)~~ (9) Planning and implementing integrated professional development activities for secondary and post-secondary faculty, staff and administrators;

~~(8)~~ (10) Ensuring that program graduates have attained the competencies required for successful employment through the involvement of business, industry and labor in establishing student credentialing;

~~(9)~~ (11) Assessing student knowledge and skills which may be gained from multiple sources so that students gain credit toward program completion and advance more rapidly without repeating course work in which they already possess competency; [Assessment may include, but is not limited to, the use of assessment instruments of the National Occupational Competency Testing Institute;](#)

~~(10)~~ (12) Cooperating with workforce investment boards to establish one-stop-shop career centers with integrated employment and training and labor market information systems that enable job seekers to assess their skills, identify and secure needed education training, and secure employment, and that allow employers to locate available workers;

~~(11)~~ (13) Increasing the integration of adult literacy, adult basic education, federal Work Force Investment Act and community and technical college programs and services to expedite the transition of adults from welfare to gainful employment, including cooperating with the State Department of Education to provide adult basic education programs on each community and technical college campus in the state where developmental education services are provided; and

~~(12)~~ (14) Establishing a single point of contact for employers and potential employers to access education and training programs throughout the district.

(b) The community and technical college education consortium shall cooperate with the regional workforce investment board in the district and shall participate in any development or amendment to the regional workforce investment plan.

(c) To carry out the provisions of this section, community and technical college/career and technical education consortia planning districts are established and defined as follows:

(1) Northern Panhandle District includes Hancock, Brooke, Ohio, Marshall and Wetzel counties.

(A) The facilitating institution is West Virginia Northern Community and Technical College.

(B) Participating institutions include West Virginia Northern Community and Technical College; John Marshall High School; Cameron High School; John D. Rockefeller IV Career Center; and other public career and technical centers offering post-secondary programs.

(2) North Central West Virginia District includes Monongalia, Marion, Preston, Taylor, Barbour, Randolph, Doddridge, Harrison, Braxton, Lewis, Calhoun, Gilmer and Upshur counties.

(A) The facilitating institution is Pierpont Community and Technical College.

(B) Participating institutions include Pierpont Community and Technical College; Glenville State College; Randolph County Technical Center; Monongalia County Technical Education Center; United Technical Center; Marion County Technical Center; Fred W. Eberle Technical Center; Calhoun Gilmer Career Center; Taylor County Technical Center; and other public career and technical centers offering post-secondary programs.

(3) Mid-Ohio Valley District includes Tyler, Pleasants, Ritchie, Wood, Wirt, Jackson and Roane counties.

(A) The facilitating institution is West Virginia University at Parkersburg.

(B) Participating institutions include West Virginia University at Parkersburg; Roane-Jackson Technical Center; Wood County Technical Center; Mid Ohio Valley Technical Institute and other public career and technical centers offering post-secondary programs.

(4) Potomac Highlands District includes Tucker, Pendleton, Grant, Hardy, Mineral and Hampshire counties.

(A) The facilitating institution is Eastern West Virginia Community and Technical College.

(B) Participating institutions include Eastern West Virginia Community and Technical College; South Branch Career and Technical Center; Mineral County Technical Center; and other public career and technical centers offering post-secondary programs.

(5) Shenandoah Valley District includes Berkeley, Jefferson and Morgan counties.

(A) The facilitating institution is Blue Ridge Community and Technical College.

(B) Participating institutions include Blue Ridge Community and Technical College; James Rumsey Technical Institute; and other public career and technical centers offering post-secondary programs.

(6) Advantage Valley District includes Fayette, Kanawha, Clay, Putnam, Cabell, Mason and Wayne counties.

(A) The facilitating institution for Cabell, Mason and Wayne counties is Mountwest Community and Technical College. The facilitating institutions for Clay, Fayette, Kanawha and Putnam counties are [Bridge](#) [mont Community and Technical College](#) and [Kanawha](#)-Valley Community and Technical College.

(B) Participating institutions include Mountwest Community and Technical College;

~~Bridgemont Community and Technical College; Kanawha~~ Valley Community and Technical College; Carver Career and Technical Education Center; Garnet Career Center; Ben Franklin Career and Technical Center; Putnam Career and Technical Center; Cabell County Career-Technology Center; Mason County Career Center; and other public career and technical centers offering post-secondary programs.

(7) Southern Mountains District includes Lincoln, Boone, Logan, Mingo, Wyoming and McDowell counties.

(A) The facilitating institution is Southern West Virginia Community and Technical College.

(B) Participating institutions include Southern West Virginia Community and Technical College; Boone County Career and Technical Center; Wyoming County Career and Technical Center; Ralph R. Willis Career and Technical Center; McDowell County Career and Technology Center; Mingo Extended Learning Center; and other public career and technical centers offering post-secondary programs.

(8) Southeastern District includes Raleigh, Summers, Fayette, Nicholas, Webster, Pocahontas, Greenbrier, Monroe and Mercer counties.

(A) The facilitating institution is New River Community and Technical College.

(B) Participating institutions include New River Community and Technical College; ~~Bridgemont~~ BridgeValley Community and Technical College; Bluefield State College; Academy of Careers and Technology; Fayette Institute of Technology; Summers County High School; Monroe County Technical Center; Mercer County Technical Education Center; Nicholas County Career and Technical Center; and other public career and technical centers offering post-secondary programs.

(9) Cochairs preside over each consortium as follows:

(A) The president of the facilitating community and technical college, or his or her designee; and

(B) A career and technical education center administrator, or his or her designee, representing one of the participating institutions and selected by the consortium administrative leaders.

(d) In the role of the facilitating institution of the consortium, the college:

(1) Communicates to the council and state board;

(2) Facilitates the delivery of comprehensive community and technical college education in the region, which includes the seven areas of comprehensive community and technical college education delivery as required by §18B-3C-6 of this ~~article~~ [code](#);

(3) Facilitates development of a statement of commitment signed by all participating

institutions in the region setting forth how community and technical college education will be delivered; and

~~(4) Facilitates the development of a consortium compact to be submitted to the Council and State Board before July 1, 2012, and annually thereafter~~Submits annually the Carl D. Perkins local planning guide to the council and the state board.

~~(e) The state board and council shall jointly promulgate guidelines for the administration of this section. The guidelines shall be affirmatively adopted by both the board and the council. At a minimum, such guidelines shall provide for the following:~~

~~(1) Participating institutions are not subordinate to the facilitating institution but shall sign the statement of commitment to participate.~~

~~(2) Integrated secondary and post-secondary programs of study that lead to an industry-recognized credential, a certificate of applied science degree or an associate degree shall be reduced to written partnership agreements.~~

~~(3) The programs of study must meet the requirements of the accrediting entity for the community and technical college awarding the associate degrees;~~

~~(4) The partnership agreements must be approved by the State Superintendent of Schools and the Chancellor for the Council for Community and Technical College Education;~~  
~~and~~

~~(5) Any other provisions necessary to effectuate the purposes of this section.~~

~~(f) The State Superintendent of Schools and the Chancellor for the Council for Community and Technical College Education is are responsible for carrying out the following activities:~~

~~(1) Annually annually~~ evaluating the progress made in meeting the compact goals for each consortium through the development and collection of performance indicator data; ~~and.~~

~~(2) Providing each consortium with a model format for developing and revising a consortium compact outlining strategies and procedures for achieving stated goals. The compact shall be submitted to the Council and State Board for their respective approvals before July 1, 2012, and annually thereafter. The Council is responsible for approving the compact components related to community and technical college education. The State Board is responsible for approving the compact components related to career and technical education. Each compact shall include implementation of seamless programs of study, the Collaborative Degree Completion Program and the West Virginia EDGE Program.~~

~~(g) The State Superintendent of Schools and the Chancellor for the Council for Community and Technical College Education shall annually report to the Governor and the Legislative Oversight Commission on education Accountability on the implementation of this section.~~

## **CHAPTER 21. LABOR.**

### **ARTICLE 1E. CAREER TRAINING EDUCATION AND APPRENTICESHIPS.**

#### **§21-1E-1. Declaration of purpose.**

The provisions of this article are intended to facilitate certification and/or licensure for workers who acquire training via career technical education provided by West Virginia public schools or an employer-sponsored apprenticeship and employer-sponsored training programs.

#### **§21-1E-2. Definitions.**

As used in this article and the legislative rules promulgated pursuant to this article:

“Apprentice” means someone who is enrolled in an apprenticeship program.

“Apprenticeship program” means a program offered by an employer to provide supervised on-the-job training to employees approved by the United States Department of Labor.

“Employer sponsored training program” means a program approved in accordance with a rule promulgated pursuant to authority established in §21-1E-4 of this code.

“License” means a valid and current certification or license issued by the Commissioner of Labor in accordance with the provisions of this article.

“Career technical education” means programs of study, clusters, and pathways approved by the West Virginia Board of Education pursuant to state board policy.

#### **§21-1E-3. Recognition of training and apprenticeships.**

Beginning July 1, 2019, applicants for certification or licensure shall be permitted to apply training hours earned via career technical education provided by West Virginia public schools or an apprenticeship program or employer-sponsored training program towards the requirements for certification and/or licensure in the same occupation in accordance with the standards and procedures authorized in accordance with this article.

#### **§21-1E-4. Rule-making authority.**

The Commissioner of Labor shall, after consultation with the State Superintendent of Schools, propose rules for legislative approval, in accordance with the provisions of §29A-3-1 et seq. of this code, for the implementation and enforcement of the provisions of this article. The rules shall provide at least the following:

(1) Standards and procedures for recognizing training hours acquired through career technical education provided by West Virginia public schools and applying those hours to requirements for testing and/or certification and/or licensure; and



[\(2\) Standards and procedures for recognizing training hours acquired through apprenticeship programs and employer-sponsored training programs and applying those hours to requirements for testing and/or certification and/or licensure.](#)

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.**

#### **§29-3-9. Powers, duties and authority of State Fire Commission and State Fire Marshal.**

(a) The State Fire Commission may employ personnel, fix their compensation and, within funds available to do so, incur expenses as necessary in the performance of the duties of its office.

(b) The State Fire Commission is responsible for fire programs within this state, including the State Fire Marshal's office, training, uniform standards and certification, finance and planning and fire prevention.

(c) All state and area training and education in fire service shall be coordinated by the State Fire Commission. The State Fire Marshal shall ensure that these programs are operated throughout the state at a level consistent with needs identified by the commission.

(d) The State Fire Commission may make recommendations to the State Insurance Commissioner regarding town classifications for fire insurance rates.

(e) The formation of any new fire department, including volunteer fire departments, requires the concurrence of the State Fire Commission. The State Fire Commission shall develop a method of certification which can be applied to all fire departments and volunteer fire departments.

(f) The State Fire Commission shall develop a plan for fire prevention and control which shall include, but not be limited to, the following areas: Manpower needs; location of training centers; location of fire prevention and control units; communications; fire fighting facilities; water sources; vehicular needs; public education and information; public participation; standardization in record keeping; evaluation of personnel; reporting of fire hazards; programs on mutual aid; location of public safety agencies; outline of fire prevention programs; and accessibility of fire prevention information.

(g) The State Fire Commission shall establish fire protection areas and at such times as funds are available shall establish field offices for inspection, planning and certification.

(h) The State Fire Marshal may accept, on behalf of the State Fire Commission, gifts, grants, court ordered civil forfeiture proceedings and bequests of funds or property from individuals, foundations, corporations, the federal government, governmental agencies and other organizations or institutions. The State Fire Marshal, acting on behalf of the State Fire Commission, may enter into, sign and execute any agreements and do and perform any acts that may be necessary, useful, desirable or convenient to effectuate the purposes of this

article. Moneys from gifts, grants, civil forfeiture proceedings and bequests received by the State Fire Marshal shall be deposited into the special account set forth in subsection (c), section twelve-b of this article, and the State Fire Marshal, with the approval of the State Fire Commission, has the authority to make expenditures of, or use of any tangible property, in order to effectuate the purposes of this article.

(i) The State Fire Commission shall establish standards and procedures by policy to implement the provisions of this section with regard to the following:

(1) Fire prevention and control;

(2) Uniform standards of performance, equipment and training;

(3) Certification;

(4) Training and education in fire service, subject to the rule-making requirements set forth in section five-d of this article; and

(5) The creation, operation and responsibilities of fire departments throughout the state.

(j) Beginning July 1, 2019, applicants for certification or licensure in accordance with the education and training programs under the respective jurisdictions of the State Fire Commission and the State Fire Marshal shall be permitted to apply training hours earned via career technical education provided by West Virginia public schools or an apprenticeship program or employer sponsored training program towards the requirements for certification and/or licensure by the State Fire Commission and the State Fire Marshal as applicable. The State Fire Commission and State Fire Marshal shall, after consultation with the State Superintendent of Schools, propose rules for legislative approval, in accordance with the provisions of §29A-3-1 et seq. of this code, for the implementation and enforcement of these provisions. The rules shall provide at least the following:

(1) Standards and procedures for recognizing training hours acquired through career technical education provided by West Virginia public schools and applying those hours to requirements for testing and/or certification and/or licensure; and

(2) Standards and procedures for recognizing training hours acquired through apprenticeship programs and employer-sponsored training programs and applying those hours to requirements for testing and/or certification and/or licensure.

As used in this subsection:

“Apprentice” means someone who is enrolled in an apprenticeship program.

“Apprenticeship program” means a program offered by an employer to provide supervised on-the-job training to employees approved by the United States Department of Labor.

“Employer sponsored training program” means a program approved in accordance with a rule promulgated by the State Fire Commission or the State Fire Marshal under their respective authorities established in this code.

“License” means a valid and current certification or license issued by State Fire Commission or the State Fire Marshal for satisfactory completion of education and training programs under their respective jurisdictions.

“Career technical education” means programs of study, clusters, and pathways approved by the West Virginia Board of Education pursuant to state board policy.

## **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

### **ARTICLE 1E. CAREER TRAINING EDUCATION AND APPRENTICESHIPS.**

#### **§30-1E-1. Declaration of purpose.**

The provisions of this article are intended to facilitate certification and/or licensure for workers who acquire training via career technical education provided by West Virginia public schools or an employer-sponsored apprenticeship and employer-sponsored training programs.

#### **§30-1E-2. Definitions.**

As used in this article and the legislative rules promulgated pursuant to this article:

“Apprentice” means someone who is enrolled in an apprenticeship program.

“Apprenticeship program” means a program offered by an employer to provide supervised on-the-job training to employees approved by the United States Department of Labor.

“Employer-sponsored training program” means a program approved in accordance with a rule promulgated by the respective board of examination or registration in accordance with their authority granted to by this chapter.

“License” means a valid and current certification or license issued by a regulatory board or commission in this chapter.

“Career technical education” means programs of study, clusters, and pathways approved by the West Virginia Board of Education pursuant to state board policy.

#### **§30-1E-3. Recognition of training and apprenticeship programs.**

Beginning July 1, 2019, applicants for certification or licensure pursuant to this chapter shall be permitted to apply training hours earned via career technical education provided by West Virginia public schools or an apprenticeship program or employer-sponsored training program towards the requirements for certification and/or licensure in the same occupation in accordance with the standards and procedures authorized in accordance with this article.

**§30-1E-4. Rule-making authority.**

The licensing boards and commissions in this chapter shall, after consultation with the State Superintendent of Schools, propose rules for legislative approval, in accordance with the provisions of §29A-3-1 et seq. of this code for the implementation and enforcement of the provisions of this article. The rules shall provide at least the following:

(1) Standards and procedures for recognizing training hours acquired through career technical education provided by West Virginia public schools and applying those hours to requirements for testing and/or certification and/or licensure.

(2) Standards and procedures for recognizing training hours acquired through apprenticeship programs and employer-sponsored training programs and applying those hours to requirements for testing and/or certification and/or licensure.

*Bill Sponsors: Delegates Espinosa, Graves, Harshbarger, Foster, Worrell, Hanna, Dean, Sypolt, Hamrick, and Howell*

## **House Bill 2009:      **Creating a new category of Innovation in Education grant program****

*Effective Date:*                     June 5, 2019

*Code Reference:*                    [Adds: §18-5E-8](#)

*WVDE Contact:*                     Drew McClanahan, Assistant Director, Office of Leadership & System Support  
Joey Wiseman, Executive Director, Office of Middle & Secondary Learning

*Bill Summary:*                     The bill establishes a separate category under the Innovation in Education Act, specifically “Innovation in Education/Mastery-Based,” for schools interested in transitioning to mastery-based education. Mastery based education is defined as an education system designed to improve educational outcomes by advancing student mastery of content knowledge and skills through specific principles.

Schools must apply to the WVBE to be designated mastery-based schools and receive a portion of the legislative appropriation set aside for such schools. For the 2019-2020 school year, the total amount appropriated for all schools designated is \$125,000. A committee established by the WVBE is charged with reviewing the applications and making recommendations for mastery-based designation. The bill sets forth certain factors that are to be considered by the committee when evaluating the applications. Not more than 20 schools may initially be designated mastery-based schools. Those schools are to form a network to receive support and technical assistance in delivering instruction via the mastery-based education model.

Students attending a school designated as a mastery-based school that transfer to a school not so designated are not to be penalized or required to complete coursework already successfully completed by the student. Additionally, higher education institutions in the state are required to recognize and accept credentials and diplomas awarded indicating content mastery gained via mastery-based education on equal footing as a traditional high school diploma.

## CHAPTER 18. EDUCATION.

### ARTICLE 5E. INNOVATION IN EDUCATION ACT.

#### **§18-5E-8. Innovation in Education/Mastery-Based schools; legislative findings, purpose and intent; definitions; applicability of other provisions; state board duties for implementation; student credentials upon transfer and matriculation.**

(a) The Legislature finds that when instruction is delivered to a class of students at a uniform pace, some students accumulate knowledge and skill deficits as they progress through the curriculum which, particularly in the STEM areas, limit their ability to be successful at higher levels. This traditional time-based system of education pushes students forward at the end of the allotted time period even if they have not mastered the content fully. For too many students, these accumulated deficits result in required remediation prior to undertaking collegiate level coursework or at least some gaps in the preparation of recent high school graduates for the demands of the workplace. Concurrently, this time-based system limits the educational progress of students who do master the content more quickly by not permitting them to move on to more challenging material, elective subjects, or dual credit and advanced placement courses that they have already demonstrated their readiness to undertake.

The Legislature finds further that new approaches to educational delivery that simultaneously address these challenges are being implemented in some innovative schools and school systems. These approaches use an instructional delivery model where students progress as they master the content, rather than when they receive at least the minimum passing grade at the end of a set time period. These approaches, typically referred to as mastery-based, proficiency-based or competency-based education, empower students who demonstrate content mastery to progress more quickly to higher levels and, consequently, allow additional attention to be given to meeting the needs of those who have not yet mastered the content. Because the shift to such models often requires fundamental changes in scheduling, assessment, grading, the award of credits and diplomas and other aspects of traditional schooling, implementation requires an intentional approach that engages multiple stakeholders in developing and executing a long-term plan. The statutes and policies designed to regulate the traditional time-based system may also create real or perceived barriers to a mastery-based approach. For these reasons, several states have established pilot programs specific to implementing these new approaches that provide developmental assistance, additional support and regulatory waivers when necessary for the pilot schools to make the transition.

(b) The purpose of this section is to create a separate category under this act, entitled Innovation in Education/Mastery-Based, for schools interested in undertaking the transition to mastery-based education. It is the intent of this section to establish a multistep process that assists these schools to develop a broader awareness and understanding of mastery-based education prior to application, assess the capacity and readiness of schools to proceed, allow several options for implementation or for opting-out of the application process, and create a network incubator process for continuing the support of schools designated as Innovation in Education/Mastery-Based schools following full application and grant award.

(c) For purposes of this section:

“Incubator process” means a process where schools that are willing and ready to begin implementing a mastery-based model of education form a network of not more than 20 mastery-based education schools. The schools in this network will receive support for, including, but not limited to, program development, professional development, stakeholder education, establishing mastery assessment, coaching and on-going technical assistance. The incubator process will enable schools within the network to share information on their progress and setbacks, collaborate on innovative approaches, and provide data on student progress and best practices for the continued implementation of mastery-based education.

“Mastery-based education” means an education system designed to improve educational outcomes by advancing student mastery of content knowledge and skills through the following core principles:

(A) Student advancement upon mastery of a concept or skill;

(B) Competencies that include explicit, measurable, and transferable learning objectives that empower a student;

(C) Assessment that is meaningful and provides a positive learning experience for a student;

(D) Timely, differentiated support based on a student’s individual learning needs;

(E) Learning outcomes that emphasize competencies that include application and creation of knowledge along with the development of important skills and dispositions;

(F) Incorporating partnerships with post-secondary institutions and members of industry; and

(d) Other provisions of this article related to schools designated as Innovation in Education schools also apply to Innovation in Education/Mastery-Based schools unless otherwise specifically provided by this section, including, but not limited to, the following:

(1) Innovation in Education/Mastery-Based schools are not limited to the implementation of key innovational priorities in the five areas, i.e., STEM, community school partnership, entrepreneurship, career pathways, and the arts, listed in §18-5E-1 of this code. References in this article to these areas relative to Innovation in Education application, designation, plan and evaluation for the purposes of this section means Innovation in Education/Mastery-Based and are applicable to Innovation in Education/Mastery-Based schools except as otherwise provided in this section: Provided, That nothing in this subdivision prohibits an Innovation in Education/Mastery-Based school from including an emphasis in one or more of the five listed areas in their mastery-based plan, nor prohibits a school previously designated as an Innovation in Education school from transitioning to mastery-based education under this section;

(2) The application, application review and state board rule pursuant to §18-5E-3 of this code for implementing Innovation in Education schools shall be modified to accommodate the multistep process for Innovation in Education/Mastery-Based schools consistent with the provisions of this section; and

(3) Legislative appropriations made for Innovation in Education/Mastery-Based schools shall be deposited in the Innovation in Education Fund created in §18-5E-7 of this code and may be used solely for the purposes of Innovation in Education/Mastery-Based schools consistent with this section.

(e) The state board shall perform the following activities for implementing the Innovation in Schools/Mastery-Based program:

(1) Establish an advisory committee including, but not limited to, public school professional educators, representatives of community and technical colleges, colleges and universities, employers and organizations advocating for education on behalf of employers, parents and Department of Education staff and others who may possess knowledge of mastery-based education. The advisory committee shall advise and assist the state board in carrying out the activities under this section, including, but not limited to, building a broader awareness and understanding of mastery-based models of education, identifying potential roadblocks and potential solutions to implementing mastery-based models of education, recognizing student mastery upon matriculation or transfer, establishing evaluative criteria to assess the readiness of schools to undertake the transition to mastery-based education, reviewing applications of schools interested in implementing mastery-based education and making recommendations to the state board and developing an incubator process for supporting the network of schools willing and ready to begin the transition to a mastery-based education model;

(2) Promote a broader awareness and understanding in mastery-based education among teachers, administrators, parents, students, business leaders and policymakers;

(3) Develop and publish an application designed specifically for schools interested in initial consideration for becoming an Innovation in Education/Mastery-Based school. The application for initial consideration is separate from the application for Innovation in Education designation pursuant to §18-5E-3 of this code and may not require an Innovation in Education plan pursuant to §18-5E-4 of this code. In addition, the application process shall:

(A) Include the evaluative criteria that will be used to assess the readiness of schools to undertake the transition to mastery-based education. Within the evaluative criteria, the state board may include an intent to select any proportion of schools of diverse demographic character and programmatic levels for participation in the initial network of mastery-based education schools; and

(B) Be open to all schools including those currently designated as Innovation in Education schools who are interested in adding mastery-based education to their existing plan;

(4) Establish a process, which may include an on-site visit to schools which apply for initial consideration for becoming an Innovation in Education/Mastery-Based school to assess the readiness of applicants to undertake the transition to mastery-based education. This process shall be used to assist in identifying and recommending to the state board an initial network of not more than 20 schools who are ready to undertake the transition to mastery-based education.



(5) Establish a process to deepen the understanding of mastery-based education of the schools selected for the initial network of schools. The process may include, but is not limited to, visits to schools that have implemented an education system that incorporates the core principals of mastery-based education as defined in this section.

(6) For schools selected for the initial network who elect to proceed with the implementation of a mastery-based model of education, provide technical assistance to prepare an Innovation in Education/Mastery-Based plan and operational agreement with their county board as provided in §18-5E-4 and §18-5E-5 of this code. Schools in the initial network may:

(A) Opt-out of further participation prior to submission of an Innovation in Education/Mastery-Based plan and agreement;

(B) Apply for an Innovation in Education/Mastery-Based grant for the transition to a mastery-based education model within a limited subject area or areas across multiple grade levels, such as, but not limited to, mathematics or STEM related academic and technical programs of study; or

(C) Apply for an Innovation in Education/Mastery-Based grant for the transition to a school-wide mastery-based education model or other configurations as may be determined practicable by the state board.

(7) In addition to any applicable measures of success required for an Innovation in Education plan pursuant to §18-5E-4 of this code, an Innovation in Education/Mastery-Based plan shall include a subset of uniform measures of success in improving education outcomes by advancing student mastery of the content knowledge and skills.

(8) Implement an incubator process to support the network of schools that are awarded Innovation in Education/Mastery-Based education grants pursuant to this article.

(f) In addition to any grant or other financial assistance awarded to a school designated as an Innovation in Education/Mastery-Based school in accordance with this section, the school shall participate in the incubator process established under this section.

(g) A student enrolled at a school that establishes mastery-based education who then transfers to another school within the county or in any other county in this state that does not have a mastery-based education program, may not be penalized by being required to repeat course work covering content that the student has successfully mastered or by any other penalty related to the student's previous attendance in the mastery-based education program.

(h) An institution of higher education in this state shall recognize and accept credentials and diplomas awarded to students indicating a level of content mastery gained, in whole or in part, through mastery-based education on equal footing as a traditional high school transcript and diploma.

*Bill Sponsors: Delegates Hamrick, Dean, Phillips, Cadle, Porterfield, Wilson, Jennings, Cooper, and Espinosa*

## **House Bill 2378: Relating generally to grounds for revocation of a teaching certificate**

*Effective Date:* June 6, 2019

*Code Reference:* Amends: §18A-3-6

*WVDE Contact:* Heather Hutchens, General Counsel, Office of Legal Services

*Bill Summary:* The bill adds to §18A-3-6 additional criminal offenses for which a teacher’s license is automatically revoked. Specifically, a teaching certificate is to be automatically revoked following a criminal conviction under §61-8D-3 (child abuse resulting in injury), the conviction of any offense resulting in the individual registering as a sex offender, and conviction of any offense that includes distribution of a controlled substance as an element of the crime. If the conviction is overturned, the teaching certificate is reinstated, unless otherwise prohibited by law.

This section of code was also modified to streamline and remove unnecessary restrictions on the State Superintendent’s ability to take licensure action. Presently, the State Superintendent’s ability to act is limited based on the disciplinary action imposed by the county board of education. This bill removes this language, thereby allowing the State Superintendent to consider all factors relating to an individual’s situation and make the appropriate licensure action based thereon.

### **CHAPTER 18A. SCHOOL PERSONNEL.**

#### **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.**

##### **§18A-3-6. Grounds for revocation of certificates; recalling certificates for correction.**

(a) The state superintendent may, after 10 days’ notice and upon proper evidence, revoke the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates: Provided, ~~That the certificates of a teacher may not be revoked for any matter for which the teacher was disciplined, less than dismissal, by the county board that employs the teacher, nor for which the teacher is meeting or has met an improvement plan determined by the county board, unless it can be proven by clear and convincing evidence that the teacher has committed one of the offenses listed in this subsection and his or her actions render him or her unfit to teach. Provided, however, That~~

in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The state superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or certificate denials and make recommendations for action by the state superintendent: Provided further, That a teacher, as defined by West Virginia Code §18-1-1(g), convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, any criminal offense that requires the teacher to register as a sex offender, or a criminal offense which has as an element delivery or distribution of a controlled substance, shall have his or her certificate or license automatically revoked. Should the conviction resulting in automatic revocation pursuant to this section be overturned by a Court of this State or the United States, the teacher's certificate shall be restrained unless otherwise prohibited by law.

(b) ~~It shall be the duty of a~~Any county superintendent who knows of any acts on the part of any teacher for which a certificate may be revoked in accordance with this section ~~to shall~~ report ~~the same~~this, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent's judgment may be proper.

(c) If a certificate has been granted through an error, oversight, or misinformation, the state superintendent ~~has authority to may~~ recall the certificate and make such corrections as will conform to the requirements of law and the state board.

*Bill Sponsors: Delegates Espinosa, Westfall, and Lavender-Bowe*

## **House Bill 2396: West Virginia Fresh Food Act**

*Effective Date:* June 6, 2019

*Code Reference:* [Adds: §19-37-1; §19-37-2; §19-37-3](#)

*WVDE Contact:* Amanda Harrison, Executive Director, Office of Child Nutrition

*Bill Summary:* The bill mandates that public schools purchase no less than 5% of fresh produce, meat, and poultry products from in-state producers, so long as such products are available from in-state producers. The Agriculture Commissioner is statutorily charged with enforcing this mandate and is directed to establish legislative rules to carryout the legislation.

### **CHAPTER 19. AGRICULTURE.**

#### **ARTICLE 37. WEST VIRGINIA FRESH FOOD ACT.**

##### **§19-37-1. Legislative findings and purpose.**

(a) According to the West Virginia Farm Bureau state schools alone currently purchase \$100 million of food from out-of-state sources.

(b) Locally grown food is healthier and more beneficial to the environment than food imported from other states and other countries.

(c) This article will:

(1) Stimulate the agricultural economy of the state, especially in its economically depressed areas, and allow small farmers to expand operations as well as act as an incentive to new people to begin farming;

(2) Encourage state-funded institutions to begin growing their own produce, thus enabling people to learn and practice agricultural techniques, as well as lowering operational costs of those institutions; and

(3) Spur self-sufficiency and economic independence of those who learn and engage in agricultural activities.

##### **§19-37-2. State-funded institutions to purchase food from in-state sources; exception.**

Beginning July 1, 2019, all state-funded institutions, such as schools, colleges, correctional facilities, governmental agencies and state parks, shall purchase a minimum of five percent of its fresh produce, meat and poultry products from in-state producers: Provided, That such produce, meat and poultry products can be grown or is available from in-state producers.

**§19-37-3. Rule-making authority and enforcement.**

The Commissioner of Agriculture shall be charged with the enforcement of this article and shall have authority to make and enforce rules and regulations for the administration of this article.

*Bill Sponsors: Delegates R. Thompson and Lovejoy*

**House Bill 2422: Relating to the time for the observation of “Celebrate Freedom Week”**

*Effective Date:* June 6, 2019

*Code Reference:* Amends: §18-2-9

*WVDE Contact:* Joey Wiseman, Executive Director, Office of Middle & Secondary Learning

*Bill Summary:* Presently, statute requires that a full week of classes, specifically the week that contains September 11, be recognized as “Celebrate Freedom Week” and that certain instruction must be provided during that week. The bill removes the requirement that the week containing September 11 must be Celebrate Freedom Week, and instead allows county boards of education to select the week that will be Celebrate Freedom Week. The bill also adds study of the Emancipation Proclamation to the list of required instruction that must be offered during that week.

**CHAPTER 18. EDUCATION.**

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-9. Required courses of instruction.**

(a) In all public, private, parochial and denominational schools located within this state there shall be given prior to the completion of the eighth grade at least one year of instruction in the history of the State of West Virginia. The schools shall require regular courses of instruction by the completion of the twelfth grade in the history of the United States, in civics, in the Constitution of the United States and in the government of the State of West Virginia for the purpose of teaching, fostering and perpetuating the ideals, principles and spirit of political and economic democracy in America and increasing the knowledge of the organization and machinery of the government of the United States and of the State of West Virginia. The state board shall, with the advice of the state superintendent, prescribe the courses of study covering these subjects for the public schools. It shall be the duty of the officials or boards having authority over the respective private, parochial and denominational schools to prescribe courses of study for the schools under their control and supervision similar to those required for the public schools. To further such study, every high school student eligible by age for voter registration shall be afforded the opportunity to register to vote pursuant to §3-2-22 of this code.

(b) The state board shall cause to be taught in all of the public schools of this state the subject of health education, including instruction in any of the grades six through 12 as considered appropriate by the county board, on: (1) The prevention, transmission and spread of acquired immune deficiency syndrome and other sexually transmitted diseases;

(2) substance abuse, including the nature of alcoholic drinks and narcotics, tobacco products and other potentially harmful drugs, with special instruction as to their effect upon the human system and upon society in general; (3) the importance of healthy eating and physical activity to maintaining healthy weight; and (4) education concerning cardiopulmonary resuscitation and first aid, including instruction in the care for conscious choking, and recognition of symptoms of drug or alcohol overdose. The course curriculum requirements and materials for the instruction shall be adopted by the state board by rule in consultation with the Department of Health and Human Resources. The state board shall prescribe a standardized health education assessment to be administered within health education classes to measure student health knowledge and program effectiveness.

(c) An opportunity shall be afforded to the parent or guardian of a child subject to instruction in the prevention, transmission and spread of acquired immune deficiency syndrome and other sexually transmitted diseases to examine the course curriculum requirements and materials to be used in the instruction. The parent or guardian may exempt the child from participation in the instruction by giving notice to that effect in writing to the school principal.

(d) After July 1, 2015, the required instruction in cardiopulmonary resuscitation in subsection (b) of this section shall include at least 30 minutes of instruction for each student prior to graduation on the proper administration of cardiopulmonary resuscitation (CPR) and the psychomotor skills necessary to perform cardiopulmonary resuscitation. The term “psychomotor skills” means the use of hands-on practicing to support cognitive learning. Cognitive-only training does not qualify as “psychomotor skills”. The CPR instruction must be based on an instructional program established by the American Heart Association or the American Red Cross or another program which is nationally recognized and uses the most current national evidence-based Emergency Cardiovascular Care guidelines and incorporates psychomotor skills development into the instruction. A licensed teacher is not required to be a certified trainer of cardiopulmonary resuscitation to facilitate, provide or oversee such instruction. The instruction may be given by community members, such as emergency medical technicians, paramedics, police officers, firefighters, licensed nurses and representatives of the American Heart Association or the American Red Cross. These community members are encouraged to provide necessary training and instructional resources such as cardiopulmonary resuscitation kits and other material at no cost to the schools. The requirements of this subsection are minimum requirements. A local school district may offer CPR instruction for longer periods of time and may enhance the curriculum and training components, including, but not limited to, incorporating into the instruction the use of an automated external defibrillator (AED): Provided, That any instruction that results in a certification being earned must be taught by an authorized CPR/AED instructor.

(e) ~~The A~~ full week of classes during the week ~~within which September 11 falls~~ selected by the county board of education shall be recognized as “Celebrate Freedom Week.” The purpose of Celebrate Freedom Week is to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded.

Celebrate Freedom Week must include appropriate instruction in each social studies class which:

(1) Includes an in-depth study of the intent, meaning and importance of the Declaration of Independence, [the Emancipation Proclamation](#) and the Constitution of the United States with an emphasis on the Bill of Rights;

(2) Uses the historical, political and social environments surrounding each document at the time of its initial passage or ratification; and

(3) Includes the study of historical documents to firmly establish the historical background leading to the establishment of the provisions of the Constitution and Bill of Rights by the founding fathers for the purposes of safeguarding our Constitutional republic.

The requirements of this subsection are applicable to all public, private, parochial and denominational schools located within this state. Nothing in this subsection creates a standard or requirement subject to state accountability measures.

(f) Beginning the 2018-2019 school year, students in the public schools shall be administered a test the same as or substantially similar to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services between their ninth and twelfth grade years as an indicator of student achievement in the area of civics education. The test results may be reported in the aggregate to the county board for evaluation by the board's curriculum director and reported to the board members. Nothing in this subsection creates a standard or requirement subject to state accountability measures.

*Bill Sponsors: Delegate Summers*



## House Bill 2492: **Relating to mandatory reporting procedures of abuse and neglect of adults and children**

<i>Effective Date:</i>	May 20, 2019
<i>Code Reference:</i>	Amends: §9-6-11; §49-2-809
<i>WVDE Contact:</i>	Heather Hutchens, General Counsel, Office of Legal Services
<i>Bill Summary:</i>	The bill modifies the reporting procedures for mandatory reporters of suspicions of abuse and neglect. Rather than requiring the report be made by phone to the local Child Protective Services (CPS) department, reporters are to follow the method established by DHHR.

### CHAPTER 9. HUMAN SERVICES.

#### ARTICLE 6. SOCIAL SERVICES FOR ADULTS.

##### §9-6-11. Reporting procedures.

(a) A report of neglect or abuse of an incapacitated adult or facility resident or of an emergency situation involving such an adult shall be made immediately [by telephone](#) to the department's local adult protective services agency [by a method established by the department, \*Provided, That if the method for reporting is web-based, the Department of Health and Human Resources shall maintain a system for addressing emergency situations that require immediate attention\*](#) and shall be followed by a written report by the complainant or the receiving agency within 48 hours. The department shall, upon receiving any such report, take such action as may be appropriate and shall maintain a record thereof. The department shall receive [such](#) telephonic reports on its 24 hour, seven-day-a-week, toll-free number established to receive calls reporting cases of suspected or known adult abuse or neglect.

(b) A copy of any report of abuse, neglect or emergency situation shall be immediately filed with the following agencies:

- (1) The Department of Health and Human Resources;
- (2) The appropriate law-enforcement agency and the prosecuting attorney, if necessary; or
- (3) In case of a death, to the appropriate medical examiner or coroner's office.

(c) If the person who is alleged to be abused or neglected is a resident of a nursing home or other residential facility, a copy of the report shall also be filed with the state or regional ombudsman and the administrator of the nursing home or facility.

(d) The department shall omit from such report in the first instance, the name of the person making a report, when requested by such person.

(e) Reports of known or suspected institutional abuse or neglect of an incapacitated adult or facility resident or the existence of an emergency situation in an institution, nursing home or other residential facility shall be made, received and investigated in the same manner as other reports provided for in this article. In the case of a report regarding an institution, nursing home or residential facility, the department shall immediately cause an investigation to be conducted.

(f) Upon receipt of a written complaint, the department shall coordinate an investigation pursuant to §9-6-3 of this [article code](#) and applicable state or federal laws, rules or regulations.

## **CHAPTER 49. CHILD WELFARE.**

### **ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

#### **§49-2-809. Reporting procedures.**

(a) Reports of child abuse and neglect pursuant to this article shall be made immediately ~~by telephone~~ to the ~~local~~ department ~~of~~ child protective services ~~agency by a method established by the department, Provided, That if the method for reporting is web-based, the Department of Health and Human Resources shall maintain a system for addressing emergency situations that require immediate attention~~ and shall be followed by a written report within 48 hours if so requested by the receiving agency. The state department shall establish and maintain a 24 hour, seven-day-a-week telephone number to receive ~~those~~ calls reporting suspected or known child abuse or neglect.

(b) A copy of any report of serious physical abuse, sexual abuse, or assault shall be forwarded by the department to the appropriate law-enforcement agency, the prosecuting attorney, or the coroner or medical examiner's office. All reports under this article are confidential. Reports of known or suspected institutional child abuse or neglect shall be made and received as all other reports made pursuant to this article.

*Bill Sponsors: Delegates Ellington, Hill, Summers, Pack, Atkinson, Wilson, Worrell, D. Jeffries, Hollen, and Butler*

## **House Bill 2541: Requiring certain safety measures be taken at public schools**

*Effective Date:* June 6, 2019

*Code Reference:* [Adds: §18-9F-10](#)

*WVDE Contact:* Michele Blatt, Assistant Superintendent, Division of Support & Accountability

*Bill Summary:* The bill directs county boards of education to adopt a school safety program no later than September 1, 2019. At a minimum, the program must include:

- Placing room numbers on exterior doors and windows.
- Annually providing updated floor plans to local law enforcement and first responders.
- Annually providing first aid training to all students and employees.
- Annually providing active shooter training to all students and employees.

### **CHAPTER 18. EDUCATION.**

#### **ARTICLE 9F. SCHOOL ACCESS SAFETY ACT.**

##### **§18-9F-10. School safety requirements.**

In addition to any other requirement contained in this article or the Crisis Response Plan required by §18-9F-9 of this code, each county board of education shall implement a school safety program before September 1, 2019, that at a minimum, requires:

(1) Room numbers to be placed on exterior walls or windows of school buildings, so rooms with exterior walls can be identified by law enforcement and first responders from the outside;

(2) Providing updated floor plans of the school to first responders and local law enforcement by September 1 of each school year;

(3) First aid training for all school personnel and students each school year; and

(4) Active shooter training for all school personnel and students at the beginning of each school year.

*Bill Sponsors:* Delegates R. Thompson, Evans, Lovejoy, Doyle, Hornbuckle, Hicks, Dean, Paynter, Zukoff, and Pyles

**House Bill 2662: Relating to certificates or employment of school personnel**

*Effective Date:* June 6, 2019  
*Code Reference:* Amends: §18A-2-5; §18A-4-8e  
*WVDE Contact:* Heather Hutchens, General Counsel, Office of Legal Services  
*Bill Summary:* The bill directs that a bus driver’s contract is to be immediately terminated and his/her certificate is to be automatically revoked following a criminal conviction under §61-8D-3 (child abuse resulting in injury), §61-8D-5 (sexual abuse by person in a position of trust), the conviction of any offense resulting in the individual registering as a sex offender, and conviction of any offense that includes distribution of a controlled substance as an element of the crime. If the conviction is overturned, the contract/certificate is reinstated, unless otherwise prohibited by law.

**CHAPTER 18A. SCHOOL PERSONNEL.**

**ARTICLE 2. SCHOOL PERSONNEL.**

**§18A-2-5. Employment of service personnel; limitation.**

The board is authorized to employ such service personnel, including substitutes, as is deemed necessary for meeting the needs of the county school system: Provided, That the board may not employ a number of such personnel whose minimum monthly salary under section eight-a, article four, of this chapter is specified as pay grade “H”, which number exceeds the number employed by the board on March 1, 1988.

Effective July 1, 1988, a county board shall not employ for the first time any person who has not obtained a high school diploma or general educational development certificate (GED) or who is not enrolled in an approved adult education course by the date of employment in preparation for obtaining a GED: Provided, That such employment is contingent upon continued enrollment or successful completion of the GED program.

Before entering upon their duties service personnel shall execute with the board a written contract which shall be in the following form:

“COUNTY BOARD OF EDUCATION

SERVICE PERSONNEL CONTRACT OF EMPLOYMENT

THIS (Probationary or Continuing) CONTRACT OF EMPLOYMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between THE BOARD OF EDUCATION OF THE

COUNTY OF \_\_\_\_\_, a corporation, hereinafter called the 'Board,' and (Name and Social Security Number of Employee), of (Mailing Address), hereinafter called the 'Employee.'

WITNESSETH, that whereas, at a lawful meeting of the Board of Education of the County of \_\_\_\_\_ held at the offices of said Board, in the City of \_\_\_\_\_, \_\_\_\_\_ County, West Virginia, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the Employee was duly hired and appointed for employment as a (Job Classification) at (Place of Assignment) for the school year commencing \_\_\_\_\_ for the employment term and at the salary and upon the terms hereinafter set out.

NOW, THEREFORE, pursuant to said employment, Board and Employee mutually agree as follows:

(1) The Employee is employed by the board as a (Job Classification) at (Place of Assignment) for the school year or remaining part thereof commencing \_\_\_\_\_, 19\_\_\_\_. The period of employment is \_\_\_\_\_ days at an annual salary of \$\_\_\_\_\_ at the rate of \$\_\_\_\_\_ per month.

(2) The Board hereby certifies that the Employee's employment has been duly approved by the board and will be a matter of the board's minute records.

(3) The services to be performed by the Employee shall be such services as are prescribed for the job classification set out above in paragraph (1) and as defined in Section 8, Article 4, Chapter 18A of the Code of West Virginia, as amended.

(4) The Employee may be dismissed at any time for immorality, incompetency, cruelty, insubordination, intemperance or willful neglect of duty pursuant to the provisions of Section 8, Article 2, Chapter 18A of the Code of West Virginia, as amended.

(5) The Superintendent of the \_\_\_\_\_ County Board of Education, subject to the approval of the board, may transfer and assign the Employee in the manner provided by Section 7, Article 2, Chapter 18A of the Code of West Virginia, as amended.

(6) This contract shall at all times be subject to any and all existing laws, or such laws as may hereafter be lawfully enacted, and such laws shall be a part of this contract.

(7) This contract may be terminated or modified at any time by the mutual consent of the board and the Employee.

(8) This contract shall be automatically terminated if the Employee is convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, of any criminal offense that requires the Employee to register as a sex offender, or of any criminal offense which has as an element delivery or distribution of a controlled substances. Provided, That should the conviction resulting in automatic revocation pursuant to this section be overturned by any Court of this state or the United States, the Employee's contract shall be reinstated unless otherwise prohibited by law.

(9) This contract must be signed and returned to the board at its address of \_\_\_\_\_ within thirty days after being received by the Employee.

~~(9)~~ (10) By signing this contract the Employee accepts employment upon the terms herein set out.

WITNESS the following signatures as of the day, month and year first above written:  
\_\_\_\_\_, (President, \_\_\_\_\_ County Board of Education) \_\_\_\_\_, (Secretary,  
\_\_\_\_\_ County Board of Education) \_\_\_\_\_, (Employee)”

The use of this form shall not be interpreted to authorize boards to discontinue any employee’s contract status with the board or rescind any rights, privileges or benefits held under contract or otherwise by any employee prior to the effective date of this section.

Each contract of employment shall be designated as a probationary or continuing contract. The employment of service personnel shall be made a matter of minute record. The employee shall return the contract of employment to the county board of education within thirty days after receipt or otherwise he or she shall forfeit his or her right to employment.

Under such regulation and policy as may be established by the county board, service personnel selected and trained for teacher-aide classifications, such as monitor aide, clerical aide, classroom aide and general aide, shall work under the direction of the principal and teachers to whom assigned.

#### **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

##### **§18A-4-8e. Competency testing for service personnel; and recertification testing for bus operators.**

(a) The state board shall develop and make available competency tests for all of the classification titles defined in section eight of this article and listed in section eight-a of this article for service personnel. The board shall review and, if needed, update the competency tests at least every five years. Each classification title defined and listed is considered a separate classification category of employment for service personnel and has a separate competency test, except for those class titles having Roman numeral designations, which are considered a single classification of employment and have a single competency test.

(1) The cafeteria manager class title is included in the same classification category as cooks and has the same competency test.

(2) The executive secretary class title is included in the same classification category as secretaries and has the same competency test.

(3) The classification titles of chief mechanic, mechanic and assistant mechanic are included in one classification title and have the same competency test.

(b) The purpose of these tests is to provide county boards a uniform means of determining whether school service personnel who do not hold a classification title in a particular category of employment meet the definition of the classification title in another category of employment as defined in section eight of this article. Competency tests may

not be used to evaluate employees who hold the classification title in the category of their employment.

(c) The competency test consists of an objective written or performance test, or both. Applicants may take the written test orally if requested. Oral tests are recorded mechanically and kept on file. The oral test is administered by persons who do not know the applicant personally.

(1) The performance test for all classifications and categories other than bus operator is administered by an employee of the county board or an employee of a multicounty vocational school that serves the county at a location designated by the superintendent and approved by the board. The location may be a vocational school that serves the county.

(2) A standard passing score is established by the state Department of Education for each test and is used by county boards.

(3) The subject matter of each competency test is commensurate with the requirements of the definitions of the classification titles as provided in section eight of this article. The subject matter of each competency test is designed in such a manner that achieving a passing grade does not require knowledge and skill in excess of the requirements of the definitions of the classification titles. Achieving a passing score conclusively demonstrates the qualification of an applicant for a classification title.

(4) Once an employee passes the competency test of a classification title, the applicant is fully qualified to fill vacancies in that classification category of employment as provided in section eight-b of this article and may not be required to take the competency test again.

(d) An applicant who fails to achieve a passing score is given other opportunities to pass the competency test when applying for another vacancy within the classification category.

(e) Competency tests are administered to applicants in a uniform manner under uniform testing conditions. County boards are responsible for scheduling competency tests, notifying applicants of the date and time of the test. County boards may not use a competency test other than the test authorized by this section.

(f) When scheduling of the competency test conflicts with the work schedule of a school employee who has applied for a vacancy, the employee is excused from work to take the competency test without loss of pay.

(g) Competency tests are used to determine the qualification of new applicants seeking initial employment in a particular classification title as either a regular or substitute employee.

(h) Notwithstanding any provisions in this code to the contrary, once an employee holds or has held a classification title in a category of employment, that employee is considered qualified for the classification title even though that employee no longer holds that classification.

(i) The requirements of this section do not alter the definitions of class titles as provided in section eight of this article or the procedure and requirements of section eight-b of this article.

(j) Notwithstanding any other provision of this code to the contrary and notwithstanding any rules of the school board concerning school bus operator certification, the certification test for school bus operators shall be required as follows, and school bus operators may not be required to take the certification test more frequently:

(1) For substitute school bus operators and for school bus operators with regular employee status but on a probationary contract, the certification test shall be administered annually;

(2) For school bus operators with regular employee status and continuing contract status, the certification test shall be administered triennially; and

(3) For substitute school bus operators who are retired from a county board and who at the time of retirement had ten years of experience as a regular full-time bus operator, the certification test shall be administered triennially.

(4) School bus operator certificate.

(A) A school bus operator certificate may be issued to a person who has attained the age of twenty-one, completed the required training set forth in state board rule, and met the physical requirements and other criteria to operate a school bus set forth in state board rule.

(B) The state superintendent may, after ten days' notice and upon proper evidence, revoke the certificate of any bus operator for any of the following causes:

(i) Intemperance, untruthfulness, cruelty or immorality;

(ii) Conviction of or guilty plea or plea of no contest to a felony charge;

(iii) Conviction of or guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student;

(iv) Just and sufficient cause for revocation as specified by state board rule; and

(v) Using fraudulent, unapproved or insufficient credit to obtain the certificates.

(vi) Of the causes for certificate revocation listed in this paragraph (B), the following causes constitute grounds for revocation only if there is a rational nexus between the conduct of the bus operator and the performance of the job:

(I) Intemperance, untruthfulness, cruelty or immorality;

(II) Just and sufficient cause for revocation as specified by state board rule; and



(III) Using fraudulent, unapproved or insufficient credit to obtain the certificate.

~~(C) The certificate of a bus operator may not be revoked for either of the following unless it can be proven by clear and convincing evidence that the bus operator has committed one of the offenses listed in this subsection and his or her actions render him or her unfit to operate a school bus: shall be automatically revoked if the bus operator is convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, of any criminal offense that requires the bus operator to register as a sex offender, or of any criminal offense which has an element the distribution of a controlled substance: *Provided, That should the conviction resulting in automatic revocation pursuant to this section be overturned by any Court of this state or the United States, the bus operator's certificate shall be reinstated unless otherwise prohibited by law.*~~

~~(i) Any matter for which the bus operator was disciplined, less than dismissal, by the employing county board; or~~

~~(ii) Any matter for which the bus operator is meeting or has met an improvement plan determined by the county board.~~

(D) The state superintendent shall designate a review panel to conduct hearings on certificate revocations or denials and make recommendations for action by the state superintendent. The state board, after consultation with employee organizations representing school service personnel, shall promulgate a rule to establish the review panel membership and composition, method of appointment, governing principles and meeting schedule.

(E) It is the duty of any county superintendent who knows of any acts on the part of a bus operator for which a certificate may be revoked in accordance with this section to report the same, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent's judgment may be proper.

(F) If a certificate has been granted through an error, oversight or misinformation, the state superintendent may recall the certificate and make such corrections as will conform to the requirements of law and state board rules.

(5) The state board shall promulgate, in accordance with article three-b, chapter twenty-nine-a of this code, revised rules in compliance with this subsection.

*Bill Sponsors: Delegates Westfall, Rohrbach, Zukoff, Toney, R. Thompson, J. Kelly, Evans, Dean, Campbell, and Cooper*

## **House Bill 2853: Establishing the West Virginia Program for Open Education Resources**

<i>Effective Date:</i>	June 5, 2019
<i>Code Reference:</i>	Adds: §10-1-14a
<i>WVDE Contact:</i>	W. Clayton Burch, Associate State Superintendent
<i>Bill Summary:</i>	The bill requires the State Library Commission to establish the West Virginia Program for Open Education Resources for the purpose of encouraging use of open resource materials in higher education and K-12.

### **CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECREATION; ATHLETIC ESTABLISHMENTS; MONUMENTS AND MEMORIAL; ROSTER OF SERVICEMEN; EDUCATIONAL BROADCASTING AUTHORITY.**

#### **ARTICLE 1. PUBLIC LIBRARIES.**

##### **§10-1-14a. West Virginia Program for Open Education Resources; material description.**

(a)(1) The State Library Commission shall establish the West Virginia Program for Open Education Resources to encourage and facilitate the use of open education resource materials in both higher education and kindergarten through 12th grade in West Virginia schools.

(2) "Open education resource materials" means teaching, learning and resource materials in any medium, digital or otherwise, that reside in the public domain or have been released under an open license that permits low cost access, use, adaptation and redistribution by others with no or limited restrictions.

(b) The Library Commission, in consultation with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education and the State Superintendent of Schools, or his or her designee, shall:

(1) Ascertain what institutions or faculty are currently using OER material.

(2) Identify material currently associated with core general education courses and readily available for use by faculty and institutions;

(3) Identify any statutory or other impediments which interfere with selection and use of OER material by administrators or teachers at all levels of instruction in West Virginia schools;

(4) Identify sources of potential grants for funding for teachers and institutions to use open education resources for classes and courses, and propose a competitive application system to award grant funding for those faculty and institutions seeking to use the materials;

(5) Establish a digital clearing house that will function as a publicly-accessible database for material;

(6) Develop strategies to leverage further open resource material to benefit higher education institutions and school systems, as well as private and foundation support for the project; and

(7) Report no later than July 1st of each year the program's findings, progress and recommendations to the Legislative Manager, the Governor, and the chairs of the Legislature's House and Senate Committees on Education.

*Bill Sponsors: Delegates Higginbotham, Jennings, Skaff, Queen, Phillips, Bibby, Wilson, Atkinson, and Byrd*

**House Bill 206: Relating to public education**

*Effective Date:* June 24, 2019

*Code Reference:* Amends: §5-16-2; §5-16-22; §15-1B-24; §18-5-14; §18-5-16; §18-5-16a; §18-5-18a; §18-5-18b; §18-5-46; §18-5A-2; §18-5A-3; §18-5A-5; §18-7A-3; §18-7B-2; §18-8-4; §18-9A-2; §18-9A-8; §18-9A-9; §18-20-5; §18A-4-2; §18A-4-5; §18A-4-5a; §18-4-7a; §18-4-8a; §18A-4-10; §18C-4-1; §18C-4-2; §18C-4-3; §18C 4 4; §18C-4-5; §18C-4A-1; §18C-4A-2; §18C-4A-3; §29-12-5A

Adds: §11-15-9s; §18-2E-12; §18-5-49; §18-5G-1; §18-5G-2; §18-5G-3; §18-5G-4; §18-5G-5; §18-5G-6; §18-5G-7; §18-5G-8; §18-5G-9; §18-5G-10; §18 5G 11; §18-5G-12; §18-9A-19; §18-9B-22

*WVDE Contact:* Sarah Stewart, Government Affairs Counsel, Office of Legal Services

*Bill Summary:* EDUCATION SALES TAX HOLIDAY (§11-15-9S): Starting 7/1/21, provides sales tax holiday (essentially first weekend in August) for certain purchases of school supplies, instructional materials, computers, and sports equipment.

MOUNTAINEER CHALLENGE ACADEMY (MCA) EXPANSION (§15-1B-24): Direct Governor to expand MCA located in Preston County to enroll students up to its capacity. Also directs Governor to expand MCA to second location in Fayette County (capacity not specified).

MOUNTAIN STATE DIGITAL LITERACY PROJECT (§18-2E-12): Requires WVBE to implement a digital literacy pilot project beginning in 2020-2021 school year. Schools participating are to be provided with instructional resources for students and teachers that feature extensive curriculum related to digital literacy and internet safety. The WVBE is to report to the Governor and LCOEA in 2025 an evaluation of pilot project’s impact on performance and progress at pilot schools.

COUNTY BOE POLICIES PROMOTING SCHOOL EFFECTIVENESS (§18-5-14): Removes requirement that policies adopted by county BOE’s to promote school board effectiveness be filed with the WVBE. Removes requirement that county BOE meet annually with LSIC at each school and replaces it with the requirement that the county BOE meet annually with LSIC of each school deemed to be low performing per accountability system. At least 30 days before such meeting, county BOE required to submit to the LSIC a meeting agenda requiring school principal and LSIC chair to conduct dialogue at a meeting where parents, students, employees, business partners,

and other interested parties are given opportunity to make specific suggestions on how to address issues when they are seen to affect the school's academic performance. Reports by county superintendent concerning school's performance are able to be addressed. The requirement that county BOE report detail concerning LSIC's meeting to WVBE is removed.

STUDENT TRANSFER (§18-5-16 and §18-5-16a): Prospectively revises the inter-county transfer process (county-to-county, not school-to-school within a county) by authorizing a county BOE to establish an open enrollment policy that is to include admission criteria, application procedures, transportation provisions, timelines, and restrictions due to building constraints. Preferences may be given to certain students, such as students that move out of county, children of county employees, students living substantially closer to a school in neighboring county, etc. Allows counties the option to provide transportation to out of district students and requires that transportation be provided to any out of district student that has an IEP that specified transportation is necessary. Also permits county BOE, at its discretion, to pay agreed upon tuition for students that it sends out of state. Clarifies that a county's open enrollment policy does not alter or supersede the SSAC's eligibility requirements.

TEACHER PUPIL RATIO (§18-5-18a): Requires WVDE to survey districts on overcrowding and submit a plan for reducing class size in such areas by 7/1/20. The survey is to include the effect of class size limits on: (1) student learning when limits placed in elementary school, and in middle school where students have different teachers for different subjects; (2) equity among teachers in middle school where class size is limited for some teachers and not others, including additional pay for classrooms exceeding class limits; and (3) school system's ability to offer elective courses at secondary level.

SCHOOL COUNSELORS (§18-5-18b): Modifies the percentage of counselor time spent on direct counseling services to students and administrative duties by: (1) increasing time on direct counseling services from 75% to 80%, and (2) decreasing time on administrative duties from 25% to 20%.

STUDENT PROMOTION (§18-5-46): Declares the teacher's recommendation on whether a student is to advance to the next grade level shall be the primary consideration when making that determination.

EXCEPTIONAL NEEDS EXPENDITURES (§18-5-48): Allows (optional) county BOE to adopt policy establishing exceptional needs fund from surplus funding for students likely to perform better outside the public school setting. The policy may include, in addition to anything county BOE deems appropriate: (1) allowing funds for services/materials necessary for educational success not met within the district, (2) amount of funds that is to be deposited into fund (may differ yearly based on surpluses), (3) what funds may be used for, (4) measures protecting against improper use, (5) conditions when payments from fund should cease, (6) eligibility requirements for education service providers to accept funds, and (7) requirement that overpayment of funds shall revert back to fund.

LOCAL SCHOOL IMPROVEMENT COUNCIL (LSIC) (§18-5A-2): Increases number of at-large members on LSIC from 2 to 3. Increases number of additional representatives that may be appointed at MCVCs and comprehensive middle and high school LSICs from 2 to 4. Increases the notice requirement a principal is required to give of organizational meetings from 2 employment days to 5 employment days. Removes limitation on number of terms a LSIC member may serve as chair (currently 2). Increases the notice requirement a LSIC chair is required to give for meetings from 2 employment days to 5 employment days. Replaces required annual LSIC meeting on discipline be replaced with meeting on school's academic performance and standing as determined by measures adopted by WVBE. There is to be dialogue at such meetings where parents, students, employees, business partners, and other interested parties are given opportunities to make specific suggestions on how to address issues which are seen to affect the school's academic performance; LSIC required to give 10 employment days notice for this meeting. Acknowledges LSIC ability to propose alternative and seek waivers of rules, policies, and statutes regarding operation of the school (via §18-5A-3). Schools are to cooperate with LSICs in policies adopted relating to encouraging students to adopt healthy lifestyles and communicate to students common skills and attributes sought by employers in prospective employees. Removes requirement that LSIC annually develop report to countywide council on productive and safe schools.

COUNTY BOE AUTHORITY TO DETERMINE INNOVATION SCHOOLS, LSIC WAIVER PROCESS (§18-5A-3): Authorizes county BOE to approve proposals submitted by LSIC containing alternatives school operations requirements and designate such schools as innovation schools. County BOE is also authorized to provide funding to support the proposal. Sets forth approval process for exemptions from county BOE policies, WVBE policies, state superintendent interpretations, and state statute to be granted to effectuate the proposal (entity that created the policy/rule is the entity that must approve any requested exemption). LSIC proposals requires a 2/3 vote of LSIC supporting the proposal.

Clarifies that LSIC is not precluded from permitting off-site classrooms developed in conjunction with local business provided sites meet requirements established by county BOE.

#### PUBLIC CHARTER SCHOOLS (§18-5G-1 *et seq.*):

##### Key Provisions:

- Public charter schools (PCS) are part of the state’s public education system.
- Prohibition on conversion of private school into a PCS.
- Limit of 3 may be established between now and 2023; thereafter, an additional 3 may be authorized every 3 years.
- No PCS on start prior to the 2021-2022 school year.
- Applicant defined as parents, community members, teachers, school administrators, institutions of higher education in WV who are interested in organizing a PCS and have obtained/are obtaining 501(c)(3) status.
- Authorizer limited to:
  - » County BOE where PCS’s recruitment area is wholly within the county’s boundaries; or
  - » Two or more county BOEs where PCS’s primary recruitment area is within boundaries of such counties; or
  - » WVBE when it has intervened in a county where PCS applicant has submitted an application or county BOE requests WVBE to serve as authorizer in its place.
- Bill sets forth in specific detail the application process, the duties and responsibilities of a PCS governing board, and what must be included in a charter contract.
- PCS applications and charter contracts, whether approved/denied or renewed/not renewed, are to be submitted to the WVBE/WVDE.
- PCS must adhere to general summative assessment and accountability system requirements.

##### *PCS Criteria, Governance Structure, Applicable Laws:*

- PCS cannot be home school based or affiliated with any specific religious denomination or any group whose espoused beliefs attach/malign an entire class of people.
- PCS cannot have requirements that would exclude a child from enrollment who would not be excluded at a noncharter school.
- PCS must provide programs/services to a student with a disability per student’s IEP, PCS has option of delivering services directly or contracting with county BOE or other provider to deliver services (spelled out in charter contract).
- County BOE prohibited from harassing, threatening, disciplining, discharging, retaliating, or otherwise discriminating against an employee involved with a charter application.
- PCS employees previously employed by the county BOE accrue seniority with county BOE in same manner as they would if employed at noncharter school.

- PCS is exempt from all state statutes and rules except:
  - » All federal laws applicable to noncharter schools.
  - » FOIA laws and Open Governmental Proceeding Act.
  - » Immunization requirements.
  - » Compulsory school attendance requirements (§18 8 1).
  - » School calendar requirements (§18-5-45).
  - » General summative assessment.
  - » Student Data Accessibility, Transparency and Accountability Act (§18-2-5h).
  - » Required to use WVEIS to report required information.
  - » Reporting information on student/school performance in same manner as noncharter schools.
  - » Applicable accounting and financial reporting requirements that noncharter schools are subject to.
  - » Criminal history check of employees to same extent required at noncharter schools.
  - » Zoning rules and building codes applicable to noncharter schools.
  - » If transportation is provided, same student transportation safety laws applicable to noncharter schools.

*WVBE Responsibilities & PCS Rules:*

- WVBE is required to consult with nationally recognized PCS organization and establish a database of best practices for PCS.
- By February 2020, WVBE is to provide forms to authorizers so they may solicit PCS applications and establish a quality charter school contract that includes framework for performance standards. Forms must include deadline of August 2020 for any PCS to begin operation for the 2021-2022 school year.
- WVBE must provide training programs for PCS applicants, administrators, and governing board members.
- WVBE responsible for receiving/expending gifts, grants, and donations made for purpose of supporting PCSs.
- WVBE must apply for any federal funds that may be available to implement PCS programs.
- WVBE is to establish reporting requirements so it may monitor performance and legal compliance of authorizers and PCSs.
- Annual report must be submitted by WVBE to Governor and Legislature within 60 days of school year's end summarizing specific data points and information related to PCSs.
- WVBE charged with establishing rules containing the following:
  - » Outline the requirements for PCS funding, which must include that 90% of the per pupil total basic foundation allowance follows the student to the PCS. Rule can include allowance of student transportation and current expenses that do not decrease as a result of transfer of students from noncharter school to PCS.



- » WVDE require to follow federal requirements to ensure federal funds follow students to PCS.
- » PCS accountability for student performance and accountability for authorizers.
- » Allowable authorizer costs for overseeing PCS.
- » Any unforeseen issues relating to the implementation of PCS.

STUDENT UNEXCUSED ABSENCES (§18-8-4): Beginning in 2019-2020 school year, removes the requirement to send a written notice to a parent/guardian when a student receives 3 and 5 unexcused absences. Instead requires the principal or attendance director to make “meaningful contact” with the parent/guardian upon 3 and 5 unexcused absences to ascertain reasons for the absences and what measures school may employ to assist student in attending school and not incurring additional unexcused absences.

PROFESSIONAL STUDENT SUPPORT PERSONNEL (§18-9A-2): Beginning in the 2019-2020 school year, expands the statutory definition of “professional student support personnel” from just nurses and counselors to include any professional personnel providing direct social and emotional student support services to students (i.e., social workers, professionals addressing chronic absenteeism, communities in schools site coordinators, etc.).

AID TO SMALL COUNTIES (§18-9A-2): For 2019-2020 school year the adjusted net enrolment used to calculate a county’s basic foundation program allowance will be increased by 10% for counties with net enrollment below 1,400 capped at a maximum of 1,400 students for funding purposes.

LOCAL SHARE ADJUSTMENT (§18-9A-2): Beginning in 2019-2020 school year, modifies §18-9A-2 to reduce local share percentage for purposes of state aid from 90% to 85%, thereby allowing counties to retain an additional 5% of regular level dollars for discretionary use.

STEP 5 FUNDING (§18-9A-8): Beginning in 2019-2020 school year, increases Step 5 funding for Professional Student Support Personnel by removing the current statutory cap and inserts a 5.0 ratio of such personnel per 1,000 students.

STEP 6a FUNDING (§18-9A-9): Beginning in 2019-2020 school year increases Step 6a funding for current operations by 1%.

FACULTY SENATE FUNDING (§18-5A-5 and §18-9A-9): Increases faculty senate allotment for each classroom teacher and librarian by an additional \$200 (increase from \$100 to \$300).

BLOCK GRANT FUNDING (§18-9A-19): Beginning in the 2019-2020 school year, requires that state aid be disbursed in the form of block grants and free from limitations included in article 9A of chapter 18. Specifically, the following state aid funds are considered restricted and the language of the bill would relieve districts from spending restrictions in these areas:

- Bus Replacement/Additional Bus Funding – currently has flexibility of up to \$200,000 for alternative purposes if certain safety standards are met.
- Step 7a (Improvement of Instructional Programs) – currently has up to 50% that can be used for personnel and about 25% that can be used for alternative purposes.
- Step 7b (Improvement of Instructional Technology) – currently has up to 100% for TSS positions and up to 50% for alternative purposes.
- Step 7c (Advanced Placement) – only \$644,000 statewide but must all be used for AP, Dual Credit, or IB courses.
- Step 7d (Teacher and Leader Induction) – very broad purpose but no flexibility language
- Academic Classroom Curriculum Trips

The following restricted state aid items come from articles other than 9A and thus would remain in place under the proposed language:

- Professional Staff Development Councils
- Service Staff Development Councils
- Faculty Senate Funding

BUDGET DATABASE & WEBSITE (§18-9B-22): Requires State Superintendent to provide State Auditor required county-level data for use on WV Checkbook. Specifies the amount of county-level data the State Superintendent is required to provide the State Auditor and clarifies that the State Superintendent will not violate FERPA in providing the data. Implementation not until July 1, 2020.

TEACHER SALARY INCREASES: Beginning in 2019-20 school year, provides an average 5% across the board pay raise (\$2,210/year) to classroom teachers (including professional student support personnel in Step 5).

SUPPLEMENT FOR MATH TEACHERS (§18A-4-2): Beginning in 2019-20 school year, for purposes of the salary schedule, provides three additional years of experience for certified special education teachers.

EQUITY PAYMENT (§18A-4-5): Beginning in 2019-20 school year, changes the statutory equity payment to teachers and SSP to a state supplement (does not affect amounts that are ultimately received by teachers and SSP). Removes the requirement that salaries of professional educators throughout the state cannot differ by greater than a certain amount. Presently, statute requires that the average of the top 10 counties with the highest teacher salaries and the lowest paid county cannot differ by more than 10%. Removes the same requirement for service personnel.

COUNTY SALARY SUPPLEMENT (§18A-4-5a): Allows county BOEs to

provide salary supplements to teachers that:

- Are certified to and do teach in a critical need and shortage subject.
- Teach in schools in remote geographic locations.
- Teach in locations that have experienced high rates of turnover in experience teachers.
- In addition to regular teaching duties, are assigned as a master teacher, mentor, academic coach, etc. that are providing strong school-based support and supervision to assist licensure candidates in a clinical internship, beginning teachers, and other teachers at the school to improve their professional practice in accordance with the county's comprehensive system of support for teacher and leader induction and professional growth (§18A-3C-3).

RIF PROCESS (§18A-4-7a): Starting 7/1/19, if two or more employees with the same certification have an identical seniority date, priority between such employees for purposes of RIF determinations is to be determined via a random selection system approved by county BOE. The random selection is to happen within 30 days of hiring the employees. County BOEs are to adopt a policy that outlines the qualifications upon which RIF decisions are to be based. County BOE is limited to including any or all of the 11 qualifications listed in statute when defining "qualifications" in local board policy. However, to be consistent with other parts of this code section in the House's version of the bill, the qualifications included in the policy should be (1) seniority, (2) certification, and (3) evaluations. If employee has poor evaluations for 2 consecutive years, he/she can be RIFed over employee with less seniority.

SERVICE PERSONNEL SALARY INCREASES (§18A-4-8a): Beginning in 2019-20 school year, provides an average 5% across the board pay raise (\$115/month) to school service personnel.

UNUSED LEAVE BONUS (§18A-4-10): Beginning in 2019-20 school year, increases number of personal days, or "without cause" days, for all employees from 3 to 4. Classroom teachers that have not used more than 4 personal days are entitled to \$500 bonus at end of year.

UNDERWOOD-SMITH SCHOLARSHIP (§18C-4-1 *et seq.* and §18C-4A-1 *et seq.*): Modifies current Underwood-Smith Scholarship program by providing scholarships to individuals agreeing to teacher in critical need areas for at least 5 years. Also, modifies teacher education loan repayment program; applicants must agree to work in area of critical need for each year the loan repayment assistance is received.

ADDITIONAL BRIM COVERAGE (§29-12-5a): Increases the insurance coverage amount counties are required to procure from \$1 million to \$1.25 million per occurrence. Also directs counties to provide written notice, via email or U.S. mail, of insurance coverage, coverage limits, BRIM's duty to defend, and BRIM's contact information to all employees.

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-2. Definitions.**

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, have the following meanings:

(1) "Agency" means the Public Employees Insurance Agency created by this article.

(2) "Director" means the Director of the Public Employees Insurance Agency created by this article.

(3) "Employee" means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia and, for the purpose of this article only, the term "employee" also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; [a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in this charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program](#); a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or [comprehensive mental retardation-intellectually and developmentally disabled](#) facility established, operated, or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board, as defined in §18B-1-2 of this code; any person who works regularly full time in the service of a combined city-county health department created pursuant to §16-2-1 et seq. of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: Provided, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and until the end of that instructional term, is eligible for the benefits provided in this article until September 1, following that instructional term: Provided, however, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an "employee" during the term of office of the elected member. Upon election by the state Board of Education to allow appointed board members to participate in the Public Employees

Insurance Program pursuant to this article, any person appointed to the state Board of Education is considered an “employee” during the term of office of the appointed member: Provided further, That the elected member of a county board of education and the appointed member of the state Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an “employee” if that person meets the following criteria:

(i) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;

(ii) Has been designated, in writing, by all other participants in that job-sharing arrangement as the “employee” for purposes of this section; and

(iii) Works at least one-third of the time required for a full-time employee.

(4) “Employer” means the State of West Virginia, its boards, agencies, commissions, departments, institutions or spending units; a county board of education; [a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance Program](#); a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive community mental health center or ~~comprehensive-mental retardation~~ [intellectually and developmentally disabled](#) facility established, operated or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county or municipal funds; a combined city-county health department created pursuant to §16-2-1 et seq. of this code; and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of doubt as to who is an “employer” within the meaning of this article shall be decided by the director. The term “employer” does not include within its meaning the National Guard.

(5) “Finance board” means the Public Employees Insurance Agency finance board created by this article.

(6) “Person” means any individual, company, association, organization, corporation or other legal entity, including, but not limited to, hospital, medical or dental service corporations; health maintenance organizations or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article.

(7) “Plan”, unless the context indicates otherwise, means the medical indemnity plan, the managed care plan option or the group life insurance plan offered by the agency.

(8) “Retired employee” means an employee of the state who retired after April 29, 1971, and an employee of the Higher Education Policy Commission, the Council for Community and Technical College Education, a state institution of higher education or a county board of education who retires on or after April 21, 1972, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility requirements for their respective state retirement system and whose last employer immediately prior to retirement under the state retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: Provided, That for the purposes of this article, the employees who are not covered by a state retirement system, but who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to §5-16D-1 *et seq.* Nonstate employers may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only upon the written certification, under oath, of an authorized officer of the employer that the employer has no employees who are, or who are eligible to become, retired employees and that the employer will defend and hold harmless the Public Employees Insurance Agency from any claim by one of the employer’s past, present, or future employees for eligibility to participate in the Public Employees Insurance Agency as a retired employee. As a matter of law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired employee of a nonstate employer which has opted out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

**§5-16-22. Permissive participation; exemptions.**

The provisions of this article are not mandatory upon any employee or employer who is not an employee of, or is not, the State of West Virginia, its boards, agencies, commissions, departments, institutions or spending units, or a county board of education, and nothing contained in this article compels any employee or employer to enroll in or subscribe to any insurance plan authorized by the provisions of this article, [Provided, That nothing in this section requires a public charter school to participate in the Public Employees Insurance Agency program.](#)

Those employees enrolled in the insurance program authorized under the provisions of §21A-2B-1 *et seq.* of this code are not required to enroll in or subscribe to an insurance plan or plans authorized by the provisions of this article, and the employees of any department which has an existing insurance program for its employees to which the government of the United States contributes any part or all of the premium or cost of the premium may be exempted from the provisions of this article. Any employee or employer exempted under the provisions of this paragraph may enroll in any insurance program authorized by the provisions of this article at any time, to the same extent as any other qualified employee or employer, but employee or employer may not remain enrolled in both programs.

Any plan established or administered by the Public Employees Insurance Agency pursuant to this article is exempt from the provisions of chapter 33 of this code unless explicitly stated. Notwithstanding any provision of this code to the contrary, the Public Employees Insurance Agency is not an insurer or engaged in the business of insurance as defined in chapter 33 of this code.

Employers, other than the State of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education, are exempt from participating in the insurance program provided for by the provisions of this article unless participation by the employer has been approved by a majority vote of the employer's governing body. It is the duty of the clerk or secretary of the governing body of an employer who by majority vote becomes a participant in the insurance program to notify the director not later than 10 days after the vote.

Any employer, whether the employer participates in the Public Employees Insurance Agency insurance program as a group or not, which has retired employees, their dependents or surviving dependents of deceased retired employees who participate in the Public Employees Insurance Agency insurance program as authorized by this article, shall pay to the agency the same contribution toward the cost of coverage for its retired employees, their dependents or surviving dependents of deceased retired employees as the State of West Virginia, its boards, agencies, commissions, departments, institutions, spending units, or a county board of education pay for their retired employees, their dependents and surviving dependents of deceased retired employees, as determined by the finance board: Provided, That after June 30, 1996, an employer not mandated to participate in the plan is only required to pay a contribution toward the cost of coverage for its retired employees, their dependents or the surviving dependents of deceased retired employees who elect coverage when the retired employee participated in the plan as an active employee of the employer for at least five years: Provided, however, That those retired employees of an employer not participating in the plan who retire on or after July 1, 2010, who have participated in the plan as active employees of the employer for less than five years are responsible for the entire premium cost for coverage and the Public Employees Insurance Agency shall bill for and collect the entire premium from the retired employees, unless the employer elects to pay the employer share of the premium. Each employer is hereby authorized and required to budget for and make such payments as are required by this section.

## **CHAPTER 11. TAXATION.**

### **ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

#### **§11-15-9s. Exemption For certain school supplies, school instructional materials, laptop and tablet computers, and sports equipment.**

(a) Effective July 1, 2021, the items identified in subdivision (1) through (5) of this subsection are exempt from the tax imposed by this article and §11-15A-1 et seq. of this code, if the sale or purchase occurs on the first Sunday of August, or the previous Friday and Saturday, or the following Monday. The items exempt are:

(1) An item of clothing, the price of which is \$125 or less;

(2) An item of school supplies, the price of which is \$50 or less;

(3) An item of school instructional materials, the price of which is \$20 or less;

(4) Laptop and tablet computers, not purchased for use in a trade or business, the price of which is \$500 or less; and

(5) Sports equipment, not purchased for use in a trade or business, the price of which is \$150 or less.

(b) For purposes of this section:

(1) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; ear muffs, footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insole for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms; athletic and nonathletic; and wedding apparel. "Clothing" does not include items purchased for use in a trade or business; clothing accessories or equipment; protective equipment; sports or recreation equipment; belt buckles sold separately; costume masks sold separately; patches and emblems sold separately; sewing equipment and supplies including but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and sewing material that become part of "clothing" including, but not limited to, buttons, fabric, lace, thread, yard, and zippers.

(2) "School supplies" means items commonly used by a student in a course of study. "School supplies" includes only the following items: Binders; book bags; calculators; cellphone tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. "School supplies" does not include any items purchased for use in a trade or business.

(3) "School instructional material" means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. "School instructional material" includes only the following items: reference books, reference maps and globes, textbooks, and workbooks. "School instructional material" does not include any material purchased for use in a trade or business.

(c) The tax commissioner shall promulgate emergency rules and shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to establish eligibility requirements for the exemptions established by this section.



## CHAPTER 15. PUBLIC SAFETY.

### ARTICLE 1B. NATIONAL GUARD.

#### **§15-1B-24. Mountaineer Challenge Academy; expansion; cooperation of state executive agencies.**

(a) Subject to the agreement entered into between the United States Secretary of Defense and the Governor to establish, organize, and administer the Mountaineer Challenge Academy pursuant to 32 U.S.C. §509, the Governor shall:

(1) Expand the capacity of the Mountaineer Challenge Academy location in Preston County to accept cadets up to its maximum capacity;

(2) Expand the Mountaineer Challenge Academy to a second location in Fayette County; and

(3) To the extent necessary to accomplish the requirements set forth in this subsection and to maximize the use of federal funds, pursue an amendment to the agreement entered into with the United States Secretary of Defense pursuant to 32 U.S.C. §509.

(b) The Mountaineer Challenge Academy, operated by the Adjutant General at Camp Dawson, is hereby acknowledged to be a program of great value in meeting the educational needs of at-risk youth throughout the state. Further, the Mountaineer Challenge Academy is hereby designated as a special alternative education program as is further provided pursuant to §18-2-6 of this code. It is, therefore, the intent of the Legislature that the Mountaineer Challenge Academy should enjoy the full cooperation of the executive agencies of state government in carrying out its program.

To this end, the State Board of Education shall, notwithstanding any other provision in this code to the contrary:

(1) Include the Mountaineer Challenge Academy in the child nutrition program;

(2) Provide the names and mailing addresses of all high school dropouts in the state to the director of the Mountaineer Challenge Academy annually; and

(3) Provide for Mountaineer Challenge Academy graduates to participate in the adult basic education program.

(c) Further cooperation with the Mountaineer Challenge Academy is encouraged by the Legislature for the purpose of assisting the Mountaineer Challenge Academy to achieve its mission and help prepare young people for productive adulthood.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 2E. HIGH QUALITY EDUCATION PROGRAMS.**

#### **§18-2E-12. Mountain State Digital Literacy Project.**

(a) Beginning for the school year 2020-2021, the state board shall implement a pilot project, hereby designated the mountain State Digital Literacy Project. The state board shall determine the number of schools eligible to participate in the pilot project and may adjust that number on a yearly basis. The state board shall select the schools to participate in the project, but selected schools shall possess varying geographic and demographic characteristics and serve students in grades K-8.

(b) Subject to legislative appropriation for this purpose, schools participating in the project shall be provided with instructional resources for students and teachers that feature an extensive curriculum related to digital literacy, online assessment preparation, and internet safety. Administrators and teachers at the participating schools shall be provided access to online digital literacy related professional development and support.

(c) The project shall be designated and implemented to compliment and build upon the digital literacy standards and assessments established pursuant to §18-2-12, §18-2E-5(c)(16), and §18-2E-5(d)(5) of this code.

(d) The state board may contract with a third-party to facilitate the project. Any such third-party shall satisfy the following qualifications:

(1) Possesses demonstrable experience facilitating similar digital literacy initiatives with public school systems;

(2) Provides extensive digital literacy content over the internet that may be adapted to age or grade specific user and assessment tools, and integrates with widely used platforms; and

(3) Provides digital literacy-related professional development and support resources for administrators and teachers.

(e) On or before January 1, 2020, the state board shall submit to the Governor and the Legislative Oversight Committee on Education Accountability a report that provides information on the development, structure, and fiscal estimate of the Mountain State Digital Literacy Project.

(f) On or before January 1, 2025, the state board shall submit to the Governor and the Legislative Oversight Committee on Education Accountability an evaluation of the pilot project's impact on the performance and progress of students at the participating schools. The evaluation shall include a recommendation for pilot project continuation, expansion or termination and if, recommended for continuation or expansion, any recommendations for program modifications and utilization of the successful participating schools as demonstration sites to facilitate program expansion.

## ARTICLE 5. COUNTY BOARD OF EDUCATION.

### §18-5-14. Policies to promote school board effectiveness.

(a) No later than ~~August 1, 2003;~~ January, 2020, each county board shall adopt ~~and file with the state board copies of~~ policies and summaries of policies that promote school board effectiveness and may modify the policies as necessary. ~~These policies may be modified by the county board as necessary, but shall be refiled with the state board following each modification.~~ The policies shall address the following objectives:

(1) Establishing direct links between the county board and its local school improvement councils and between the county board and its faculty senates for the purpose of enabling the county board to receive information, comments and suggestions directly from the councils and faculty senates regarding the broad guidelines for oversight procedures, standards of accountability and planning for future needs as required by this section. To further development of these linkages, each county board shall:

(A) Meet at least annually with ~~a quorum of members from each~~ the local school improvement council ~~in the district of each school deemed to be low performing under the accountability system established by the state board. The meeting or meetings shall be held~~ at a time and in a manner to be determined by the county board; ~~except, in order to facilitate scheduling, the county board may adopt an alternate procedure allowing it to conduct the required annual meeting with each council in the absence of a quorum of council members if the alternate procedure has received prior approval from the state board and if the school district serves more than twenty thousand students or has more than twelve public schools.~~

~~Nothing in this section prohibits a county board from meeting with representatives of a local school improvement council, but at least one annual meeting shall be held, as specified in this section.~~

~~At any time and with reasonable advance notice, county boards may schedule additional meetings with the council for any low performing school in the district;~~

(B) At least 30 days before ~~an annual~~ a meeting with ~~each~~ the local school improvement council ~~of a school deemed to be low performing~~, develop and submit to the council an agenda for the ~~annual~~ meeting which requires the school principal and council chair or a member designated by the chair, to address ~~items designated by the county board from the report created pursuant to this section; the dialogue of its meeting or meetings at which the parents, students, school employees, business partners and other interested parties were given the opportunity to make specific suggestions on how to address issues which are seen to affect the school's academic performance. The principal, council chair or other designated member shall also address any reports by the county superintendent with respect to the school's performance and progress,~~ and any one or more of the following issues as determined by the county board:

(i) School performance;

(ii) Curriculum;

(iii) Status of the school in meeting the ~~unified school~~ school's strategic improvement plan established pursuant to §18-2E-5 of this code; and

(iv) Status of the school in meeting the county relevant parts of the county's strategic improvement plan established pursuant to §18-2E-5 of this code;

(C) Make written requests for information from the local school improvement council throughout the year or hold community forums to receive input from the affected community as the county board considers necessary; and

(D) Nothing in this subdivision prohibits a county board from meeting with and requesting information from representatives of any of its local school improvement councils such times and in such manner determined by the county board.

~~(D) Report details to the state board concerning the meeting or meetings held with councils, as specified in this section. The information shall be provided to the state board at the conclusion of the school year, but no later than September 1, of each year, and shall become an indicator in the performance accreditation process for each county. In order to facilitate development of this report, a county board may consult with and request assistance from members of the councils.~~

(2) Providing for the development of direct links between the county board and the community at large allowing for community involvement at regular county board meetings and specifying how the county board will communicate regularly with the public regarding important issues;

(3) Providing for the periodic review of personnel policies of the district in order to determine their effectiveness;

(4) Setting broad guidelines for the school district, including the establishment of specific oversight procedures, the development and implementation of standards of accountability and the development of long-range plans to meet future needs as required by this section; and

(5) Using school-based accreditation accountability and performance data provided by the state board and other available data in county board decision-making to meet the education goals of the state and other goals as the county board may establish.

(b) On or before August 1, of each year, county school boards shall review the policies listed in subsection (a) of this section and may modify these policies as necessary.

**§18-5-16. Student transfers; legislative findingsdefinitions; appeals; calculating net enrollment; fees for transfer.**

(a) County districts and school attendance.—Establishment of attendance zones within counties. - The county board ~~may divide~~ may establish attendance zones within the county ~~into such districts as are necessary to determine~~ to designate the schools ~~the that~~ its resident students ~~of its county~~ shall attend. Upon the written request of any parent or guardian, or person legally responsible for any student, or for reasons affecting the best

interests of the schools, the superintendent may transfer students from one school to another within the county. Any aggrieved person may appeal the decision of the county superintendent to the county board, and the decision of the county board shall be is final.

~~(b) Transfers between counties; legislative findings—~~

~~(1) Transfers of students from one county to another may be made by the county board of the county in which the student desiring to be transferred resides. The transfer shall be subject to the approval of both the board of the county in which the student resides and the board to which the student wishes to be transferred.~~

~~(2) Legislative findings.—Over the past several years, counties have been forced to close a number of schools because of declining student enrollment. School officials predict that an additional eighteen percent loss in enrollment may occur between 2002 and 2012. This continued decrease in the number of students enrolled in the public schools of the state may result in more instances of consolidation which will increase the problem of long bus rides for students if they remain in a school in their county of residence.~~

~~Therefore the Legislature makes the following findings:~~

~~(A) County lines may impede the effective and efficient delivery of education services;~~

~~(B) Students often must endure long bus rides to a school within their county of residence when a school in an adjacent county is a fraction of the distance away;~~

~~(C) The wishes of parents or guardians to have their children transferred to a county other than their county of residence should be considered by the county boards; and~~

~~(D) Where counties cannot agree, it is necessary to establish a process to determine when transfers are appropriate.~~

~~(3) The state board shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to enter into an agreement to transfer or accept the transfer of the student.~~

~~(A) The process shall designate the state superintendent to hear the appeal. In determining whether to overturn a decision of a county board, the state superintendent shall consider such factors as the following:~~

~~(i) Travel time for the student;~~

~~(ii) Impact on levies or bonds;~~

~~(iii) Other financial impact on the county of residence; and~~

~~(iv) Such other factors as the state superintendent may determine.~~

~~(B) If, during the appeal process, the state superintendent discovers that the~~

education and the welfare of students in the transferring county could be enhanced, the state superintendent may direct that students may be permitted to attend a school in another county.

(C) If multiple appeals are received from the same geographical area of a county, the state superintendent may impose on the receiving county restrictions including, but not limited to, requiring the receiving county to accept all students in that geographical area of the sending county who wish to transfer to the receiving county.

(D) If a student is transferred on either a full-time or a part-time basis without the agreement of both boards by official action as reflected in the minutes of their respective meetings and if the student's parent or guardian fails to appeal or loses the appeal under the process established in subdivision (3) of this subsection, the student shall be counted only in the net enrollment of the county in which the student resides.

(4) If, after two county boards have agreed to a transfer arrangement for a student, that student chooses to return to a school in his or her county of residence after the second month of any school year, the following shall apply:

(A) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in article nine-a [§§ 18-9A-1 et seq.] of this chapter; and

(B) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.

(c) *Transfers between high schools.* — In any county where a high school is maintained, but topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of any students to such high school, the board may transfer them to a high school in an adjoining county. In any such case, the county boards may enter into an agreement providing for the payment of the cost of transportation, if any, of the students.

(b) Definitions. - For the purposes of this section, unless a different meaning clearly appears from the context:

“Nonresident student” means a student who resides in this state and who is enrolled in or is seeking enrollment in a county school district other than the county school district in which the student resides.

“Open enrollment” means a policy adopted and implemented by a county board to allow nonresident students to enroll in any school within the district. Open enrollment is distinct from a mutual agreement of two county boards regarding mass transfer of students, as contemplated in §18-5-13(f)(1)(C) of this code.

(c) Enrollment policies. - County boards shall establish and implement an open enrollment policy without charging tuition and without obtaining approval from the board of the county in which a student resides and transfers. These policies shall clearly articulate

any admission criteria, application procedures, transportation provisions, timelines for open enrollment periods, and restrictions on transfers due to building capacity constraints. Enrollment policies are subject to the following:

(1) A county board may give enrollment preference to:

(A) Siblings of students already enrolled through the open enrollment policy;

(B) Secondary students who have completed 10th grade and, due to family relocation, become nonresident students, but express the desire to remain in a specific school to complete their education;

(C) Students who are children, grandchildren, or legal wards of employees;

(D) Students whose legal residences, though geographically within another county, are more proximate to a school within the receiving county, whether calculated by miles or transportation time; and

(E) Students who reside in a portion of a county where topography, impassable roads, long bus rides, or other conditions prevent the practicable transportation of the student to a school within the county, and a school within a contiguous county is more easily accessible.

(2) A county must comply with all enrollment requirements for children who are in foster care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(6)).

(3) The county board for the county educating the nonresident student may provide an adequate means of transportation to nonresident students when students have complied with the procedure for obtaining authorization to attend school outside their county of residence, subject to the following:

(A) County boards of education are not required to uniformly provide nonresident student transportation, and may consider whether a nonresident student meets the eligibility criteria for free or reduced price lunch and milk established within the Richard B. Russell National School Lunch Act (42 U.S.C. § 1758); and

(B) The county board for the county educating the nonresident student shall provide transportation to and from the school of attendance, or to and from an agreed pickup point on a regular transportation route, or for the total miles traveled each day for the nonresident student to reach the school of enrollment if the nonresident student is a student with disabilities and has an individualized education program that specifies that transportation is necessary for fulfillment of the program.

(d) Appeal. - The state board of education shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to accept the transfer of the student. If during the appeal process, the State Superintendent discovers that the education and the welfare of the student could be enhanced, the State Superintendent may direct that the student may be permitted to attend a school in the receiving county.

(e) Net enrollment. - For purposes of net enrollment as defined in §18-9A-2 of this code, whenever a student is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the student is transferred shall include the student in its net enrollment: Provided, That if, after transferring to another county, a student chooses to return to a school in his or her county of residence after the second month of any school year, the following applies:

(1) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in §18-9A-1 *et seq.* of this code; and

(2) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.

~~(d)~~ (f) *Transfers between states.* - Transfer of students from this state to another state shall be upon such terms, including payment of tuition, as shall be mutually agreed upon by the board of the transferring receiving county and the authorities of the school to or district from which the transfer is made.

~~(e)~~ (g) No parent, guardian, or person acting as parent or guardian shall be is required to pay for the transfer of a student or for the tuition of the student after the transfer when such the transfer is carried out under the terms of this section.

(h) Nothing in this section supersedes the eligibility requirements for participation in extra-curricular activities established by the Secondary Schools Activities Commission.

(i) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.

**§18-5-16a. Authorization to transfer pupils from one district to another; mandatory transfer; payment of tuition; net enrollment.**

(a) The provisions of this section expire effective July 1, 2020: Provided, That any agreement made pursuant to this section prior to July 1, 2020, shall remain in effect.

(b) Whenever, in the opinion of the board of education of any county, the education and welfare of a pupil will be enhanced, the board of education of such county shall have the authority to transfer any such pupil or pupils on a part-time or full-time basis from one school district to another school district within the state: Provided, That the boards of education of both the transferor and the transferee districts agree to the same by official action of both boards as reflected in the minutes of their respective meetings.

(c) Any pupil attending a school in a district of this state adjacent to the district of residence during the school year 1984-1995, is authorized to continue such attendance in the adjacent district, and, upon written request therefor by the parent or guardian, any person



who is entitled to attend the public schools of this state and who resides in the same household and is a member of the immediate family of such pupil is authorized to enroll in such adjacent district. The transferor and transferee school districts shall effectuate any transfer herein authorized in accordance with the provisions of this section.

(d) Whenever a pupil is transferred from one school district to another district on a full-time or part-time basis, the board of education of the school district in which the pupil is a bona fide resident shall pay to the board of education of the school district to which the pupil is transferred a tuition that is agreed upon by both such boards. Tuition for each full-time pupil shall not exceed the difference between the state aid per pupil received by the county to which the pupil is transferred and the county cost per pupil in the county to which said pupil is transferred.

(e) For purposes of net enrollment as defined in §18-9A-2 of this [chaptercode](#): (1) Whenever a pupil is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the pupil is transferred shall include such pupil in its net enrollment; and (2) whenever a pupil is transferred on a part-time basis from one school district to another school district pursuant to the provisions of this section, the county in which the student is a bona fide resident shall count the pupil in its net enrollment.

#### **§18-5-18a. Maximum teacher-pupil ratio.**

(a) County boards of education shall provide ~~by the school year 1983-84, and thereafter,~~ sufficient personnel, equipment, and facilities as will ensure that each first ~~and second through sixth~~ grade classroom, or classrooms having two or more grades that include ~~either the first or second one or more of the first through sixth~~ grades shall not have more than 25 pupils for each teacher of the grade or grades and shall not have more than 20 pupils for each kindergarten teacher per session, unless the state superintendent has excepted a specific classroom upon application therefor by a county board.

~~County boards shall provide by the school year 1984-85, and continue thereafter, sufficient personnel, equipment and facilities as will ensure that each third, fourth, fifth and sixth grade classroom, or classrooms having two or more grades that include one or more of the third, fourth, fifth and sixth grades, shall not have more than twenty-five pupils for each teacher of the grade or grades.~~

(b) ~~Beginning with the school year 1986-87, and thereafter, no county shall County school boards may not~~ maintain a greater number of classrooms having two or more grades that include one or more of the grade levels referred to in this section than were in existence in said county as of January 1, 1983: ~~Provided, That for the prior school years, and only if there is insufficient classroom space available in the school or county, a county may maintain one-hundred ten percent of such number of classrooms.~~

(c) ~~During the school year 1984-85, and thereafter, t~~The state superintendent is authorized, consistent with sound educational policy, (a) to permit:

(1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher in a classroom for the purposes of instruction in physical education; ~~and (b) to permit~~

(2) [Permit](#) more than 20 pupils per teacher in a specific kindergarten classroom and 25 pupils per teacher in a specific classroom in grades ~~one~~ [four](#) through six during a school year in the event of extraordinary circumstances as determined by the state superintendent after application by a county board of education.

(d) The state board shall establish guidelines for the exceptions authorized in this section, but in no event shall the superintendent except classrooms having more than three pupils above the pupil-teacher ratio as set forth in this section.

(e) The requirement for approval of an exception to exceed the 20 pupils per kindergarten teacher per session limit or the 25 pupils per teacher limit in grades one through six is waived in schools where the schoolwide pupil-teacher ratio is 25 or less in grades one through six: Provided, That a teacher shall not have more than three pupils above the teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than 20 pupils per session and any classroom teacher of grades one through six who has more than 25 pupils shall be paid additional compensation based on the affected classroom teacher's average daily salary divided by 20 for kindergarten teachers or 25 for teachers, of grades one through six, for every day times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher's classroom. All such additional compensation shall be paid from county funds exclusively.

Notwithstanding any other provision of this section to the contrary, commencing with the school year beginning on July 1, 1994, a teacher in grades one, two or three or classrooms having two or more such grade levels, shall not have more than two pupils above the teacher/pupil ratio as set forth in this section: Provided, That commencing with the school year beginning on July 1, 1995, such teacher shall not have more than one pupil above the teacher/pupil ratio as set forth in this section: Provided, however, That commencing with the school year beginning on July 1, 1996, such teacher shall not have any pupils above the teacher/pupil ratio as set forth in this section.

(f) No provision of this section is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral, band or orchestra music.

(g) Each school principal shall assign students equitably among the classroom teachers, taking into consideration reasonable differences due to subject areas and/or grade levels.

(h) The state board shall collect from each county board of education information on class size and the number of pupils per teacher for all classes in grades seven through 12. The state board shall report such information to the Legislative Oversight Commission on Education Accountability before January 1, of each year.

[\(i\) The West Virginia Department of Education shall survey districts to determine those grade levels, content areas, and geographic locations where class overcrowding is impeding student achievement and report to the Legislature by July 1, 2020 a tailored plan to reduce class overcrowding in such areas.](#)

[The study shall include, but is not limited to, an examination of the following issues:](#)  
[\(1\) The effect on student learning of limits on the number of pupils per teacher in a classroom in elementary classes and in a middle and high school format in which students](#)

have different teachers for different subject matter instruction;

(2) The effect on the quality among teachers in a middle school in which the number of pupils per teacher in a classroom is limited for some teachers and not for others, including the additional pay for certain teachers in whose classrooms the limits are exceeded; and

(3) The effect limits on the number of pupils per teacher in a classroom have on the ability of school systems to offer elective courses in secondary schools.

#### **§18-5-18b. School counselors in public schools.**

(a) A school counselor means a professional educator who holds a valid school counselor's certificate in accordance with ~~article three~~§18A-1-1 of this ~~chapter~~code.

(b) Each county board shall provide counseling services for each pupil enrolled in the public schools of the county.

(c) The school counselor shall work with individual pupils and groups of pupils in providing developmental, preventive and remedial guidance and counseling programs to meet academic, social, emotional and physical needs; including programs to identify and address the problem of potential school dropouts. The school counselor also may provide consultant services for parents, teachers and administrators and may use outside referral services, when appropriate, if no additional cost is incurred by the county board.

(d) The state board may adopt rules consistent with the provisions of this section that define the role of a school counselor based on the "National Standards for School Counseling Programs" of the American School Counselor Association. A school counselor is authorized to perform such services as are not inconsistent with the provisions of the rule as adopted by the state board. To the extent that any funds are made available for this purpose, county boards shall provide training for counselors and administrators to implement the rule as adopted by the state board.

(e) Each county board shall develop a comprehensive drop-out prevention program utilizing the expertise of school counselors and any other appropriate resources available.

(f) School counselors shall be full-time professional personnel, shall spend at least ~~seventy-five~~ 80 percent of work time in a direct counseling relationship with pupils, and shall devote no more than ~~one fourth~~ 20 percent of the work day to administrative activities: Provided, That such activities are counselor related.

(g) Nothing in this section prohibits a county board from exceeding the provisions of this section, or requires any specific level of funding by the Legislature.

#### **§18-5-46. Requiring teacher to change grade prohibited; teacher recommendation relating to promotion.**

(a) No teacher may be required by a principal or any other person to change a student's grade on either an individual assignment or a report card unless there is clear and convincing evidence that there was a mathematical error in calculating the student's grade.

(b) The teacher’s recommendation relating to whether a student should be promoted to the next grade level shall be a primary consideration when making such a determination.

**§18-5-48. County board exceptional needs expenditures from surplus funds.**

Each county board may by policy establish an exceptional needs fund from surpluses for students who are likely to perform better outside of the public school setting. The policy may include:

(1) Allowing the county board to use excess funds or donated funds for expenditures related to services and materials necessary for the student’s educational success that are not met within the public education school district;

(2) The amount of funds that is to be deposited into the fund each year which may vary based on availability of surpluses;

(3) The qualifying expenses that funds in the fund may be used for;

(4) Measures for protecting against improper use of the funds which may include auditing all expenditures related to an individual student for services outside of the public education district;

(5) The conditions under which payments from the Exceptional Needs Success Fund are to cease;

(6) Eligibility requirements for education service providers that can accept payments from the fund;

(7) A requirement that any overpayments recaptured from refunded expenditures revert to the Exceptional Student Success Fund; and

(8) Any other provision the county board determines appropriate.

**ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

**§18-5A-2. Local school improvement councils; election and appointment of members and officers; meeting; required meetings with county board; assistance from state board.**

(a) A local school improvement council shall be established at every school consisting of the following:

(1) The principal, who serves as an ex officio member of the council and is entitled to vote;

(2) Three teachers elected by the faculty senate of the school;

(3) Two service persons elected by the service personnel employed at the school, one of whom shall be a ~~one~~ bus operator who transports students enrolled at the school; ~~and~~

~~one school service person, each elected by the school service personnel employed at the school;~~

(4) Three parent(s), guardian(s) or custodian(s) of students enrolled at the school elected by the parent(s), guardian(s) or custodian(s) members of the school's parent teacher organization. If there is no parent teacher organization, the parent(s), guardian(s) or custodian(s) members shall be elected by the parent(s), guardian(s) or custodian(s) of students enrolled at the school in such manner as may be determined by the principal. Under no circumstances may a parent member of the council be then employed at that school in any capacity;

(5) ~~Two~~ Three at-large members appointed by the principal, at least one of whom resides in the school's attendance area, and at least one of whom represents business or industry, neither of whom is are eligible for any local school improvement council membership under any of the other elected classes of members;

(6) In the case of vocational-technical schools, comprehensive middle schools and comprehensive high schools, the vocational director or principal, as applicable, if there is no vocational director, then the principal may appoint no more than two additional representatives, one of whom represents business and one of whom represents industry shall appoint up to four additional members from any one or more of the following categories: Employer; employer sponsored training program; apprenticeship program; and post-secondary education; and

(7) In the case of a school with students in grade seven or higher, the student body president or other student in grade seven or higher elected by the student body in those grades.

~~(b) Under no circumstances may more than one parent member of the council be then employed at that school in any capacity.~~

~~(e)~~ (b) The principal shall arrange for ~~such elections~~ the election of members to the local school improvement council to be held prior to September 15, of each school year to elect a council and shall give notice of the elections at least one week prior to the elections being held. To the extent practicable, all elections to select council members shall be held within the same week.

~~(d)~~ (c) Parent(s), guardian(s) or custodian(s), teachers and service personnel elected to the council shall serve a two-year term and elections shall be arranged in such a manner that no more than two teachers, no more than two parent(s), guardian(s) or custodian(s) and no more than one service person are elected in a given year. All other nonex officio members shall serve one-year terms.

~~(e)~~ (d) Council members may only be replaced upon death, resignation, failure to appear at three consecutive meetings of the council for which notice was given, or a change in personal circumstances so that the person is no longer representative of the class of members from which appointed. In the case of a vacancy in an elected position, the chair of the council shall appoint another qualified person to serve the unexpired term of the person being replaced or, in the case of an appointed member of the council, the principal shall appoint a replacement as soon as practicable.

~~(f)~~ (e) As soon as practicable after the election of council members, and no later than October 1, of each school year, the principal shall convene an organizational meeting of the school improvement council. The principal shall notify each member in writing by written or electronic means at least two five employment days in advance of the organizational meeting. At this meeting, the principal shall provide each member with the following:

(1) A copy of the current applicable sections of this code;

(2) Any state board rule or regulation promulgated pursuant to the operation of these councils; and

(3) Any information as may be developed by the Department of Education on the operation and powers of local school improvement councils and their important role in improving student and school performance and progress.

~~(g)~~ (f) The council shall elect from its membership a chair and two members to assist the chair in setting the agenda for each council meeting. The chair shall serve a term of one year. ~~and a person may not serve as chair for more than two consecutive terms.~~ If the chair's position becomes vacant for any reason, the principal shall call a meeting of the council to elect another qualified person to serve the unexpired term. Once elected, the chair is responsible for notifying each member of the school improvement council in writing two five employment days in advance of any council meeting.

~~(h)~~ (g) School improvement councils shall meet at least once every nine weeks or equivalent grading period at the call of the chair or by the petition of three fourths of its members. The principal shall notify each member by written or electronic means at least five employment days in advance of the organizational meeting.

~~(1) The school improvement council shall schedule any meeting that involves the issue of student discipline pursuant to subdivision (2), subsection (l) of this section, outside the regularly scheduled working hours of any school employee member of the council.~~

~~(2)~~ (h) The school improvement council annually shall conduct a at least one meeting to engage parents, students, school employees, business partners and other interested parties in a positive and interactive dialogue regarding effective discipline policies. ~~The meeting shall afford ample time for the dialogue and comply with any applicable provision of state, federal or county board policy, rule or law, as appropriate, regarding student privacy rights~~ the school's academic performance and standing as determined by measures adopted by the state board. The dialogue shall include an opportunity for the parents, students, school employees, business partners and other interested parties to make specific suggestions on how to address issues which are seen to affect the school's academic performance which may include, but not limited to, parent and community involvement, the learning environment, student engagement, attendance, supports for at-risk students, curricular offerings, resources and the capacity for school improvement. The council shall announce any such meeting ten employment days in advance.

(i) The local school improvement council of each school deemed to be low performing under the accountability system established by the state board shall meet at least annually

with the county board. ~~in accordance with the provisions in section fourteen, article five of this chapter.~~ At ~~this annual~~ any such meeting, the principal and local school improvement council chair, or another member designated by the chair, shall be prepared to address the dialogue at its meeting or meetings to give the parents, students, school employees, business partners and other interested parties an opportunity to make specific suggestions on how to address issues which are seen to affect the school's academic performance and any other matters as may be requested by the county board as specified in the meeting agenda provided to the council and may further provide any other information, comments or suggestions the local school improvement council wishes to bring to the county board's attention. Anything presented under this subsection shall be submitted to the county board in writing.

(j) Local school improvement councils shall be considered for the receipt of school of excellence awards ~~under section three of this article~~ and competitive grant awards ~~under section twenty-nine, article two of this chapter~~ and may receive and expend such grants for the purposes provided. ~~in such section: Local school improvement councils may propose alternatives to the operation of the school in accordance with §18-5A-3 of this code and may include in the proposal a request for a waiver of rules and policies of the county board and state board, state superintendent interpretations, and state statutes if necessary to implement the proposal.~~

(k) In any and all matters which may fall within the scope of both the school improvement councils and the school curriculum teams authorized in section five of this article, the school curriculum teams have jurisdiction.

~~(k)~~ (l) In order to promote innovations and improvements in the environment for teaching and learning at the school, a school improvement council shall receive cooperation from the school in implementing policies and programs it may adopt to:

(1) Encourage the involvement of parent(s), guardian(s) or custodian(s) in their child's educational process and in the school;

(2) Encourage businesses to provide time for their employees who are parent(s), guardian(s) or custodian(s) to meet with teachers concerning their child's education;

(3) Encourage advice and suggestions from the business community;

(4) Encourage school volunteer programs and mentorship programs; and

(5) Foster utilization of the school facilities and grounds for public community activities;

(6) Encourage students to adopt safe and healthy lifestyles; and

(7) Communicate to students the common skills and attributes sought by employers in prospective employees.

~~(l) Each local school improvement council annually shall develop and deliver a report to the countywide council on productive and safe schools. The report shall include:~~

~~(1) Guidelines for the instruction and rehabilitation of students who have been excluded from the classroom, suspended from the school or expelled from the school, the description and recommendation of in-school suspension programs, a description of possible alternative settings, schedules for instruction and alternative education programs and an implementation schedule for such guidelines. The guidelines shall include the following:~~

~~(A) A system to provide for effective communication and coordination between school and local emergency services agencies;~~

~~(B) A preventive discipline program which may include the responsible students program devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and~~

~~(C) A student involvement program, which may include the peer mediation program or programs devised by the West Virginia Board of Education as adopted by the county board, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and~~

~~(2) The local school improvement council's findings regarding its examination of the following, which also shall be reported to the county superintendent:~~

~~(A) Disciplinary measures at the school; and~~

~~(B) The fairness and consistency of disciplinary actions at the school. If the council believes that student discipline at the school is not enforced fairly or consistently, it shall transmit that determination in writing, along with supporting information, to the county superintendent. Within ten days of receiving the report, the superintendent, or designee, shall respond in writing to the council. The county board shall retain and file all such correspondence and maintain it for public review.~~

~~(C) Any report or communication made as required by this subdivision shall comply with any applicable provision of state, federal or county board policy, rule or law, as appropriate, regarding student privacy rights.~~

~~(m) The council may include in its report to the county-wide council on productive and safe schools provisions of the state Board of Education policy 4373, student code of conduct, or any expansion of such policy which increases the safety of students in schools in this state and is consistent with the policies and other laws of this state.~~

~~(n)~~ (m) Councils may adopt their own guidelines established under this section. In addition, the councils may adopt all or any part of the guidelines proposed by other local school improvement councils, as developed under this section, which are not inconsistent with the laws of this state, the policies of the West Virginia Board of Education or the policies of the county board.

~~(o)~~ (n) The State Board of Education shall provide assistance to a local school



improvement council upon receipt of a reasonable request for that assistance. The state board also may solicit proposals from other parties or entities to provide orientation training for local school improvement council members and may enter into contracts or agreements for that purpose. Any training for members shall meet the guidelines established by the state board.

**§18-5A-3. County board authority to designate innovation schools; local school improvement council proposals of alternatives to operation of school; process for requesting waivers of rules, policies, interpretations and statutes to implement alternatives. Authority and procedures for local school improvement councils to request waivers of certain rules, policies, and interpretations.**

~~(a) The intent of this section is to establish a mechanism which allows local school level initiatives to be designed and implemented to encourage and facilitate the design and implementation of innovative initiatives by local schools, working through their local school improvement councils, that meet local school the school's needs and circumstances. In accordance with this intent, a local school improvement council established under the provisions of this article may~~ A school level initiative may propose alternatives to the operation of the public school ~~which alternatives will that will enable the school to better~~ meet or exceed the high quality standards established by the state board, ~~and will~~ increase administrative efficiency, enhance the delivery of instructional programs, promote student engagement in the learning process, promote business partnerships, promote parent and community involvement at the school, in the local school system or improve the educational performance of the school generally. ~~In accordance with this intent, a local school improvement council established under the provisions of §18-5A-2 of this code may submit to its county board proposed alternatives to the operation of the public school in accordance with this section. If the county board approves the proposal in accordance with this section, it may designate the school as an innovation school and may provide funding to support implementation of the proposal, if necessary.~~

~~(b) The proposal of the council~~ An alternative proposed by a local school improvement council shall set forth:

- ~~(1) The objective or objectives to be accomplished under the proposal;~~
- ~~(2) How the accomplishment of such objective or objectives will meet or exceed the standards established by the state board;~~
- ~~(3) The indicators upon which the meeting of such standards should be judged; and~~
- ~~(4) A projection of any funds to be saved by the proposal and how such funds will be reallocated within the school, or any costs associated with the proposal and proposed funding sources; and~~
- ~~(5) The alternatives proposed by the council may include matters which require the waiver of Any policies or rules promulgated by the state or county board, and any state superintendent interpretations and any state statutes for which a waiver will be required for the proposed alternative to be implemented; and Provided, That such request for waiver be submitted to the appropriate board adopting said rule or policy and that board may approve the waiver.~~

(c) For an alternative to be proposed, at least two thirds of the members of the local school improvement council must vote in favor of the proposal. If the alternative to be proposed includes the request for a waiver of policies or rules promulgated by the state or county board, state superintendent interpretations or state statutes affecting employees, then prior to the proposal of the alternative, a majority of the local affected employee group must agree.

(d) A local school improvement council shall submit its proposed alternative to the county board. The county board shall acknowledge receipt of the proposal and promptly review the proposed alternative. The county board may request additional information and clarifications from the local school improvement council regarding the proposed alternative. The county board shall approve or disapprove the proposal and return it to the council with a statement of the reasons for the action taken, subject to the following:

(1) If an alternative proposed by the local school improvement council requires the waiver of any policies or rules promulgated by the county board, approval of the proposal by the county board constitutes a grant of the waiver;

(2) If an alternative proposed by the local school improvement council requires the waiver of any policies or rules promulgated by the state board and the county board approves the proposal except that a waiver by the state board is required, the county board shall forward the approved proposal to the state board for final determination. The state board shall acknowledge receipt of the proposal and promptly review the proposed alternative in consultation with the county board or their agents and, in its discretion, approve implementation of the alternative or reply to the county board and council within a reasonable time as to its reasons for not approving the proposed alternative. Approval of the proposal by the state board constitutes a grant of the waiver;

(3) If an alternative proposed by the local school improvement council requires the waiver of a state superintendent's interpretation and the county board approves the proposal except that a waiver by the state superintendent is required, the county board shall forward the approved proposal to the state superintendent for final determination. The state superintendent shall acknowledge receipt of the proposal and promptly review the proposed alternative in consultation with the county board or their agents and, in his or her discretion, approve implementation of the alternative or reply to the county board and council within a reasonable time as to its reasons for not approving the proposed alternative. Approval of the proposal by the state superintendent constitutes a grant of the waiver;

(4) If an alternative proposed by the local school improvement council requires the waiver of a state statute and the county board approves the proposal except that a waiver of the statute is required, the county board shall forward the approved proposal to the Legislative Oversight Commission on Education Accountability. The commission shall acknowledge receipt of the proposal and promptly review the proposed alternative in consultation with the county board or their agents and determine whether a recommendation should be made for an Act of the Legislature to waive the statute to permit implementation of the proposed alternative;

(5) If an alternative that requires a waiver is proposed by more than one local school improvement council in the county and the county board approves, the county board may forward a consolidated proposal requesting the waiver to the appropriate bodies as provided in this subsection; and

(6) When an alternative to the operation of a school is approved, the county board shall establish a process for evaluation of the operation of the alternative. Approval for the operation of the alternative may be continued or revoked at any time based on the results and findings of the evaluation.

~~When a county board does not act within two months after receiving a request for waiver of a county board policy or rule or disapproves such a request, the local school improvement council may seek an advisory opinion from the state board regarding the waiver request. The county board shall furnish the state board with copies of all waiver requests together with their response thereto. Provided, however, That when a local school improvement council votes to waive a state superintendent's interpretation, the state superintendent need only be notified that the local council intends to waive the state superintendent's interpretation: Provided further, That notwithstanding any other provisions of the law to the contrary, council is not prohibited from permitting off-site classrooms to be developed in conjunction with local businesses if those sites have met the requirements established by the local board and if sites are located off campus. For an alternative to be proposed, at least two thirds of the members must vote in favor thereof: And provided further, That if the alternative to be proposed relates to a waiver of policies or rules promulgated by the state or county board and state superintendent interpretations affecting employees, then prior to the proposal of the alternative, a majority of the local affected employee group involved must agree.~~

~~A council may also submit a written statement, with supporting reasons, to the Legislative Oversight commission on education accountability recommending a waiver of a statute or legislative rule, which the commission shall review and determine whether a recommendation should be made to the Legislature to waive such statute or rule.~~

~~When a council decides to propose an alternative, it shall forward a copy of the proposal to the state board and the affected local board. The state board shall acknowledge receipt of the proposed alternative, promptly review the proposed alternative in consultation with the county board or their agents and, in its discretion, approve implementation of the alternative or reply to the council within a reasonable time as to its reasons for not approving the proposed alternative. If the state board approves a proposed alternative, the state board shall provide appropriate notice to the local school improvement council and the county board and shall establish a process for evaluation of the operation of the alternative. Approval for the operation of the alternative may be continued or revoked at any time based on the results and findings of the evaluation.~~

(e) Notwithstanding any other provisions of the law to the contrary, a local school improvement council is not prohibited from permitting off-site classrooms to be developed in conjunction with local businesses if those sites meet the requirements established by this county board for sites that are located off campus.

(f) The state board shall submit a report to the Legislative Oversight commission on education accountability and the Governor on September 1, of each year summarizing the proposed alternatives received, approved or rejected, continued or revoked during the preceding school year and the results and findings of the evaluations. The report shall specifically identify all policy, rule, and interpretation waiver requests including those requests made to county boards by local school improvement councils received during the preceding year and the disposition of each.

**§18-5A-5. Public school faculty senate established; election of officers; powers and duties.**

(a) There is established at every public school in this state a faculty senate which is comprised of all permanent, full-time professional educators employed at the school who shall all be voting members. "Professional educators", as used in this section, means "professional educators" as defined in chapter eighteen-a of this code. A quorum of more than one half of the voting members of the faculty shall be present at any meeting of the faculty senate at which official business is conducted. Prior to the beginning of the instructional term each year, but within the employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice chair and secretary and discuss matters relevant to the beginning of the school year. The vice chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be held during the times provided in accordance with subdivision (12), subsection (b) of this section as determined by the faculty senate. Emergency meetings may be held during noninstructional time at the call of the chair or a majority of the voting members by petition submitted to the chair and vice chair. An agenda of matters to be considered at a scheduled meeting of the faculty senate shall be available to the members at least two employment days prior to the meeting. For emergency meetings the agenda shall be available as soon as possible prior to the meeting. The chair of the faculty senate may appoint such committees as may be desirable to study and submit recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon by the full body.

(b) In addition to any other powers and duties conferred by law, or authorized by policies adopted by the state or county board or bylaws which may be adopted by the faculty senate not inconsistent with law, the powers and duties listed in this subsection are specifically reserved for the faculty senate. The intent of these provisions is neither to restrict nor to require the activities of every faculty senate to the enumerated items except as otherwise stated. Each faculty senate shall organize its activities as it considers most effective and efficient based on school size, departmental structure and other relevant factors.

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to section nine, article nine-a of this chapter. From those funds, each classroom teacher and librarian shall be allotted \$~~100~~ 300 for expenditure during the instructional year for academic materials, supplies or equipment which, in the judgment of the teacher or librarian, will assist him or her in providing instruction in his or her assigned academic subjects or shall be returned to the faculty senate: Provided, That nothing contained herein prohibits the funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self-esteem and address the problems of students at risk. The remainder of funds shall be expended for academic materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to

the contrary, funds not expended in one school year are available for expenditure in the next school year: Provided, however, That the amount of county funds budgeted in a fiscal year may not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equipment shall be interpreted broadly, but does not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.

(2) A faculty senate may establish a process for members to interview or otherwise obtain information regarding applicants for classroom teaching vacancies that will enable the faculty senate to submit recommendations regarding employment to the principal. To facilitate the establishment of a process that is timely, effective, consistent among schools and counties, and designed to avoid litigation or grievance, the state board shall promulgate a rule pursuant to article three-b, chapter twenty-nine-a of this code to implement the provisions of this subdivision. The rule may include the following:

(A) A process or alternative processes that a faculty senate may adopt;

(B) If determined necessary, a requirement and procedure for training for principals and faculty senate members or their designees who may participate in interviews and provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher who directly participates in the training for periods beyond his or her individual contract;

(C) Timelines that will assure the timely completion of the recommendation or the forfeiture of the right to make a recommendation upon the failure to complete a recommendation within a reasonable time;

(D) The authorization of the faculty senate to delegate the process for making a recommendation to a committee of no less than three members of the faculty senate; and

(E) Such other provisions as the state board determines are necessary or beneficial for the process to be established by the faculty senate.

(3) A faculty senate may nominate teachers for recognition as outstanding teachers under state and local teacher recognition programs and other personnel at the school, including parents, for recognition under other appropriate recognition programs and may establish such programs for operation at the school.

(4) A faculty senate may submit recommendations to the principal regarding the assignment scheduling of secretaries, clerks, aides and paraprofessionals at the school.

(5) A faculty senate may submit recommendations to the principal regarding establishment of the master curriculum schedule for the next ensuing school year.

(6) A faculty senate may establish a process for the review and comment on sabbatical leave requests submitted by employees at the school pursuant to section eleven, article two of this chapter.

(7) Each faculty senate shall elect three faculty representatives to the local school improvement council established pursuant to section two of this article.

(8) Each faculty senate may nominate a member for election to the county staff development council pursuant to section eight, article three, chapter eighteen-a of this code.

(9) Each faculty senate shall have an opportunity to make recommendations on the selection of faculty to serve as mentors for beginning teachers under beginning teacher internship programs at the school.

(10) A faculty senate may solicit, accept and expend any grants, gifts, bequests, donations and any other funds made available to the faculty senate: Provided, That the faculty senate shall select a member who has the duty of maintaining a record of all funds received and expended by the faculty senate, which record shall be kept in the school office and is subject to normal auditing procedures.

(11) Any faculty senate may review the evaluation procedure as conducted in their school to ascertain whether the evaluations were conducted in accordance with the written system required pursuant to section twelve, article two, chapter eighteen-a of this code or pursuant to section two, article three-c, chapter eighteen-a of this code, as applicable, and the general intent of this Legislature regarding meaningful performance evaluations of school personnel. If a majority of members of the faculty senate determine that such evaluations were not so conducted, they shall submit a report in writing to the State Board of Education: Provided, That nothing herein creates any new right of access to or review of any individual's evaluations.

(12) A local board shall provide to each faculty senate at least six two-hour blocks of time for faculty senate meetings with at least one two-hour block of time scheduled in the first month of the employment term, one two-hour block of time scheduled in the last month of the employment term and at least one two-hour block of time scheduled in each of the months of October, December, February and April. A faculty senate may meet for an unlimited block of time during noninstructional days to discuss and plan strategies to improve student instruction and to conduct other faculty senate business. A faculty senate meeting scheduled on a noninstructional day shall be considered as part of the purpose for which the noninstructional day is scheduled. This time may be used and determined at the local school level and includes, but is not limited to, faculty senate meetings.

(13) Each faculty senate shall develop a strategic plan to manage the integration of special needs students into the regular classroom at their respective schools and submit the strategic plan to the superintendent of the county board periodically pursuant to guidelines developed by the State Department of Education. Each faculty senate shall encourage the participation of local school improvement councils, parents and the community at large in developing the strategic plan for each school.

Each strategic plan developed by the faculty senate shall include at least: (A) A mission statement; (B) goals; (C) needs; (D) objectives and activities to implement plans relating to each goal; (E) work in progress to implement the strategic plan; (F) guidelines for placing additional staff into integrated classrooms to meet the needs of exceptional needs students without

diminishing the services rendered to the other students in integrated classrooms; (G) guidelines for implementation of collaborative planning and instruction; and (H) training for all regular classroom teachers who serve students with exceptional needs in integrated classrooms.

## **ARTICLE 5G. PUBLIC CHARTER SCHOOLS.**

### **§18-5G-1. Legislative purpose and intent.**

(a) The purpose of this article is to establish a process for the creation, governance and oversight accountability of public charter schools with a renewed the commitment to the mission, goals, and diversity of public education that benefits students, parents, teachers, and community members.

(b) Public charter schools are intended to empower new, innovative, and more flexible ways of educating all children within the public school system to:

(1) Improve student learning by creating more diverse public schools with high standards for student performance;

(2) Allow innovative educational methods, practices and programs that engage students in the learning process, thus resulting in higher student achievement;

(3) Enable schools to establish a distinctive school curriculum, a specialized academic or technical theme, or method of instruction;

(4) Provide expanded opportunities within the public schools for parents to choose among the school curricula, specialized academic or technical themes, and methods of instruction that best serve the interests or needs of their child;

(5) Provide students, parents, community members, and local entities with expanded opportunities for involvement in the public school system;

(6) Allow authorized public schools and programs within public schools exceptional levels of self-direction and flexibility in exchange for exceptional levels of results-driven accountability for student learning; and

(7) Encourage the replication of successful strategies for improving student learning.

(c) All public charter schools established under this article are public schools and are part of the state's public education system.

(d) The provisions of this article shall be interpreted liberally to support the purpose and intent of this section and to advance a renewed commitment by the state to the mission, goals and diversity of public education.

(e) No provision of this article may be interpreted to allow the conversion of private schools into public charter schools.

(f) An elected official may not profit or receive any monetary consideration from a charter school: Provided, That this prohibition does not apply with respect to the continued employment of an elected official who was employed by a public school prior to its conversion to a public charter school.

(g) The total number of public charter schools authorized and in operation under an approved contract in this state shall be limited to 3 pilot public charter schools until July 1, 2023. The State Board shall report to the Legislative Oversight Commission on Education Accountability by November 1, 2022, and every 3 years thereafter, on the status of the state's public charter schools. LOCEA shall report its findings and recommendations, if any, to the Legislature during its next Regular Session. Beginning July 1, 2023, and every 3 years thereafter, an additional 3 public charter schools may be authorized and in operation under an approved contract in this state. The Mountaineer Challenge Academy, if converted to a public charter school, shall not count towards the limitation established by this subsection.

### **§18-5G-2. Definitions.**

The following words used in this article and any proceedings pursuant thereto have the following meanings unless the context clearly indicates a different meaning:

(1) "Applicant" means any one or more in combination of parents, community members, teachers, school administrators, or institutions of higher education in this state who are interested in organizing a public charter school and:

(A) Have obtained 501(c)(3) tax-exempt status or have submitted an application for 501(c)(3) tax-exempt status; and

(B) Have developed and submitted an application to an authorizer to establish a public charter school;

(2) "Authorizer" means the entity empowered under this article to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to renew, not renew, or revoke charter contracts. Authorizers include:

(A) A county school board when the charter school or application to form a charter school includes a primary recruitment area that is wholly within the county over which the board has jurisdiction;

(B) Two or more county school boards when the charter school or application to form a charter school includes a primary recruitment area that encompasses territory in the two or more counties over which the respective boards have jurisdiction; or

(C) The West Virginia Board of Education in the following instances:

(i) The charter school or application to form a charter school or to renew a charter contract is in a county where the state board has intervened in the operation of the school system and limited the authority of the county board to act pursuant to §18-2E-5 of this code; and



(ii) The application to form a public charter school or to renew a charter contract is approved by the affected county board or boards and is forwarded it to the West Virginia Board of Education with a request that it perform to the authorizer function.

(3) “Charter application” means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status;

(4) “Charter contract” or “contract” means a fixed-term, renewable contract between a public charter school’s governing board and an authorizer that identifies the roles, powers, responsibilities, operational duties, accountability, and performance expectations for each party to the contract, consistent with the requirements of this article;

(5) “Conversion public charter school” means a public charter school that existed as a noncharter public school before becoming a public charter school;

(6) “County board” means a board exercising management and control of a school district. A county board’s management and control of a public charter school is limited to only that granted under this article. In the case of a school district in which the state board has intervened and limited the authority of the county board to act pursuant to §18-2E-5 of this code, “county board” means the state board. In the case of a multicounty vocational or technical center, “county board” means the administrative council of the multicounty center;

(7) “Education service provider” means an education management organization, school design provider, or any other partner entity with which a public charter school contracts for educational design, implementation, or comprehensive management;

(8) “Governing board” means a public charter school governing board that meets the requirements §18-5G-3 and §18-5G-7 of this code and is party to the charter contract with the authorizer;

(9) “Noncharter public school” means a public school or multicounty vocational center other than a public charter school established pursuant to this article;

(10) “Parent” means a parent, guardian, or other person or entity having legal custody over a child;

(11) “Public charter school” means a public school or program within a public school that is authorized in accordance with the provisions of this article and meets the general criteria, governance structure and statutory compliance requirements described in §18-5G-3 of this code, and other provisions of this article;

(12) “Program conversion public charter school” means a program within an existing noncharter public school that is either preexisting and converted or newly created to become a separate and discreet program governed and operated in accordance with this article within the noncharter public school;

(13) “Start-up public charter school” means a public charter school that did not exist as a noncharter public school prior to becoming a public charter school.

(14) “State board” means the West Virginia Board of Education; and

(15) “Student” means any person that is eligible for attendance in a public school in West Virginia.

**§18-5G-3. Public charter school criteria, governance structure and statutory compliance requirements; applicable federal and state laws.**

(a) Public charter schools authorized pursuant to this article shall meet the following general criteria:

(1) Are part of the state’s system of public schools and are subject to general supervision by the West Virginia Board of Education for meeting the student performance standards required of other public school students under §18-2E-5(d) and (e) of this code;

(2) Are subject to the oversight of the school’s authorizer for operating in accordance with its approved charter contract and for meeting the terms and performance standards established in the charter contract;

(3) Are not home school-based;

(4) Are not affiliated with or espouse any specific religious denomination, organization, sect, or belief and do not promote or engage in any religious practices in their educational program, admissions, employment policies, or operations;

(5) Are not affiliated with any organized group whose espoused beliefs attack or malign an entire class of people, typically for immutable characteristics, as identified through listings of such groups as may be made by the U.S. Department of Justice, the Federal Bureau of Investigation, or officials having similar jurisdiction in this state;

(6) Are public schools to which parents or legal guardians choose to send their child or children;

(7) Do not charge tuition and may only charge such fees as may be imposed by noncharter public schools in this state; and

(8) Have no requirements that would exclude any child from enrollment who would not be excluded at a noncharter public school.

(b) A public charter school authorized pursuant to this article shall be governed by a board that meets the requirements established in §18-5G-7 of this code and:

(1) Has autonomy over key decisions, including, but not limited to, decisions concerning finance, personnel, scheduling, curriculum, and instruction except as provided in this article;

(2) Has no power to levy taxes;

(3) Operates in pursuit of a specific set of educational objectives as defined in its charter contract;

(4) Provides a program of public education that:

(A) Includes one or more of the following: Prekindergarten and any grade or grades from kindergarten to grade 12 including any associated post-secondary embedded credit, dual credit, advanced placement, internship, and industry or workforce credential programs that the public charter school chooses to incorporate into its programs;

(B) May include in its mission a specific focus on students with special needs, including, but not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school, or students involved with the juvenile justice system; and

(C) May include a specific academic approach or theme including, but not limited to, approaches or themes such as STEM education, mastery-based education, early college, or fine and performing arts;

(5) Provides programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, regulations, rules and policies. A charter school shall deliver the services directly or contract with a county board or another provider to deliver the services as set forth in its charter contract;

(6) Is eligible to participate in state-sponsored or district-sponsored athletic and academic interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as noncharter public schools;

(7) Employs its own personnel as employees of the public charter school and is ultimately responsible for processing employee paychecks, managing its employees' participation in the applicable retirement system, and managing its employees' participation in insurance plans: Provided, That nothing in this subdivision prohibits the public charter school from contracting with another person or entity to perform services relating to managing its employees' participation in the retirement system or insurance plan. A county board may not require any employee of its school system to be employed in a public charter school. A county board may not harass, threaten, discipline, discharge, retaliate, or in any manner discriminate against any school system employee involved directly or indirectly with an application to establish a public charter school as authorized under this section. All personnel in a public charter school who were previously employed by the county board shall continue to accrue seniority with the county board in the same manner that they would accrue seniority if employed in a noncharter public school in the county for purposes of employment in noncharter public schools; and

(8) Is responsible for establishing a staffing plan that includes the requisite qualifications and any associated certification and/or licensure necessary for teachers and other instructional staff to be employed at the public charter school and for verifying that these requirements are met.

(c) A public charter school authorized pursuant to this article is exempt from all statutes and rules applicable to a noncharter public school or board of education except the following:

(1) All federal laws and authorities applicable to noncharter public schools in this state including, but not limited to, the same federal nutrition standards, the same civil rights, disability rights and health, life and safety requirements applicable to noncharter public schools in this state;

(2) The provisions of §29B-1-1 et seq. of this code relating to freedom of information and the provisions of §6-9A-1 et seq. of this code relating to open governmental proceedings;

(3) The same immunization requirements applicable to noncharter public schools;

(4) The same compulsory school attendance requirements applicable to noncharter public schools;

(5) The same minimum number of days or an equivalent amount of instructional time per year as required of noncharter public school students under §18-5-45 of this code;

(6) The same student assessment requirements applicable to noncharter public schools in this state, but only to the extent that will allow the state board to measure the performance of public charter school students pursuant to §18-2E-5(d) and (e) of this code. Nothing precludes a public charter school from establishing additional student assessment measures that go beyond state requirements;

(7) The Student Data Accessibility, Transparency and Accountability Act pursuant to §18-2-5h of this code;

(8) Use of the electronic education information system established by the West Virginia Department of Education for the purpose of reporting required information;

(9) Reporting information on student and school performance to parents, policy-makers, and the general public in the same manner as noncharter public schools utilizing the electronic format established by the West Virginia Department of Education. Nothing precludes a public charter school from utilizing additional measures for reporting information on student and school performance that go beyond state requirements;

(10) All applicable accounting and financial reporting requirements as prescribed for public schools, including adherence to generally accepted accounting principles. A public charter school shall annually engage an external auditor to perform an independent audit of the school's finances. The public charter school shall submit the audit to its authorizer and to the state superintendent of schools within nine months of the end of the fiscal year for which the audit is performed;

(11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that would be required if the person was employed in a noncharter public school, unless a criminal history check has already been completed for that staff person pursuant to that section.

Governing board members and other public charter school personnel are subject to criminal history record checks and fingerprinting requirements applicable to noncharter public schools in this state. Contractors and service providers or their employees are prohibited from making direct, unaccompanied contact with students and from access to school grounds unaccompanied when students are present if it cannot be verified that the contractors, service providers or employees have not previously been convicted of a qualifying offense pursuant to §18-5-15c of this code;

(12) The same zoning rules for its facilities that apply to noncharter public schools in this state;

(13) The same building codes, regulations and fees for its facilities that apply to noncharter public schools in this state, including any inspections required for noncharter public schools under this chapter and the West Virginia State Fire Marshal for inspection and issuance of a certificate of occupancy for any facility used by the public charter school; and

(14) The same student transportation safety laws applicable to public schools when transportation is provided.

**§18-5G-4. West Virginia Board of Education; powers and duties for implementation, general supervision and support of public charter schools; authorizer responsibilities; limit on charter schools authorized.**

(a) The state board shall consult with nationally recognized charter school organizations and establish and maintain a catalogue of best practices for public charter schools applicable for all applicants, authorizers, governing board members, and administrators that are consistent with this article and nationally recognized principles and professional standards for quality public charter school authorizing and governance in all major areas of authorizing and governance responsibility in the following areas:

- (1) Organizational capacity and infrastructure;
- (2) Solicitation and evaluation of charter applications;
- (3) A framework to guide the development of charter contracts;
- (4) Performance contracting including a performance framework;
- (5) Providing transparency and avoiding all conflicts of interest;
- (6) Ongoing charter school oversight and evaluation; and
- (7) Charter approval, renewal, and revocation decision-making;

(b) The state board is responsible for exercising, in accordance with this article, the following powers and duties with respect to the oversight and authorization of public charter schools:

- (1) Provide forms to promote the quality and ease of use for authorizers to solicit

applications for public charter schools, for applicants to complete applications, and for establishing quality charter contracts that include a framework for performance standards. The forms shall be available for use and solicitations made not later than the beginning of February, 2020. The forms shall include an application deadline of August 2020 for any charter school proposing to begin operation for the 2021-22 school year. No charter school may begin operation prior to the 2021-22 school year;

(2) Provide training programs for public charter school applicants, administrators and governing board members, as applicable, that include, but are not limited to:

(i) Pre-application training programs and forms to assist in the development of high quality public charter school applications;

(ii) The required components and the necessary information of the public charter school application and the charter contract as set forth in this article;

(iii) The charter school board's statutory role and responsibilities;

(iv) Charter school employment policies and practices; and

(v) Authorizer responsibilities for charter school contract oversight and performance evaluation;

(3) Receive and expend appropriate gifts, grants and donations of any kind from any public or private entity to carry out the purposes of this act, subject to all lawful terms and conditions under which the gifts, grants or donations are given;

(4) Apply for any federal funds that may be available for the implementation of public charter school programs;

(5) Establish reporting requirements that enable the state board to monitor the performance and legal compliance of authorizers and public charter schools; and

(6) Submit to the Governor and the Legislature an annual report within 60 days of the end of each school year summarizing:

(A) The student performance of all operating public charter schools; and

(B) The authorization status of all public charter schools within the last school year, identifying all public charter schools as:

(i) Application pending;

(ii) Application denied;

(iii) Application approved, but not yet operating;

(iv) Operating and years of operation;

(v) Renewed and years of operation;

(vi) Terminated;

(vii) Closed;

(viii) Never opened; and

(ix) Any successful innovations applied in authorized schools which may be replicated in other schools. The report shall provide information about how noncharter public schools may implement these innovations.

(c) The state board shall be the authorizer of a public charter school when a county board or boards approve the application for a public charter school and requests the state board to perform the authorizer duties and responsibilities or when an application to form a public charter school or to renew a charter contract is submitted from an applicant within a county in which the state board has intervened and limited the power of the county board to act pursuant to §18-2E-5 of this code.

§18-5G-5. State board rule relating to funding for charter school enrollment and other necessary provisions; local education agency status; authorizer oversight fee.

(a) The state board shall promulgate a rule pursuant to the provisions of §29A-3B-1 et seq. of this code setting forth requirements for public charter school funding. The rule shall include a requirement that 90 percent of the per pupil total basic foundation allowance follow the student to the public charter school, subject to the following:

(1) Notwithstanding §18-9A-1 et seq. of this code, the rule may provide for modifications to the calculations set forth in §18-9A-7 of this code regarding the allowance for student transportation and in §18-9A-9(1) of this code regarding the allowance for current expense for the purpose of making appropriate adjustments to those allowances to account for student transportation and current expense related funding a school district loses in situations where it pays money to a charter school pursuant to this subsection without a corresponding decrease in the county's transportation and current expense related expenditures;

(2) The rule shall designate which county school district is required to pay for a student attending a public charter school, and notwithstanding the terms in the definition of "net enrollment" in §18-9A-2 of this code, shall provide that the county school district paying for the student attending a public charter school have that student included in its net enrollment for the purposes of §18-9A-1 et seq. of this code; and

(3) The rule shall require the Department of Education to follow federal requirements in ensuring that federal funding follows the student to a public charter school.

(b) The state board may promulgate a rule in accordance with §29A-3B-1 et seq. of this code, if necessary, for ensuring the accountability of public charter schools for meeting the standards for student performance required of other public school students under §18-2E-5 of this code and the accountability of authorizers for ensuring that those standards are met

in the schools authorized by it. If an authorizer fails to close a charter school that does not meet the standards, the authorizer shall appear before the state board to justify its decision. The state board may uphold or overturn the authorizer’s decision and may revoke the authority of the authorizer to authorize charter schools.

(c) The school district in which the public charter school is located remains the local educational agency for all public charter schools authorized by the county board and the public charter school is a school within that local educational agency except that the public charter school is treated as a local educational agency for purposes of applying for competitive federal grants. The state board is the local education agency for public charter schools authorized by the state board except that the public charter school is treated as a local educational agency for purposes of applying for competitive federal grants.

(d) To cover authorizer costs for overseeing public charter schools, the state board shall establish a statewide formula for authorizer oversight funding, which shall apply uniformly to every authorizer in the state. Each public charter school shall remit to its respective authorizer an oversight fee. The oversight fee shall be drawn from and calculated as a uniform percentage of the per pupil basic foundation as provided pursuant to state board rule promulgated in accordance with this section, not to exceed one percent of each public charter school’s per-student funding in a single school year. The state board may establish a sliding scale for authorizing funding, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of schools have been authorized or after a certain number of students are enrolled in the authorizer’s public charter schools. The state board shall establish a cap on the total amount of funding that an authorizer may withhold from a full-time public charter school. The state board shall annually review the effectiveness of the state formula for authorizer funding and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of this act.

(e) The state board shall promulgate a rule in accordance with §29A-3B-1 et seq. of this code to clarify, if necessary, the requirements of this article and address any unforeseen issues that might arise relating to the implementation of the requirements of this article. The rule also shall include a provision prohibiting a county board from discrimination against any district employee involved directly or indirectly with an application to establish a public charter school under this article.

(f) All state board rules required to be promulgated by this article shall be promulgated on or before January 1, 2020.  
§18-5G-6. Authorizer powers and duties.

(a) Each authorizing authority is responsible for exercising in accordance with this article the following powers and duties with respect to the oversight and authorization of public charter schools:

(1) Demonstrate public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures;

(2) Establish and maintain policies and practices consistent with the principles and



professional standards for authorizers of public charter schools, including standards relating to:

(A) Organizational capacity and infrastructure;

(B) Evaluating applications;

(C) Ongoing public charter school oversight and evaluation; and

(D) Charter approval, renewal, and revocation decision-making.

(3) Solicit applications and guide the development of high-quality public charter school applications;

(4) Approve new charter applications that meet the requirements of this article and on the basis of their application satisfying all requirements of §18-5G-8 of this code, that demonstrate the ability to operate the school in an educationally and fiscally sound manner, and that are likely to improve student achievement through the program detailed in the charter application;

(5) Decline to approve charter applications that fail to meet the requirements of §18-5G-8 of this code;

(6) Negotiate and execute in good faith a charter contract with each public charter school it authorizes;

(7) Monitor the performance and compliance of public charter schools according to the terms of the charter contract; and

(8) Determine whether each charter contract it authorizes merits renewal or revocation.

(b) After an applicant submits a written application to establish a public charter school, the authorizer shall:

(1) Complete a thorough review process;

(2) Conduct an in-person interview with the applicant;

(3) Provide an opportunity in a public forum for local residents to provide input and learn about the charter application;

(4) Provide a detailed analysis of the application to the applicant or applicants;

(5) Allow an applicant a reasonable time to provide additional materials and amendments to its application to address any identified deficiencies; and

(6) Approve or deny a charter application based on established objective criteria or request additional information.

(c) In deciding to approve a charter application, the authorizer shall:

(1) Approve charter applications only to applicants that possess competence in all elements of the application requirements identified in this section and §18-5G-8 of this code;

(2) Base decisions on documented evidence collected through the application review process; and

(3) Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest.

(d) No later than 90 days following the filing of the charter application, the authorizer shall approve or deny the charter application. The authorizer shall provide its decision in writing, including an explanation stating the reasons for approval or denial of its decision during an open meeting. Any failure to act on a charter application within the time specified shall be deemed an approval by the authorizer.

(e) An authorizer's charter application approval shall be submitted to the West Virginia Department of Education.

(f) An authorizer shall conduct or require oversight activities that enable it to fulfill its responsibilities under this article, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this article, adhere to the terms of the charter contract and do not unduly inhibit the autonomy granted to charter schools. In the event that a public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall promptly notify in writing the public charter school governing board of perceived problems and provide reasonable opportunity for the school to remedy the problems: Provided, That if the problem warrants revocation, the revocation time frames will apply;

(g) An authorizer shall take appropriate corrective actions or exercise sanctions in response to apparent deficiencies in a charter school's performance or legal compliance. If warranted, the actions or sanctions may include requiring a charter school to develop and execute a corrective action plan within a specified time frame;

(h) An authorizer may require each charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.

(i) To cover authorizer costs for overseeing public charter schools, each public charter school shall remit to its respective authorizer an oversight fee drawn from and calculated as a uniform percentage of the per student operational funding allocated to each public charter school as established by the state board by rule pursuant to §18-5G-5 of this code.

(j) An authorizer may receive and expend appropriate gifts, grants and donations of any kind from any public or private entity to carry out the purposes of this act, subject to all lawful terms and conditions under which the gifts, grants or donations are given, and may apply for any federal funds that may be available for the implementation of public charter school programs;

(k) Notwithstanding any provision of this code to the contrary, no civil liability shall attach to an authorizer or to any of its members or employees for any acts or omissions of the public charter school. Neither the county board of education nor the State of West Virginia shall be liable for the debts or financial obligations of a public charter school or any person or entity that operates a public charter school.

(l) Regulation of public charter schools by the state board and a county board shall be limited to those powers and duties of authorizers prescribed in this article and general supervision consistent with the spirit and intent of this article.  
§18-5G-7. Public Charter school governing board.

(a) To ensure compliance with this article, a public charter school shall be administered by a governing board accountable to the authorizer as set forth in the charter contract. A public charter school governing board shall consist of no fewer than five members elected or selected in a manner specified in the charter application, including at least the following:

(1) Two parents of students attending the public charter school operating under the governing board; and

(2) Two members who reside in the community served by the public charter school.

(b) Members of the governing board shall:

(A) Not be an employee of the public charter school administered by the governing board;

(B) Not be an employee of an education service provider that provides services to the public charter school;

(C) File a full disclosure report to the authorizer identifying potential conflicts of interest, relationships with management organizations, and relationships with family members who are employed by the public charter school or have other business dealings with the school, the management organization of the school, or any other public charter school;

(D) Collectively possess expertise in leadership, curriculum and instruction, law, and finance; and

(E) Be considered an officer of a school district under the provisions of §6-6-7 of this code and removal from office shall be in accordance with the provisions of that section.

(c) The public charter school governing board shall:

(1) Operate under the oversight of its authorizer in accordance with its charter contract;

(2) As a public corporate body, have the powers necessary for carrying out the terms of its charter contract, including, but not limited to the power to:

(A) Receive and disburse funds for school purposes;

(B) Secure appropriate insurance and enter into contracts and leases;

(C) Contract with an education service provider, so long as the governing board retains final oversight and authority over the school;

(D) Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

(E) Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter; and

(F) Acquire real property for use as its facilities or facilities from public or private sources;

(3) Enroll students in the public charter school pursuant to §18-5G-11 of this code;

(4) Require any education service provider contracted with the governing board to provide a monthly detailed budget to the board; and

(5) Provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations. A public charter school shall deliver the services directly or contract with another provider to deliver the services.

(d) A public charter school authorized under this article may:

(1) Negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter contract. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations;

(2) Sue and be sued in its own name;

(3) Own, rent, or lease its space;

(4) Participate in cocurricular activities to the same extent as noncharter public schools; and

(5) Participate in extracurricular activities to the same extent as noncharter public schools.

(e) The public charter school governing board is responsible for the operation of its public charter school, including, but not limited to, ensuring compliance with the public charter school criteria, governance and statutory compliance set forth §18-5G-3 of this code, the preparation of an annual budget, contracting for services, school curriculum, personnel matters, and achieving the objectives and goals of the public charter school's program.

(f) The public charter school governing board shall comply with the provisions of §29B-1-1 et seq. of this code relating to freedom of information and the provisions of §6-9A-1 et seq. of this code relating to open governmental proceedings; §18-5G-8. Application to establish public charter school.

(a) To establish a new public charter school, to convert an existing noncharter public school to a public charter school or establish a program conversion public charter school, an applicant shall submit a charter application to an authorizer. Charter authorizers shall accept and document the date and time of receipt of all charter applications.

(b) The application shall contain, at a minimum, the following information:

(1) A mission statement and a vision statement for the public charter school, including specialized academic focus, if any, to be promoted and advanced through the establishment of the public charter school;

(2) A detailed description of the public charter school's proposed program;

(3) The student achievement goals for the public charter school's program and the chosen methods of evaluating whether students have attained the skills and knowledge specified for those goals;

(4) The school's plan for using data derived from student evaluations and assessments, including the statewide summative assessment, to drive instruction and promote continued school improvement;

(5) An explanation of how the school's proposed program is likely to improve the achievement of traditionally underperforming students in the local school district;

(6) The proposed governance structure of the school, including a list of members of the initial governing board, a draft of bylaws that include the description of the qualifications, terms, and methods of appointment or election of governing board members, and the organizational structure of the school that clearly presents lines of authority and reporting between the governing board, school administrators, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;

(7) Plans and timelines for student enrollment, including the school primary recruitment area and policies and procedures for conducting transparent and random admission lotteries when applications for enrollment exceed capacity that are open to the public and consistent with this article;

(8) A proposed five-year budget, including the start-up year and projections for four additional years with clearly stated assumptions;

(9) Proposed fiscal and internal control policies for the public charter school;

(10) Acknowledgement that the public charter school will participate in the state's accountability system;

(11) A proposed handbook that outlines the personnel policies of the public charter school, including the criteria to be used in the hiring of qualified teachers, school administrators, and other school employees, a description of staff responsibilities, and the school's plan to evaluate personnel on an annual basis;

(12) An explanation of proposed student discipline procedures, including disciplinary procedures for students with disabilities, which shall be consistent with the requirements of due process and with state and federal laws and regulations governing the placement of students with disabilities;

(13) A description of the facilities to be used by the public charter school, including the location of the school and how the facility supports the implementation of the school's program. The school shall obtain all required occupation and operation certificates and licenses prior to the first instructional day for students;

(14) The proposed ages and grade levels to be served by the public charter school, including the planned minimum and maximum enrollment per grade per year;

(15) The school calendar and school day schedule;

(16) Types and amounts of insurance coverage to be obtained by the public charter school, which:

(A) Shall include adequate insurance for liability, property loss, and the personal injury of students comparable to noncharter public schools within the local school district operated by the county board; and

(B) May include coverage from the Board of Risk and Insurance Management pursuant to §29-12-5a of this code;

(17) A description of the food services to be provided to students attending the school;

(18) Process and procedures to be followed in the case of the closure or dissolution of the public charter school, including provisions for the transfer of students and student records to the appropriate local school district and an assurance and agreement to payment of net assets or equity after payment of debts;

(19) A code of ethics for the school setting forth the standards of conduct expected of its governing board, officers, and employees;

(20) The public charter school's plan for successfully serving students with disabilities, students who are English language learners, bilingual students, and students who are academically behind and gifted, including, but not limited to, the school's plan for compliance with all applicable federal and state laws and regulations;

(21) A description of cocurricular and extracurricular programs to be offered by the public charter school and how they will be funded and delivered;

(22) The process by which the school will resolve any disputes with the authorizer;

(23) A detailed start-up plan, including financing, tasks, timelines, and individuals responsible for carrying out the plan;

(24) The public charter school's plan for notice to parents and others of enrollment in the school as an option available for students and the school's primary recruitment area; and

(25) The public charter school's plan for parental involvement.

(c) If the applicant intends to contract with an education service provider for educational program implementation or comprehensive management, the application shall additionally require the applicant to provide the following information with respect to the educational service provider:

(1) Evidence of success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;

(2) Student performance data and financial audit reports for all current and past public charter schools;

(3) Documentation of and explanation for any actions taken, legal or otherwise, against any of its public charter schools for academic, financial, or ethical concerns;

(4) The proposed duration of the service contract;

(5) The annual proposed fees and other amounts to be paid to the education service provider;

(6) The roles and responsibilities of the governing board, the school staff, and the education service provider;

(7) The scope of services and resources to be provided by the education service provider;

(8) Performance evaluation measures and timelines;

(9) Methods of contract oversight and enforcement;

(10) Investment disclosure;

(11) Conditions for renewal and termination of the contract; and

(12) Disclosure and explanation any existing or potential conflicts of interest between the governing board and the proposed education service provider or any affiliated business entities.

**§18-5G-9. Charter contract requirements; term of contract.**

(a) Within 90 days of the approval of a charter application, the governing board and the authorizer shall negotiate and enter into a charter contract.

(b) The charter contract shall address, in detail, the following items:

(1) The term of the contract: Provided, That the contract term shall be no longer than five years;

(2) The agreements relating to each item required in the charter application and, if applicable, the agreement with an education service provider that the governing boards intends to contract with for educational program implementation or comprehensive management;

(3) The rights and duties of the authorizer and the public charter school;

(4) The administrative relationship between the authorizer and the public charter school;

(5) The process the authorizer will use to provide ongoing oversight;

(6) The specific commitments of the authorizer relating to its obligations to oversee, monitor the progress of, and supervise the public charter school;

(7) The process and criteria the authorizer will use to annually monitor and evaluate the overall academic, operating, and fiscal conditions of the public charter school, including the process the authorizer will use to oversee the correction of any deficiencies found;

(8) The process for revision or amendment to the terms of the charter contract agreed to by the authorizer and the governing board;

(9) The process agreed to by the authorizer and the governing board that identifies how disputes between the authorizer and the board will be handled;

(10) Any other terms and conditions agreed to by the authorizer and the governing board, including preopening conditions.

(c) The charter contract shall include provisions relating to the performance of the public charter school that set forth the academic and operational performance indicators, measures, and metrics to be used by the authorizer to evaluate the public charter school. At a minimum, the performance provisions shall include indicators, measures, and metrics for:

(1) Student academic proficiency;

(2) Student academic growth;

(3) Achievement gaps in both student proficiency and student growth between



student subgroups, including race, sex, socioeconomic status, and areas of exceptionality;

(4) Student attendance;

(5) Student suspensions;

(6) Student withdrawals;

(7) Recurrent enrollment from year to year;

(8) Governing board's performance and stewardship, including compliance with all applicable statutes and terms of charter contract; and

(9) Additional valid and reliable indicators requested by the public charter school.

(d) A charter contract shall include provisions for revoking the charter contract. At a minimum, these provisions shall include:

(1) The information that must be included in the authorizer's initial decision to revoke the charter contract;

(2) Notification requirements to the governing board about the authorizer's initial decision to revoke a charter contract and the reasons for the revocation;

(3) An opportunity and timeframe for the governing board to provide a response to the authorizer's initial decision to revoke the charter contract;

(4) An opportunity for the governing board to submit documentation and provide testimony as to why the charter contract should not be revoked;

(5) An opportunity for a recorded public hearing, at the request of the governing board;

(6) That the authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the revocation of the charter contract;

(7) The information that must be included in the authorizer's final decision if it determines to revoke the charter contract;

(8) A timeline for an authorizer to render a final decision on whether or not to revoke a charter contract;

(9) Rendering of the authorizer's decision shall be adopted during an open meeting; and

(10) A provision that the failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed approval of the application.

(e) The authorizer shall be responsible for collecting and reporting to the state board all state-required assessment and achievement data for the public charter school.

(f) The charter contract shall be signed by the chair of the governing board and the president of the county board, presidents of the county boards, or the president of the public or private institution of higher education, as applicable. A copy of the charter contract shall be provided to the State Superintendent of Schools.

(g) No public charter school may commence operations without a charter contract that meets the requirements of this section, has been properly executed, and has been approved by, as applicable, a county board, county boards, or the state board. §18-5G-10. Charter contract renewal; performance report by authorizer and renewal guidance; renewal application; renewal term; nonrenewal and revocation; closure and dissolution.

(a) No later than June 30 of a public charter school's fourth year of operation under each five-year term of a charter contract, the authorizer shall issue a performance report on the public charter school. The performance report shall summarize the public charter school's performance record to date, based on the data collected under the performance framework in section eleven of this article and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the school that may jeopardize its position in seeking renewal if not timely rectified. The school and the authorizer shall mutually agree to a reasonable time period for the charter school to respond to the performance report and submit any corrections for the report.

(b) If the public charter school's contract is expiring, the authorizer shall offer contract renewal application guidance to the school. The renewal application guidance required by this subsection shall include or refer explicitly to the criteria and standards that will guide the authorizer's renewal decisions. These criteria and standards shall be based on the performance framework set forth in section eleven of this article, as set forth in the charter contract and consistent with this article. The renewal application guidance shall, at a minimum, require and provide an opportunity for the public charter school to:

(1) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;

(2) Describe improvements undertaken or planned for the school; and

(3) Detail the school's plans for the next charter term.

(c) No later than September 30 of a public charter school's final authorized year of operation under a term of a charter contract, the governing board of the public charter school seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal application guidance offered by the authorizer under subsection (b) of this section. The authorizer shall rule in a public meeting and by resolution on the renewal application no later than 45 days after the filing of the renewal application. In making charter renewal decisions, the authorizer shall:

(1) Ground its decisions on a thorough analysis of evidence of the school's

performance over the term of the charter contract in accordance with the terms and measures established in the performance framework set forth in the charter contract;

(2) Ensure that data used in making renewal decisions are available to the public charter school and the public;

(3) Provide a public report summarizing the evidence basis for each decision; and

(4) Include one of the following rulings:

(A) Renew the charter contract for another term of five years based on the school's performance data and demonstrated capacities of the public charter school; or

(B) Decline to renew the charter contract. The authorizer shall clearly state in a resolution the reasons for the nonrenewal. The governing board of the school shall be granted 30 days to respond in writing to the decision and public report before that decision becomes final. The governing board shall be allowed to provide the authorizer with such arguments and supporting information as it sees fit and also shall be granted an opportunity for a recorded public hearing, at the request of the governing board. The authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the revocation of the charter contract. The authorizer shall render its final determination within 10 days of the close of the 30-day period.

(d) The failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed an approval of the renewal application.

(e) Within 10 days of taking final action to renew, not renew or revoke a charter under this section, the authorizer shall report the action taken and reasons for the decision to the school's governing board and the state board or affected county board, as applicable. A copy of the report shall be submitted at the same time to the state superintendent.

(f) A charter contract may be revoked at any time or not renewed if the authorizer determines that the health and safety of students attending the public charter school is threatened or the public charter school has:

(A) Failed to comply with the provisions of this article;

(B) Committed a material violation of any of the terms, conditions, standards or procedures required under this chapter or the charter contract;

(C) Failed to meet the performance expectations set forth in the charter contract;

(D) Failed to meet generally accepted standards of fiscal management; or

(E) Violated any provision of law from which the school was not exempted.

(g) If an authorizer does not renew or revokes a charter contract, the authorizer

shall clearly state in a resolution in a public meeting, the reasons for the nonrenewal or revocation.

(h) If an authorizer revokes a charter contract, the authorizer shall close the school: Provided, That when the charter is revoked or not renewed for a school that began as a conversion public charter school or program conversion public charter school, the county board of the district in which the school is located may return it to noncharter public school status.

(i) If a public charter school is closed, the authorizer shall clearly state in a resolution in a public meeting, the reasons for the closure.

(j) In the event of a public charter school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol established by the state board including, but not limited to, the following:

(1) Overseeing and working with the closing public charter school to ensure timely notification to parents, orderly transition of students and student records to new schools and proper disposition of school funds, property and assets in accordance with the requirements of this chapter; and

(2) Distributing the assets of the public charter school first to satisfy outstanding payroll obligations for employees of the public charter school and then to creditors of the public charter school. Any remaining funds shall be paid to the county board. If the assets of the public charter school are insufficient to pay all parties to whom the public charter school owes compensation, the prioritization of distribution of assets may be determined by decree of a court of law.

(k) If a public charter school is subject to closure or transition, following exhaustion of any appeal allowed under §18-5G-13 of this code, an authorizer may remove at will at any time any or all of the members of the board of directors of the public charter school in connection with ensuring a smooth and orderly closure or transition. If the authorizer removes members of the board of directors such that the board of directors can no longer function, the authorizer shall be empowered to take any further necessary and proper acts connected with closure or transition of the public charter school in the name and interest of the public charter school.

§18-5G-11. Public charter school students; enrollment and eligibility; enrollment preferences; random selection lottery; enrollment discrimination prohibited; credit transfers; participation in interscholastic sports.

(a) Public charter schools are open for enrollment to all students of appropriate grade level age and all students shall be enrolled in accordance with the following:

(1) A public charter school shall provide or publicize to parents and the general public information about the public charter school as an enrollment option for students and the process for application and enrollment, including dates and timelines. If the public charter school includes in its mission a specific focus on students with special needs, including, but

not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school or students involved with the juvenile justice system, it shall include the information in such publication. A public charter school's recruitment effort shall include all segments of the student populations served by noncharter public schools of comparable grade levels;

(2) A county board shall provide or publicize to parents and the general public information about public charter schools within the county as an enrollment option to the same extent and through the same means that the county provides and publicizes information about noncharter public schools in the county;

(3) A county board may not require any student residing in the county to enroll in a public charter school, nor may it prohibit any charter school student from returning to a noncharter public school;

(4) A public charter school shall designate its primary recruitment area in its charter application and charter contract. The establishment of a primary recruitment area by a public charter school does not negate any overlapping attendance area or areas established by a county board or boards for noncharter public schools. A primary recruitment area may include territory in more than one county;

(5) The primary recruitment area shall be based on the public charter school's estimated facility and program capacity. The capacity of the public charter school shall be determined annually by the governing board of the public charter school in conjunction with its authorizer and in consideration of the public charter school's ability to facilitate the academic success of its students, to achieve the other objectives specified in the charter contract, and to ensure that the student enrollment does not exceed the capacity of its facility, site and programs. An authorizer may not restrict the number of students a public charter school may enroll;

(6) Public charter schools may not discriminate against any person on any basis which would be unlawful for noncharter public schools in the school district. A public charter school may not establish admission policies or limit student admissions in any manner in which a public school is not permitted to establish admission policies or limit student admissions: Provided, That this subdivision may not be construed to limit the formation of a public charter school that is dedicated to focusing its education program and services on students with special needs, including, but not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school, or students involved with the juvenile justice system;

(7) A public charter school may establish any one or more of the following enrollment preferences for:

(A) Children who reside within the school's primary recruitment area;

(B) Students enrolled in the public charter school the previous school year and siblings of students already enrolled in the public charter school;

(C) Children with special needs, including, but not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school, or students involved with the juvenile justice system, it shall include the information in such publication; and

(D) Children of governing board members and full-time employees of the school as long as the number of students enrolled under this preference constitute no more than five percent of the school's total student enrollment;

(8) A start-up public charter school shall enroll all students who apply and to whom an enrollment preference has been established. If the school has excess capacity after enrolling these students, the school shall enroll all other students who apply: Provided, That if the remaining applicants exceed the enrollment capacity of the program, class, grade level or building of the public charter school, the public charter school shall select students for enrollment from among all remaining applicants by a random selection lottery. The school's lottery procedures and timelines support equal and open access for all students and take place in an open meeting;

(9) A conversion public charter school shall guarantee enrollment to all students who were previously enrolled in the noncharter public school and shall adopt and maintain a policy that gives enrollment preference to students who reside within the attendance area as established prior to the conversion of the school. If the school has excess capacity after enrolling these students and all others to whom an enrollment preference has been given, the school shall enroll all other students who apply: Provided, That if the remaining applicants exceed the enrollment capacity of the program, class, grade level or building of a public charter school, the public charter school shall select students for enrollment from among all remaining applicants by a random selection lottery. The school's lottery procedures and timelines support equal and open access for all students and take place in an open meeting; and

(10) A program conversion public charter school shall enroll all students who apply for enrollment in the program who, at the time of authorization, are enrolled in the noncharter public school at which the program is operated. A program conversion public charter school shall adopt and maintain a policy that gives enrollment preference to students who are enrolled in the noncharter public school at which the program is operated. If the school has excess capacity after enrolling these students, the school shall enroll all other students who apply: Provided, That if the remaining applicants exceed the enrollment capacity of the program, class, grade level or building of a public charter school, the public charter school shall select students for enrollment from among all remaining applicants by a random selection lottery. The school's lottery procedures and timelines support equal and open access for all students and take place in an open meeting.

(b) If a student who was previously enrolled in a public charter school transfers enrollment to a noncharter public school in this state, the school to which the student transfers shall accept credits earned by the student in courses or instructional programs at the public charter school in a uniform and consistent manner and according to the same criteria that are used to accept academic credits from other noncharter public schools or that consider content competency when appropriate due to differences in curriculum delivery, instructional methods and strategies, or course designations and sequence.

(c) Each public charter school shall be given access to and shall utilize the electronic education information system established by the West Virginia Department of Education, is subject to the Student Data Accessibility, Transparency and Accountability Act pursuant to section §18-2-5h of this code, and shall report information on student and school performance to parents, policy-makers and the general public in the same manner as noncharter public schools utilizing the electronic format established by the West Virginia Department of Education.

(d) Each public charter school shall certify annually to the State Department of Education and to the county board of the school district in which the charter school is located its student enrollment, average daily attendance and student participation in the national school lunch program, special education, vocational education, gifted education, advanced placement and dual credit courses, and federal programs in the same manner as school districts.

### **§18-5G-12. Access to public facilities.**

(a) A public charter school may request usage of public facilities from the county board or other public entity in the county where the charter school is located or proposes to locate. A county board or other public entity shall make facilities available to the charter school that are either not used, in whole or in part, for classroom instruction at the time the charter school seeks to use or lease the public facility.

(b) If a charter school seeks to lease the whole or part of a public facility, the cost of the lease must be at or under current market value.

(c) During the term of the lease, the charter school is solely responsible for the direct expenses related to the public facility lease, including utilities, insurance, maintenance, repairs, and remodeling. The county school board is responsible for any debt incurred or liens that are attached to the school building before the charter school leases the public facility.

## **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

### **§18-7A-3. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

“Accumulated contributions” means all deposits and all deductions from the gross salary of a contributor plus regular interest.

“Accumulated net benefit” means the aggregate amount of all benefits paid to or on behalf of a retired member.

“Actuarially equivalent” or “of equal actuarial value” means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: Provided, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, “actuarially equivalent” shall be computed using the mortality tables and interest rates required to comply with those requirements.

“Annuities” means the annual retirement payments for life granted beneficiaries in accordance with this article.

“Average final salary” means the average of the five highest fiscal year salaries earned as a member within the last 15 fiscal years of total service credit, including military service as provided in this article, or if total service is less than 15 years, the average annual salary for the period on which contributions were made: Provided, That salaries for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code.

“Beneficiary” means the recipient of annuity payments made under the retirement system.

“Contributor” means a member of the retirement system who has an account in the Teachers Accumulation Fund.

“Deposit” means a voluntary payment to his or her account by a member.

“Employer” means the agency of and within the state which has employed or employs a member.

“Employer error” means an omission, misrepresentation, or violation of relevant provisions of the West Virginia Code, or of the West Virginia Code of State Regulations, or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required. A deliberate act contrary to the provisions of this section by a participating public employer does not constitute employer error.

“Employment term” means employment for at least 10 months, a month being defined as 20 employment days.

“Gross salary” means the fixed annual or periodic cash wages paid by a participating public employer to a member for performing duties for the participating public employer for which the member was hired. Gross salary shall be allocated and reported in the fiscal year in which the work was done. Gross salary also includes retroactive payments made to a member to correct a clerical error, or made pursuant to a court order or final order of an administrative agency charged with enforcing federal or state law pertaining to the member’s rights to employment or wages, with all retroactive salary payments to be allocated to and considered paid in the periods in which the work was or would have been done. Gross salary does not include lump sum payments for bonuses, early retirement incentives, severance pay, or any other fringe benefit of any kind including, but not limited to, transportation allowances, automobiles or automobile allowances, or lump sum payments for unused, accrued leave of any type or character.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

“Member” means any person who has accumulated contributions standing to his or



her credit in the State Teachers Retirement System. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited, or until cessation of membership pursuant to §18-7A-13 of this code.

“Members of the administrative staff of the public schools” means deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

“Members of the extension staff of the public schools” means every agricultural agent, boys and girls club agent, and every member of the agricultural extension staff whose work is not primarily stenographic, clerical, or secretarial.

“New entrant” means a teacher who is not a present teacher.

“Nonteaching member” means any person, except a teacher member, who is regularly employed for full-time service by: (A) Any county board of education or educational services cooperative; (B) the State Board of Education; (C) the Higher Education Policy Commission; (D) the West Virginia Council for Community and Technical College Education; or (E) a governing board, as defined in §18B-1-2 of this code; [or \(F\) a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article and §18-7B-1 et seq. of this code, subject to §18-7B-7a](#); Provided, That any person whose employment with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, or a governing board commences on or after July 1, 1991, is not considered a nonteaching member.

“Plan year” means the 12-month period commencing on July 1 and ending the following June 30 of any designated year.

“Present member” means a present teacher or nonteacher who is a member of the retirement system.

“Present teacher” means any person who was a teacher within the 35 years beginning July 1, 1934, and whose membership in the retirement system is currently active.

“Prior service” means all service as a teacher completed prior to July 1, 1941, and all service of a present member who was employed as a teacher and did not contribute to a retirement account because he or she was legally ineligible for membership during the service.

“Public schools” means all publicly supported schools, including colleges and universities in this state.

“Refund beneficiary” means the estate of a deceased contributor or a person he or she has nominated as beneficiary of his or her contributions by written designation duly executed and filed with the retirement board.

“Regular interest” means interest at four percent compounded annually, or a higher earnable rate if set forth in the formula established in legislative rules, series seven of the Consolidated Public Retirement Board, 162 CSR 7.

“Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

“Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar year in which the member retires or ceases covered employment under the system after having attained the age of 70 and one-half years.

“Retirant” means any member who commences an annuity payable by the retirement system.

“Retirement board” means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq.* of this code.

“Retirement system” means the State Teachers Retirement System established by this article.

“Teacher member” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, the State Department of Education, or the State Teachers Retirement Board, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections, the Division of Health, or the Division of Human Services; (K) an employee of the State Board of School Finance, if that person was formerly employed as a teacher in the public schools; (L) employees of an educational services cooperative who are performing services of an educational nature; and (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the State Teachers Retirement System provided in this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement system under this code and §18-7B-1 *et seq.* of this code.

“Total service” means all service as a teacher or nonteacher while a member of the retirement system since last becoming a member and, in addition thereto, credit for prior service, if any.

Age in excess of 70 years shall be considered to be 70 years.

## **ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.**

### **§18-7B-2. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

“Annual addition” means, for purposes of the limitations under Section 415(c) of the Internal Revenue Code, the sum credited to a member’s account for any limitation year of: (A) Employer contributions; (B) employee contributions; and (C) forfeitures. Repayment of cash-outs or contributions as described in Section 415(k)(3) of the Internal Revenue Code, rollover contributions and picked-up employee contributions to a defined benefit plan may not be treated as annual additions, consistent with the requirements of Treasury Regulation §1.415(c)-1.

“Annuity account” or “annuity” means an account established for each member to record the deposit of member contributions and employer contributions and interest, dividends, or other accumulations credited on behalf of the member.

“Compensation” means the full compensation actually received by members for service whether or not a part of the compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions: Provided, That annual compensation for determining contributions during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code: Provided, however, That solely for purposes of applying the limitations of Section 415 of the Internal Revenue Code to any annual addition, “compensation” has the meaning given it in §18-7B-13d of this code.

“Consolidated board” or “board” means the Consolidated Public Retirement Board created and established pursuant to §5-10D-1 *et seq.* of this code.

“Defined contribution system” or “system” means the Teachers’ Defined Contribution Retirement System created and established by this article.

“Employer” means the agency of and within the State of West Virginia which has employed or employs a member.

“Employer contribution” means an amount deposited into the member’s individual annuity account on a periodic basis coinciding with the employee’s regular pay period by an employer from its own funds.

“Employment term” means employment for at least 10 months in any plan year with a month being defined as 20 employment days.

“Existing employer” means any employer who employed or employs a member of the system.

“Existing retirement system” means the State Teachers Retirement System established in §18-7A-1 *et seq.* of this code.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

“Member” or “employee” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, or the State Department of Education, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and the Department of Health and Human Resources; (K) any person who is regularly employed for full-time service by any county board of education, educational services cooperative, or the State Board of Education; (L) the administrative staff of the public schools including deans of instruction, deans of men and deans of women, and financial and administrative secretaries; and (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the Teachers’ Defined Contribution Retirement System established by this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 et seq. of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article, subject to §18-7B-7a, and §18-7A-1 et seq. of this code.

“Member contribution” means an amount reduced from the employee’s regular pay periods, and deposited into the member’s individual annuity account within the Teachers’ Defined Contribution Retirement System.

“Permanent, total disability” means a mental or physical incapacity requiring absence from employment service for at least six months: Provided, That the incapacity is shown by an examination by a physician or physicians selected by the board: Provided, however, That for employees hired on or after July 1, 2005, “permanent, total disability” means an inability to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months and the incapacity is so severe that the member is likely to be permanently unable to perform the duties of the position the member occupied immediately prior to his or her disabling injury or illness.

“Plan year” means the 12-month period commencing on July 1 of any designated year and ending on the following June 30.

“Public schools” means all publicly supported schools, including normal schools, colleges, and universities in this state.

“Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

“Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar year in which the member retires or otherwise ceases employment with a participating employer after having attained the age of 70 and one-half years.

“Retirement” means a member’s withdrawal from the active employment of a participating employer and completion of all conditions precedent to retirement.

“Year of employment service” means employment for at least 10 months, with a month being defined as 20 employment days: Provided, That no more than one year of service may be accumulated in any 12-month period.

## **ARTICLE 18. COMPULSORY SCHOOL ATTENDANCE.**

### **§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.**

(a) The county attendance director and the assistants shall diligently promote regular school attendance. The director and assistants shall:

(1) Ascertain reasons for unexcused absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under section one-a of this article;

(2) 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 do so;

(3) For the purposes of this article, the following definitions apply:

(A) “Excused absence” includes:

(i) Personal illness or injury of the student;

(ii) Personal illness or injury of the student’s parent, guardian, custodian, or family member: Provided, That the excuse must provide a reasonable explanation for why the student’s absence was necessary and caused by the illness or injury in the family;

(iii) Medical or dental appointment with written excuse from physician or dentist;

(iv) Chronic medical condition or disability that impacts attendance;

(v) Participation in home or hospital instruction due to an illness or injury or other extraordinary circumstance that warrants home or hospital confinement;

- (vi) Calamity, such as a fire or flood;
- (vii) Death in the family;
- (viii) School-approved or county-approved curricular or extra-curricular activities;
- (ix) Judicial obligation or court appearance involving the student;
- (x) Military requirement for students enlisted or enlisting in the military;
- (xi) Personal or academic circumstances approved by the principal; and

(xii) 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; and

(B) "Unexcused absence" means any absence not specifically included in the definition of "excused absence"; and

(4) All documentation relating to absences shall be provided to the school no later than three instructional days after the first day the student returns to school.

(b) In the case of three total unexcused absences of a student during a school year, the attendance director, ~~or assistant,~~ or principal shall ~~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 unexcused absences, a conference with the principal or other designated representative will be required.~~ make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending and not incurring any additional unexcused absences.

(c) In the case of five total unexcused absences, the attendance director or assistant ~~or principal~~ shall ~~serve written notice to the parent, guardian or custodian of the student that within five 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.~~ again make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending school and not incurring any additional unexcused absences.

(d) In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant may make a complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is 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 a summons or warrant issued pursuant to the provisions of this section shall be attempted within ten calendar days of 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.

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

(f) When any doubt exists as to the age of a student absent from school, the attendance director and assistants have 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 and assistants have 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.

(g) The county attendance director and assistants shall devote such time as is required by section three of this article to the duties of attendance director in accordance with this section during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors and assistants hired for more than 200 days may be assigned other duties determined by the superintendent during the period in excess of 200 days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(h) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors 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 nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to §29A-3b-1 *et seq.* of this code that sets forth student absences that are excluded for accountability purposes. The absences that are excluded by the rule shall include, but are not limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance

to the extent of his or her authority. The attendance director shall file with the county superintendent and county board 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;

(5) 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;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in such other ways as the county superintendent may direct for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided in subsection-a of this section, or if requested by the chief administrator, principal or assistant principal; and

(9) Serve as the liaison for homeless children and youth.

## **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

### **§18-9A-2. Definitions.**

For the purpose of this article:

(a) "State board" means the West Virginia Board of Education.

(b) "County board" or "board" means a county board of education.

(c) "Professional salaries" means the state legally mandated salaries of the professional educators as provided in §18A-4-1 *et seq.* of this code.

(d) "Professional educator" shall be synonymous with and shall have the same meaning as "teacher" as defined in §18-1-1 of this code, and includes technology integration specialists.

(e) "Professional instructional personnel" means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director, or school psychologist. A professional educator having both instructional and administrative or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance, or psychologist duties.

(f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 of this code who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. [Professional student support personnel shall also include professional personnel providing direct social and emotional support services to](#)



students, as well as professional personal addressing chronic absenteeism. For all purposes except for the determination of the allowance for professional educators pursuant to §18-9A-4 of this code, professional student support personnel are professional educators.

(g) “Service personnel salaries” means the state legally mandated salaries for service personnel as provided in §18A-4-8a of this code.

(h) “Service personnel” means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by 200: Provided, That the computation for any service person employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code shall be calculated as one-half an employment day.

(i) “Net enrollment” means the number of pupils enrolled in special education programs, kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net enrollment further shall include:

(1) Adults enrolled in ~~regular secondary~~ vocational programs, ~~subject to the following: Provided, That (A)~~ net enrollment includes no more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency: Provided further, That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code; and

~~(B) Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;~~

(2) Students enrolled in early childhood education programs as provided in §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) A pupil may not be counted more than once by reason of transfer within the county or from another county within the state, and a pupil may not be counted who attends school in this state from another state;

(4) The enrollment shall be modified to the equivalent of the instructional term and in accordance with the eligibility requirements and rules established by the state board; and

(5) For the purposes of determining the county’s basic foundation program only, for any county whose net enrollment as determined under all other provisions of this definition is less than 1,400, the net enrollment of the county shall be increased by an amount to be determined in accordance with the following:

(A) Divide the state’s lowest county student population density by the county’s actual student population density;

(B) Multiply the amount derived from the calculation in §18-9A-2(i)(5)(A) of this code by the difference between 1,400 and the county's actual net enrollment;

(C) Add the amount derived from the calculation in paragraph (B) of this subdivision to the county's actual net enrollment and increase that total amount by 10 percent; and

~~(C) (D)~~ If the ~~increase in~~ net enrollment as determined under this subdivision ~~plus the county's net enrollment as determined under all other provisions of this subsection~~ is greater than 1,400, ~~the increase in~~ calculated net enrollment shall be reduced ~~so that the total does not exceed to~~ 1,400; and

~~(D) (E)~~ During the 2008-2009 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review this subdivision to determine whether ~~or not~~ these provisions properly address the needs of counties with low enrollment and a sparse population density.

(j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is less than five.

(k) "Low-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than five but less than 10.

(l) "Medium-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than 10 but less than 20.

(m) "High-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than 20.

(n) "Levies for general current expense purposes" means ~~90~~ 85 percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.

(o) "Technology integration specialist" means a professional educator who has expertise in the technology field and is assigned as a resource teacher to provide information and guidance to classroom teachers on the integration of technology into the curriculum.

(p) "State aid eligible personnel" means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution, or other specific funding source not listed.

(q) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for the 2019-2020 funding year, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in

effect for funding years prior to the 2019-2020 funding year.

**§18-9A-8. Foundation allowance for professional student support services.**

(a) ~~The~~ Until the 2019-2020 fiscal year, the basic foundation allowance to the county for professional student support personnel shall be the same amount of money ~~determined in accordance with the following:~~

~~(1) The sum of the state minimum salaries, as determined in accordance with the provisions of §18-4-1 et seq. of this code, for all state aid eligible school nurse and counselor positions in the county during the 2008 fiscal year which number shall be reduced in the same proportion as the number of professional educators allowed to be funded under §18-9A-4 of this code to the total number of professional educators employed that are state aid eligible. In performing this calculation, the numerator shall be the number of professional educators actually funded under §18-9A-4 of this code and the denominator shall be the total number of professional educators employed that are eligible to be funded under §18-9A-4 of this code;~~

~~(2) The amount derived from the calculation in §18-9A-8(a)(1) of this code is increased by one half percent;~~

~~(3) The amount derived from the calculation in §18-9A-8(a)(2) of this code is the basic foundation allowance to the county for professional student support personnel for the 2009 fiscal year;~~

~~(4) For fiscal years 2010, 2011, 2012, and 2013, the basic foundation allowance to the county for professional student support personnel increases by one half percent per year over the allowance for the previous year; and~~

~~(5) For all fiscal years thereafter, the basic foundation allowance to the county for professional student support personnel remains the same amount as in the 2013 fiscal year, plus any additional amount of funding necessary to cover the any increases in the State Minimum Salary Schedule set forth in §18A-4-2 of this code effective for the fiscal year beginning July 1, 2018, and thereafter.~~

~~(b) The additional positions for counselors that may be created as a result of the one percent increase provided pursuant to this section shall be assigned to schools where the counselor can:~~

~~(1) Enhance student achievement;~~

~~(2) Provide early intervention for students in grades prekindergarten through five; and~~

~~(3) Enhance student development and career readiness.~~

(b) Effective for the 2019-2020 fiscal year and thereafter, the basic foundation allowance to the county for professional student support personnel is the amount of money required to pay the state minimum salaries, in accordance with provisions of §18A-4-1 et seq. of this code, subject to the following:

(1) In making this computation, each county shall receive an allowance for five state aid eligible professional student support personnel positions to each 1,000 students in net enrollment: Provided, That nothing in this section precludes the county from entering into public-private partnerships or other contracts to provide these services;

(2) For any professional student support personnel positions, or fraction thereof, determined for a county pursuant to subdivision (1) of this subsection that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded salary of professional student support personnel for the county;

(3) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

(4) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional student support personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.

(5) For the 2019-2020 fiscal year only, the number of positions funded for each county by subdivision (1) cannot be less than the number of positions that would have been funded in accordance with the previous methodology for determining the number of professional student support personnel positions funded for each county.

**§18-9A-9. Foundation allowance for other current expense and substitute employees and faculty senates.**

The total allowance for other current expense and substitute employees is the sum of the following:

(1) For current expense:

(A) The non-salary related expenditures for operations and maintenance, exclusive of expenditures reported in special revenue funds, for the latest available school year, in each county, divided by the total square footage of school buildings in each county is used to calculate a state average expenditure per square foot for operations and maintenance;

(B) The total square footage of school buildings in each county divided by each county's net enrollment for school aid purposes is used to calculate a state average square footage per student;

(C) Each county's net enrollment for school aid purposes multiplied by the state average expenditure per square foot for operations and maintenance as calculated in paragraph (A) of this subdivision and multiplied by the state average square footage per student as calculated in paragraph (B) of this subdivision is that county's state average costs per square footage per student for operations and maintenance;

(D) Where two or more counties join together in support of a vocational or

comprehensive high school or any other program or service, the allowance for current expense may be prorated among the participating counties by adjusting the net enrollment for school aid purposes utilized in the calculation by the number of students enrolled therein for each county; and

(E) Each county's allowance for current expense is 70.25% of the county's state average costs per square footage per student for operations and maintenance amount as calculated in paragraph (C) of this subdivision: Provided, That effective for the 2019-2020 fiscal year and each year thereafter, each county's allowance for current expense is 71.25 percent of the county's state average costs per square footage per student for operations and maintenance amount as calculated in paragraph (C) of this subdivision; plus

(2) For professional educator substitutes or current expense, two and five-tenths percent of the computed state allocation for professional educators and professional student support personnel as determined in sections four and eight §18-9A-4 and §18-9A-8 of this articlecode. Distribution to the counties is made proportional to the number of professional educators and professional student support personnel authorized for the county in compliance with sections four and eight of this article; plus

(3) For service personnel substitutes or current expense, two and five-tenths percent of the computed state allocation for service personnel as determined in section five §18-9A-5 of this articlecode. Distribution to the counties is made proportional to the number of service personnel authorized for the county in compliance with section five §18-9A-5 of this articlecode; plus

(4) For academic materials, supplies and equipment for use in instructional programs, \$200 400 multiplied by the number of professional instructional personnel and professional student support personnel employed in the schools of the county. Distribution is made to each county for allocation to the faculty senate of each school in the county on the basis of \$200 400 per professional instructional personnel and professional student support personnel employed at the school. "Faculty Senate" means a faculty senate created pursuant to section five, article five-a §18-5A-5 of this chaptercode. Decisions for the expenditure of such funds are made at the school level by the faculty senate in accordance with the provisions of said section five, article five-a and may not be used to supplant the current expense expenditures of the county. Beginning on September 1, 1994, and every September thereafter, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for keeping accurate records of expenditures.

## **ARTICLE 9B. SCHOOL FINANCE.**

### **§18-9B-22. Searchable budget database and website.**

(a) Effective July 1, 2020, the state superintendent shall provide the State Auditor with the required data for use by the searchable budget data website: Provided, That the state superintendent shall not be required to violate the Family Educational Rights and Privacy Act in providing such data. The data shall also contain the required information for the previous three fiscal years provided such data is available.

(b) The required data shall include for use by the searchable budget database website the following content:

(1) The name and principal location or residence of the entity or recipients of funds: Provided, That employee addresses shall not be made public or otherwise displayed on the budget data website;

(2) The name of the person or entity requesting the funds;

(3) The amount of funds expended;

(4) The funding or expending agency;

(5) The funding source of the revenue expended;

(6) The budget program or activity of the expenditure;

(7) A descriptive purpose for the funding action or expenditure;

(8) Any state audit or report relating to the entity or recipient of funds or the budget program or agency; and

(9) Any other relevant information specified by the Legislature.

(c) The information shall be updated for each fiscal year no later than 30 days following the end of the fiscal year. In addition, the State Auditor shall update the searchable budget database website as new data becomes available. The State Auditor shall provide guidance to the state superintendent to ensure compliance with this section.

(d) Nothing in this subsection is intended to cause a substantial modification to the West Virginia Education Information System.

## **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

### **§18-20-5. Powers and duties of state superintendent.**

(a) The State Superintendent of Schools shall organize, promote, administer and be responsible for:

(1) Stimulating and assisting county boards of education in establishing, organizing and maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher services for exceptional students.

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating and rehabilitating exceptional children, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, and formulas for distribution of

available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the State Board of Education: Provided, That no state rule, policy or standard under this article or any county board rule, policy or standard governing special education may exceed the requirements of federal law or regulation.

(B) An ~~separate~~ appropriation shall be made to the Department of Education to be ~~distributed~~~~disbursed~~ to county boards ~~and public charter schools authorized pursuant to support §18-5G-1 et seq. of this code to assist them with serving exceptional children with high cost/high acuity special needs that exceed the capacity of county to provide with funds available.~~ Each county board ~~and public charter school~~ shall apply to the state superintendent ~~for receipt of~~to receive this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be ~~distributed~~~~disbursed~~ to county boards ~~and public charter schools~~ for this purpose before any of the state appropriation is ~~distributed~~~~disbursed~~. The state board shall promulgate a rule in accordance with the provisions of ~~article three-b, chapter twenty-nine-a~~§29A-3B-1 et seq. of this code that implements the provisions of this subdivision relating to ~~distributing~~~~disbursing~~ the funds to the county boards ~~and public charter schools~~. The rule at least shall include a definition for “children with high acuity needs”.

(4) Receiving from county boards ~~of education and public charter schools~~, their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims, and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential institutions, private schools and correctional facilities as provided in ~~section thirteen-f, article two~~§18-2-13f of this ~~chapter~~code receive an education in accordance with state and federal laws: Provided, That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor.

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

~~(7) Receive the county plan for integrated classroom submitted by the county boards of education and submit a state plan, approved by the State Board of Education, to the Legislative Oversight Commission on Education Accountability no later than December 1, 1995.~~

(b) Nothing contained in this section shall be construed to prevent any county board of education from establishing and maintaining special schools, classes, regular class programs, home-teaching or visiting-teacher services ~~for exceptional children~~ out of funds available from local revenue.

## **CHAPTER 18A. SCHOOL PERSONNEL.**

### **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

#### **§18A-4-2. State minimum salaries for teachers.**

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A.B. degree, including the equity supplement, to at least \$43,000 by fiscal year 2019.

(b) For school year 2018-2019, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule I as set forth in this section; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year: Provided, That for the school year 2019-2020, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule II as set forth in this section, specific additional amounts prescribed in this section or article, and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.



**STATE MINIMUM SALARY SCHEDULE I**

<b>Years Exp</b>	<b>4th Class</b>	<b>3rd Class</b>	<b>2nd Class</b>	<b>A.B.</b>	<b>A.B. +15</b>	<b>M.A.</b>	<b>M.A. +15</b>	<b>M.A. +30</b>	<b>M.A. +45</b>	<b>Doctorate</b>
0	29,937	30,626	30,892	32,335	33,096	34,863	35,624	36,385	37,146	38,181
1	30,265	30,954	31,220	32,853	33,614	35,382	36,143	36,903	37,664	38,699
2	30,594	31,282	31,548	33,372	34,133	35,900	36,661	37,422	38,183	39,218
3	30,922	31,610	31,876	33,891	34,651	36,419	37,180	37,940	38,701	39,736
4	31,494	32,182	32,448	34,653	35,414	37,182	37,943	38,703	39,464	40,499
5	31,822	32,510	32,776	35,172	35,933	37,700	38,461	39,222	39,983	41,018
6	32,150	32,838	33,104	35,690	36,451	38,219	38,980	39,740	40,501	41,536
7	32,478	33,167	33,432	36,209	36,970	38,737	39,498	40,259	41,020	42,055
8	32,806	33,495	33,76	36,727	37,488	39,256	40,017	40,777	41,538	42,573
9	33,134	33,823	34,089	37,246	38,007	39,774	40,535	41,296	42,057	43,092
10	33,463	34,151	34,417	37,766	38,526	40,294	41,055	41,816	42,576	43,611
11	33,791	34,479	34,745	38,284	39,045	40,813	41,573	42,334	43,095	44,130
12	34,119	34,807	35,073	38,803	39,563	41,331	42,092	42,853	43,613	44,648
13	34,447	35,135	35,401	39,321	40,082	41,850	42,610	43,371	44,132	45,167
14	34,775	35,463	35,729	39,840	40,600	42,368	43,129	43,890	44,650	45,685
15	35,103	35,791	36,057	40,358	41,119	42,887	43,647	44,408	45,169	46,204
16	35,431	36,119	36,385	40,877	41,637	43,405	44,166	44,927	45,687	46,722
17	35,759	36,448	36,713	41,395	42,156	43,924	44,685	45,445	46,206	47,241
18	36,087	36,766	37,042	41,914	42,675	44,442	45,203	45,964	46,725	47,760
19	36,415	37,104	37,370	42,432	43,193	44,961	45,722	46,482	47,243	48,278
20	36,743	37,432	37,698	42,951	43,712	45,479	46,240	47,001	47,762	48,797
21	37,072	37,760	38,026	43,469	44,230	45,998	46,759	47,519	48,280	49,315
22	37,400	38,088	38,354	43,988	44,749	46,516	47,277	48,038	48,799	49,834
23	37,728	38,416	38,682	44,507	45,267	47,035	47,796	48,556	49,317	50,352
24	38,056	38,744	39,010	45,025	45,786	47,554	48,314	49,075	49,836	50,871
25	38,384	39,072	39,338	45,544	46,304	48,072	48,833	49,594	50,354	51,389
26	38,712	39,400	39,666	46,062	46,823	48,591	49,351	50,112	50,873	51,908
27	39,040	39,728	39,994	46,581	47,341	49,109	49,870	50,631	51,391	52,426
28	39,368	40,057	40,322	47,099	47,860	49,628	50,388	51,149	51,910	52,945
29	39,696	40,385	40,651	47,618	48,378	50,146	50,907	51,668	52,428	53,463
30	40,024	40,713	40,979	48,136	48,897	50,665	51,425	52,186	52,947	53,982
31	40,353	41,041	41,307	48,655	49,416	51,183	51,944	52,705	53,465	54,500
32	40,681	41,369	41,635	49,173	49,934	51,702	52,463	53,223	53,984	55,019
33	41,009	41,697	41,963	49,692	50,453	52,220	52,981	53,742	54,503	55,538
34	41,337	42,025	42,291	50,210	50,971	52,739	53,500	54,260	55,021	56,056
35	41,665	42,353	42,619	50,729	51,490	53,257	54,018	54,779	55,540	56,575

**STATE MINIMUM SALARY SCHEDULE II**

<b>Years Exp</b>	<b>4th Class</b>	<b>3rd Class</b>	<b>2nd Class</b>	<b>A.B.</b>	<b>A.B. +15</b>	<b>M.A.</b>	<b>M.A. +15</b>	<b>M.A. +30</b>	<b>M.A. +45</b>	<b>Doctorate</b>
0	32,057	32,746	33,012	34,445	35,216	36,983	37,744	38,505	39,266	40,301
1	32,385	33,074	33,340	34,973	35,734	37,502	38,263	39,023	39,784	40,819
2	32,714	33,402	33,668	35,492	36,253	38,020	38,781	39,542	40,303	41,338
3	33,042	33,730	33,996	36,011	36,771	38,539	39,300	40,060	40,821	41,856
4	33,614	34,302	34,568	36,773	37,534	39,302	40,063	40,823	41,584	42,619
5	33,942	34,630	34,896	37,292	38,053	39,820	40,581	41,342	42,103	43,138
6	34,270	34,958	35,224	37,810	38,571	40,339	41,100	41,860	42,621	43,656
7	34,598	35,287	35,552	38,329	39,090	40,857	41,618	42,379	43,140	44,175
8	34,926	35,615	35,881	38,847	39,608	41,376	42,137	42,897	43,658	44,693
9	35,254	35,943	36,209	39,336	40,127	41,894	42,655	43,416	44,177	45,212
10	35,583	36,271	36,537	39,886	40,646	42,414	43,175	43,936	44,696	45,731
11	35,911	36,599	36,865	40,404	41,165	42,933	43,693	44,454	45,215	46,250
12	36,239	36,927	37,193	40,923	41,683	43,451	44,212	44,973	45,733	46,768
13	36,567	37,255	37,521	41,441	42,202	43,970	44,730	45,491	46,252	47,287
14	36,895	37,583	37,849	41,960	42,720	44,488	45,249	46,010	46,770	47,805
15	37,223	37,911	38,177	42,478	43,239	45,007	45,767	46,528	47,289	48,324
16	37,551	38,239	38,505	42,997	43,757	45,525	46,286	47,047	47,807	48,842
17	37,879	38,568	38,833	43,515	44,276	46,044	46,805	47,565	48,326	49,361
18	38,207	38,896	39,162	44,034	44,795	46,562	47,323	48,084	48,845	49,880
19	38,535	39,224	39,490	44,552	45,313	47,081	47,842	48,602	49,363	50,398
20	38,863	39,552	39,818	45,071	45,832	47,599	48,360	49,121	49,882	50,917
21	39,192	39,880	40,146	45,589	46,350	48,118	48,879	49,639	50,400	51,435
22	39,520	40,208	40,474	46,108	46,869	48,636	49,397	50,158	50,919	51,954
23	39,848	40,536	40,802	46,627	47,387	49,155	49,916	50,676	51,437	52,472
24	40,176	40,864	41,130	47,125	47,906	49,674	50,434	51,195	51,956	52,991
25	40,504	41,192	41,458	47,664	48,242	50,192	50,953	51,714	52,474	53,509
26	40,832	41,520	41,786	48,182	48,943	50,711	51,471	52,232	52,993	54,028
27	41,160	41,848	42,114	48,701	49,461	51,229	51,990	52,751	53,511	54,546
28	41,488	42,177	42,442	49,219	49,980	51,748	52,508	53,269	54,030	55,065
29	41,816	42,505	42,771	49,738	50,498	52,266	53,027	53,778	54,548	55,583
30	42,114	42,833	43,099	50,256	51,017	52,785	53,545	54,306	55,067	56,102
31	42,473	43,161	43,427	50,775	51,536	53,306	54,064	54,825	55,585	56,620
32	42,801	43,489	43,755	51,293	52,054	53,822	54,583	55,343	56,104	57,139
33	43,129	43,817	44,083	51,812	52,573	54,340	55,101	55,862	56,623	57,658
34	43,457	44,145	44,411	52,330	53,091	54,859	55,620	56,380	57,141	58,176
35	43,785	44,473	44,739	52,849	53,610	55,377	56,138	56,899	57,660	58,695

(c) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20 years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

(d) Effective July 1, 2019, each classroom teacher providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction to students shall be considered to have three additional years of experience only for the purpose of the salary schedule set forth in subsection (b) of this section: Provided, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary schedule shall be paid the additional amount equivalent of three additional years of experience notwithstanding the maximum experience provided on the salary schedule

(e) Effective July 1, 2019, each classroom teacher certified in special education and employed as a full-time special education teacher shall be considered to have three additional years of experience only for the purpose of the salary schedule set forth in subsection (b) of this section: Provided, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary schedule shall be paid the additional amount equivalent of three additional years of experience notwithstanding the maximum experience provided on the salary schedule

(f) To meet the objective of salary equity among the counties as set forth in In accordance with §18A-4-5 of this code, each teacher shall be paid an equity~~the~~ supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of ~~this~~ that section:

(1) For "4th Class" at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For "3rd Class" at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For "2nd Class" at zero years of experience, \$1,887. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For "A.B" at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For "A.B + 15" at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For "M.A." at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For “M.A. + 15” at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(8) For “M.A. + 30” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For “M.A. + 45” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(10) For “Doctorate” at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

#### **§18A-4-5. Salary equity among the counties; sState salary supplement.**

~~(a) For the purposes of this section, salary equity among the counties means that the salary potential of school employees employed by the various districts throughout the state does not differ by greater than ten percent between those offering the highest salaries and those offering the lowest salaries. In the case of professional educators, the difference shall be calculated using the average of the professional educator salary schedules, degree classifications B. A. through doctorate and the years of experience provided in the most recent state minimum salary schedule for teachers, in effect in the ten counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty five counties. In the case of school service personnel, the difference shall be calculated utilizing the average of the school service personnel salary schedules, pay grades A through H and the years of experience provided in the most recent state minimum pay scale pay grade for service personnel, in effect in the ten counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty five counties.~~

(a) The Legislature recognizes its constitutional responsibility to provide for a thorough and efficient system of education. To carry out this responsibility the Legislature enacted, and continues to update, as necessary, the public school support program as set forth in §18-9A-1, et seq. of this code. The public school support program is a non-discriminatory funding mechanism for financing the educational system in this state as it takes into account each county’s specific characteristics, and ensures that all counties are provided equitable funding.

(b) The Legislature further find that the purpose of the public school support program is not to deter counties from growing economically or from using county resources in a manner that best meets their specific education needs and the desires of their citizens. To that end, counties must have the discretion and flexibility to use local county funds, not otherwise factored into the public school support program, to provide the best education possible to their students, including, but not limited to, providing salary supplements to teachers.

~~(b) (c) To meet the objective of salary equity among the counties, as defined in subsection (a) of this section, on and after July 1, 1984, subject~~ Subject to available state appropriations and the conditions set forth herein, each teacher and school service personnel shall receive an equity a supplement amount as specified in ~~sections two and eight a §18A-4-2 and §18A-4-8a of this code~~, respectively, of this article in addition to the amount from the state minimum salary schedules provided in those sections. State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with §18-9A-1 et seq. of this code. The amount allocated for this supplement shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under §18-9A-4, §18-9A-5, and §18-9A-8 of this code.

~~(c) State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with article nine a, chapter eighteen of this code. The amount allocated for salary equity shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under sections four, five and eight, article nine a, chapter eighteen of this code. In the event the Department of Education determines that the objective of salary equity among the counties has not been met, it shall include in its budget request for the public school support plan for the next school year a request for funding sufficient to meet the objective of salary equity through an across the board increase in the equity supplement amount of the affected class of employees.~~

(d) Pursuant to this section, each teacher and service person shall receive from state funds the equity supplement amount indicated in ~~subsection (c), section two §18A-4-2(f) and subsection (f), section eight a §18A-4-8(a)(f)~~ of this ~~article~~code, as applicable, reduced by any amount provided by the county as a salary supplement for teachers and school service personnel on January 1, 1984.

(e) The amount received pursuant to this section shall not be decreased as a result of any county supplement increase instituted after January 1, 1984: Provided, That any amount received pursuant to this section may be reduced proportionately based upon the amount of funds appropriated for this purpose. No county may reduce any salary supplement that was in effect on January 1, 1984, except as permitted by ~~sections five a §18-4-5a and five b §18-4-5b~~ of this ~~article~~code.

(f) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for the school year beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the July 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

#### **§18A-4-5a. County salary supplements for teachers.**

(a) County boards of education in fixing the salaries of teachers shall use at least the state minimum salaries established under the provisions of this article. The board may establish salary schedules which shall be in excess of the state minimums fixed by this article, such county schedules to be uniform throughout the county as to the classification of training, experience, responsibility and other requirements: subject to the following:

(1) Counties may fix higher salaries for teachers placed in special instructional assignments, for those assigned to or employed for duties other than regular instructional duties, and for teachers of one-teacher schools; ~~and they~~

(2) Counties may provide additional compensation for any teacher assigned duties in addition to the teacher's regular instructional duties wherein such noninstructional duties are not a part of the scheduled hours of the regular school day. ~~Uniformity also shall apply to such additional salary increments or compensation for all persons performing like assignments and duties within the county. Provided, That in~~

(3) Counties may provide additional compensation for teachers who are assigned and fully certified to teach in a subject area in which the county board finds it has a critical need and shortage of fully certified teachers;

(4) Counties may provide additional compensation or other financial assistance to teachers who teach in schools that are in remote geographical locations or have experienced high rates of turnover in experienced teachers; and

(5) Counties may provide additional compensation to teachers who, in addition to regularly assigned teaching duties, are assigned as a master teacher, mentor, academic coach, or other title whose duties include providing strong school-based support and supervision to assist licensure candidates in a clinical internship, beginning teachers, and other teachers at the school to improve their professional practice as set form in the county's comprehensive system of support for teacher and leader induction and professional growth provided for in section §18A-3C-3 of this code.

(b) In establishing such local salary schedules, ~~no~~ authorized in subsection (a) of this section, a county ~~shall~~ may not reduce local funds allocated for salaries in effect on January 1, 1990, and used in supplementing the state minimum salaries as provided for in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making such reduction.

(c) Counties may provide, in a uniform manner, benefits for teachers which require an appropriation from local funds including, but not limited to, dental, optical, health and income protection insurance, vacation time and retirement plans excluding the ~~s~~State Teachers Retirement System. Nothing herein shall prohibit the maintenance nor result in the reduction of any benefits in effect on January 1, 1984, by any county board of education.

**§18A-4-7a. Employment, promotion, and transfer of professional personnel; seniority qualifications.**

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: Provided, That the county superintendent shall be hired under separate criteria pursuant to ~~section two, article four, chapter eighteen~~ §18-4-2 of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

- (1) Appropriate certification, licensure or both;
- (2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;
- (3) The amount of course work, degree level or both in the relevant field and degree level generally;
- (4) Academic achievement;
- (5) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;
- (6) Specialized training relevant to performing the duties of the job;
- (7) Past performance evaluations conducted pursuant to ~~section twelve, article two~~§18A-2-12 and §18A-3C-2 of this ~~chapter and section two, article three c of this chapter~~code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;
- (8) Seniority;
- (9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;
- (10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and
- (11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of ~~section five, article five a, chapter eighteen~~§18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) When filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an applicant's qualifications: Provided, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) shall each be double weighted.

(d) For a classroom teaching position, if the principal and faculty senate recommend the same applicant pursuant to subdivisions (10) and (11), subsection (b) of this section, and the superintendent concurs with those recommendations, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with the provisions of [article three b, chapter twenty nine a§29A-3B-1 et seq.](#) of this code to implement and interpret the provisions of this section. The rule may provide for t a classroom teacher who directly participates in making recommendations pursuant to this section to be compensated at the appropriate daily rate during periods of participation beyond his or her individual contract.

(f) The recommendations of the principal and faculty senate made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be based on a determination as to which applicant is the most highly qualified for the position: Provided, That nothing in this subsection may require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time certified and/or licensed professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.

(h) If two or more employees with the same certification establish an identical seniority date as a result of initial employment as a regular teacher on or after July 1, 2019, the priority between these employees shall be determined by a random selection system established by the employees and approved by the county board. A board shall conduct the random selection within 30 days of the time the employees with the same certification establish an identical seniority date. All employees with an identical seniority data and the same certification shall participate in the random selection. As long as the affected employees hold the identical seniority date within a certification, the initial random selection conducted by the board shall be permanent for the duration of the employment of the employees by the board.

~~(h)~~ (i) Upon completion of ~~one hundred thirty three~~<sup>133</sup> days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. One hundred thirty-three days or more of said employment shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.

~~(i)~~ (j) Guidance counselors and all other professional employees, as defined in ~~section one, article one§18A-1-1~~ of this ~~chaptercode~~, except classroom teachers, shall gain seniority in their nonteaching area of professional employment on the basis of the length of time the employee has been employed by the county board of education in that area: Provided, That if an employee is certified as a classroom teacher, the employee accrues classroom teaching seniority for the time that employee is employed in another professional area. For the purposes of accruing seniority under this ~~paragraphsubsection~~, employment as principal, supervisor or central office administrator, as defined in ~~section one, article one§18A-1-1~~ of this ~~chaptercode~~, shall be considered one area of employment.

~~(j)~~ (k) Employment for a full employment term equals one year of seniority, but



an employee may not accrue more than one year of seniority during any given fiscal year. Employment for less than the full employment term shall be prorated. ~~A random selection system established by the employees and approved by the county board shall be used to determine the priority if two or more employees accumulate identical seniority: Provided, That when two or more principals have accumulated identical seniority, decisions on reductions in force shall be based on qualifications.~~

(l) All decisions on reductions in force shall be based on qualifications as set forth in a county board policy. Furthermore, for the purposes of this subsection and subsections (m) through (t), inclusive, of this section, the word "qualifications" means the qualifications set forth in county board policy and only means qualifications set forth in subsection (b) of this section to the extent those qualifications are set forth in county board policy: Provided, That in defining the word "qualifications" in its policy, the county board:

(1) Shall consider including the following criteria:

(A) Seniority;

(B) Appropriate certification, licensure, or both;

(C) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(D) The amount of course work, degree level, or both in the relevant field and degree level generally;

(E) Academic achievement;

(F) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(G) Specialized training relevant to performing the duties of the job;

(H) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(I) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(J) In the case of transfer or recall to a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(K) In the case of transfer or recall to a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties;

(2) Shall consider other criteria set forth in subdivision (1) of this subsection to the extent they are included in the county board policy only after considering personnel whose last performance evaluation conducted pursuant to §18A-2-12 or §18A-3C-2 of this code, as applicable, is less than satisfactory; and

(3) May not include salary as one of the criteria in the definition.

~~(k)~~ (m) Whenever a county board is required to reduce the number of professional personnel in its employment, the selection of the employee ~~with the least amount of seniority shall to~~ be properly notified and released from employment pursuant to the provisions of section two, article two of this chapter shall be based upon seniority, certification, licensure and performance evaluations. The provisions of this subsection are subject to the following:

(1) In the event of a reduction in force, a county board of education may properly notify and release from employment pursuant to the provisions of section two, article two of this chapter any classroom teacher with unsatisfactory evaluations for the previous two consecutive years regardless of years of service instead of release from employment of less senior classroom teachers with satisfactory performance evaluation;

~~(4)~~ (2) All persons employed in a certification area to be reduced who are employed under a temporary permit shall be properly notified and released before a fully certified employee in such a position is subject to release;

~~(2)~~ (3) Notwithstanding any provision of this code to the contrary, for any vacancy in an established, existing or newly created position that, on or before March 1, is known to exist for the ensuing school year, upon recommendation of the superintendent, the board shall appoint the successful applicant from among all qualified applicants. All employees subject to release shall be considered applicants for the positions for which they are qualified and shall be considered before posting such vacancies for application by nonemployees;

~~(3)~~ (4) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both, if the employees seniority is greater than the seniority of any other employee in that area of certification, licensure or both;

~~(4)~~ (5) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the employees seniority is greater than the seniority of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the employee with the least seniority in any of those areas of certification, licensure or both; and

~~(5)~~ (6) If, prior to August 1 of the year, a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment

or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and higher seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

~~(h)~~ (n) For the purpose of this article, all positions which meet the definition of "classroom teacher" as defined in ~~section one, article one~~§18A-1-1 of this ~~chapter~~code shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. In adopting the policy, the board ~~shall~~ may give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; certification, licensure or both; ~~and~~ along with the days in the period of employment.

~~(m)~~ (o) All professional personnel whose ~~seniority~~ lesser qualifications, as determined by county board policy, with the county board is insufficient to allow their retention by the county board during a reduction in work force shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of seniority qualifications if no regular, full-time professional personnel, or those returning from leaves of absence with greater ~~seniority, are qualified,~~qualifications apply for and accept the position.

~~(n)~~ (p) ~~Before position openings that are known or expected to extend for twenty consecutive employment days or longer for professional personnel may be filled by the board, the board shall be required to notify all qualified professional personnel on the preferred list and give them an opportunity to apply, but failure to apply shall not cause the employee to forfeit any right to recall. The notice shall be sent by certified mail to the last known address of the employee and it shall be the duty of each professional personnel to notify the board of continued availability annually, of any change in address or of any change in certification, licensure or both. The board shall annually notify professional personnel on the preferred list of the job application procedures and any websites used to advertise vacancies. The notice shall be sent by certified mail via the U.S. Postal Service to the last known address of the employee, and it shall be the duty of each professional person to notify the board of continued availability annually of any change in address, or of any change in certification, licensure or both.~~

~~(o)~~ (q) Openings in established, existing or newly created positions shall be processed as follows:

(1) Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more than once in order to attract more qualified applicants. At their discretion, boards may repost an opening for a classroom teacher ~~one additional time~~ after the first posting in order to attract more qualified applicants ~~only if fewer than three individuals apply during the first posting~~ subject to the following:

(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days which may include any website maintained by the county board;

(B) At least one notice shall be posted within ~~twenty~~ 20 working days of the position openings and shall include the job description;

(C) Any special criteria or skills that are required by the position shall be specifically stated in the job description and directly related to the performance of the job;

(D) Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply; and

(E) Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant;

(2) No vacancy may be filled until after the five-day minimum posting period of the most recent posted notice of the vacancy;

(3) If one or more applicants under all the postings for a vacancy meets the qualifications listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board within ~~thirty~~ 30 working days of the end of the first posting period;

(4) A position held by a teacher who is certified, licensed or both, who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years; and

(5) Nothing provided herein may prevent the county board of education from eliminating a position due to lack of need.

~~(p)~~ (r) Notwithstanding any other provision of the code to the contrary, where the total number of classroom teaching positions in an elementary school does not increase from one school year to the next, but there exists in that school a need to realign the number of teachers in one or more grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels for which they are certified without that position being posted: Provided, That the employee and the county board mutually agree to the reassignment.

~~(q)~~ (s) Reductions in classroom teaching positions in elementary schools shall be determined pursuant to the considerations set forth in county board policy and processed as follows:

(1) When the total number of classroom teaching positions in an elementary school needs to be reduced, the reduction shall be made on the basis of seniority qualifications with the least senior qualified classroom teacher being recommended for transfer; and

(2) When a specified grade level needs to be reduced and the least senior qualified employee in the school is not in that grade level, the least qualified senior classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the least senior qualified classroom teacher in the school without that position being posted: Provided, That the employee is certified, licensed or both and agrees to the reassignment.

(†) (t) Any board failing to comply with the provisions of this article may be compelled to do so by mandamus and shall be liable to any party prevailing against the board for court costs and reasonable attorney fees as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactive to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

~~(s) The county board shall compile, update annually on July 1 and make available by electronic or other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority.~~

(†) (u) Notwithstanding any other provision of this code to the contrary, upon recommendation of the principal and approval by the classroom teacher and county board, a classroom teacher assigned to the school may at any time be assigned to a new or existing classroom teacher position at the school without the position being posted.

(v) All personnel in a public charter school shall continue to accrue seniority in the same manner that they would accrue seniority if employed in a noncharter public school in the county for the purpose of employment in noncharter public schools.

**§18A-4-8a. Service personnel minimum monthly salaries.**

(a) The minimum monthly pay for each service employee shall be as follows:

(1) For school year 2018–2019, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule I and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade Schedule I set forth in this subdivision: Provided, That for school year 2019-2020, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule II and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade Schedule II set forth in this subdivision.

**STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE I**

Years Exp	Pay Grade							
	A	B	C	D	E	F	G	H
0	1,770	1,791	1,833	1,886	1,939	2,002	2,034	2,107
1	1,802	1,824	1,865	1,918	1,972	2,035	2,066	2,140
2	1,835	1,856	1,898	1,951	2,004	2,067	2,099	2,172
3	1,867	1,889	1,931	1,984	2,037	2,100	2,132	2,205
4	1,900	1,922	1,963	2,016	2,069	2,133	2,164	2,239
5	1,933	1,954	1,996	2,049	2,102	2,165	2,197	2,271
6	1,965	1,987	2,030	2,082	2,135	2,198	2,230	2,304
7	1,999	2,019	2,062	2,114	2,167	2,231	2,262	2,337
8	2,032	2,052	2,095	2,147	2,200	2,263	2,295	2,369
9	2,064	2,085	2,128	2,181	2,233	2,296	2,327	2,402
10	2,097	2,118	2,160	2,213	2,265	2,330	2,361	2,435
11	2,130	2,151	2,193	2,246	2,298	2,362	2,394	2,467
12	2,162	2,184	2,225	2,279	2,332	2,395	2,426	2,500
13	2,195	2,216	2,258	2,311	2,364	2,427	2,459	2,533
14	2,228	2,249	2,291	2,344	2,397	2,460	2,492	2,565
15	2,260	2,282	2,323	2,376	2,429	2,493	2,524	2,598
16	2,293	2,314	2,356	2,409	2,462	2,525	2,557	2,631
17	2,325	2,347	2,390	2,442	2,495	2,558	2,590	2,664
18	2,358	2,380	2,422	2,474	2,527	2,591	2,622	2,697
19	2,392	2,412	2,455	2,507	2,560	2,623	2,655	2,729
20	2,424	2,445	2,488	2,541	2,593	2,656	2,688	2,763
21	2,457	2,477	2,520	2,573	2,625	2,689	2,720	2,797
22	2,490	2,511	2,553	2,606	2,658	2,722	2,754	2,829
23	2,522	2,544	2,586	2,639	2,692	2,756	2,788	2,863
24	2,555	2,576	2,618	2,671	2,724	2,790	2,821	2,897
25	2,588	2,609	2,651	2,704	2,758	2,822	2,855	2,929
26	2,620	2,642	2,683	2,738	2,792	2,856	2,887	2,963
27	2,653	2,674	2,716	2,770	2,824	2,888	2,921	2,996
28	2,686	2,707	2,750	2,804	2,858	2,922	2,955	3,030
29	2,718	2,741	2,783	2,836	2,891	2,956	2,987	3,064
30	2,752	2,773	2,817	2,870	2,924	2,988	3,021	3,097
31	2,785	2,807	2,851	2,904	2,958	3,022	3,055	3,130
32	2,819	2,840	2,883	2,937	2,990	3,056	3,087	3,164
33	2,853	2,873	2,917	2,971	3,024	3,088	3,121	3,197
34	2,885	2,907	2,951	3,005	3,058	3,122	3,155	3,230
35	2,919	2,941	2,983	3,037	3,090	3,156	3,188	3,264
36	2,953	2,974	3,017	3,071	3,125	3,189	3,222	3,296
37	2,985	3,008	3,051	3,105	3,159	3,223	3,255	3,330
38	3,019	3,040	3,083	3,137	3,191	3,256	3,288	3,364
39	3,053	3,074	3,117	3,171	3,225	3,289	3,322	3,396
40	3,085	3,108	3,150	3,204	3,259	3,323	3,355	3,430

**STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE II**

Years Exp	Pay Grade							
	A	B	C	D	E	F	G	H
<u>0</u>	<u>1,885</u>	<u>1,906</u>	<u>1,948</u>	<u>2,001</u>	<u>2,054</u>	<u>2,117</u>	<u>2,149</u>	<u>2,222</u>
<u>1</u>	<u>1,917</u>	<u>1,939</u>	<u>1,980</u>	<u>2,033</u>	<u>2,087</u>	<u>2,150</u>	<u>2,181</u>	<u>2,255</u>
<u>2</u>	<u>1,950</u>	<u>1,971</u>	<u>2,013</u>	<u>2,066</u>	<u>2,119</u>	<u>2,182</u>	<u>2,214</u>	<u>2,287</u>
<u>3</u>	<u>1,982</u>	<u>2,004</u>	<u>2,046</u>	<u>2,099</u>	<u>2,152</u>	<u>2,215</u>	<u>2,247</u>	<u>2,320</u>
<u>4</u>	<u>2,015</u>	<u>2,037</u>	<u>2,078</u>	<u>2,131</u>	<u>2,184</u>	<u>2,248</u>	<u>2,279</u>	<u>2,354</u>
<u>5</u>	<u>2,048</u>	<u>2,069</u>	<u>2,111</u>	<u>2,164</u>	<u>2,217</u>	<u>2,280</u>	<u>2,312</u>	<u>2,386</u>
<u>6</u>	<u>2,080</u>	<u>2,102</u>	<u>2,145</u>	<u>2,197</u>	<u>2,250</u>	<u>2,313</u>	<u>2,345</u>	<u>2,419</u>
<u>7</u>	<u>2,114</u>	<u>2,134</u>	<u>2,177</u>	<u>2,229</u>	<u>2,282</u>	<u>2,346</u>	<u>2,377</u>	<u>2,452</u>
<u>8</u>	<u>2,147</u>	<u>2,167</u>	<u>2,210</u>	<u>2,262</u>	<u>2,315</u>	<u>2,378</u>	<u>2,410</u>	<u>2,484</u>
<u>9</u>	<u>2,179</u>	<u>2,200</u>	<u>2,243</u>	<u>2,296</u>	<u>2,348</u>	<u>2,411</u>	<u>2,442</u>	<u>2,517</u>
<u>10</u>	<u>2,212</u>	<u>2,233</u>	<u>2,275</u>	<u>2,328</u>	<u>2,380</u>	<u>2,445</u>	<u>2,476</u>	<u>2,550</u>
<u>11</u>	<u>2,245</u>	<u>2,266</u>	<u>2,308</u>	<u>2,361</u>	<u>2,413</u>	<u>2,477</u>	<u>2,509</u>	<u>2,582</u>
<u>12</u>	<u>2,277</u>	<u>2,299</u>	<u>2,340</u>	<u>2,394</u>	<u>2,447</u>	<u>2,510</u>	<u>2,541</u>	<u>2,615</u>
<u>13</u>	<u>2,310</u>	<u>2,331</u>	<u>2,373</u>	<u>2,426</u>	<u>2,479</u>	<u>2,542</u>	<u>2,574</u>	<u>2,648</u>
<u>14</u>	<u>2,343</u>	<u>2,364</u>	<u>2,406</u>	<u>2,459</u>	<u>2,512</u>	<u>2,575</u>	<u>2,607</u>	<u>2,680</u>
<u>15</u>	<u>2,375</u>	<u>2,397</u>	<u>2,438</u>	<u>2,491</u>	<u>2,544</u>	<u>2,608</u>	<u>2,639</u>	<u>2,713</u>
<u>16</u>	<u>2,408</u>	<u>2,429</u>	<u>2,471</u>	<u>2,524</u>	<u>2,577</u>	<u>2,640</u>	<u>2,672</u>	<u>2,746</u>
<u>17</u>	<u>2,440</u>	<u>2,462</u>	<u>2,505</u>	<u>2,557</u>	<u>2,610</u>	<u>2,673</u>	<u>2,705</u>	<u>2,779</u>
<u>18</u>	<u>2,473</u>	<u>2,495</u>	<u>2,537</u>	<u>2,589</u>	<u>2,642</u>	<u>2,706</u>	<u>2,737</u>	<u>2,812</u>
<u>19</u>	<u>2,507</u>	<u>2,527</u>	<u>2,570</u>	<u>2,622</u>	<u>2,675</u>	<u>2,738</u>	<u>2,770</u>	<u>2,844</u>
<u>20</u>	<u>2,539</u>	<u>2,560</u>	<u>2,603</u>	<u>2,656</u>	<u>2,708</u>	<u>2,771</u>	<u>2,803</u>	<u>2,878</u>
<u>21</u>	<u>2,572</u>	<u>2,592</u>	<u>2,635</u>	<u>2,688</u>	<u>2,740</u>	<u>2,804</u>	<u>2,835</u>	<u>2,912</u>
<u>22</u>	<u>2,605</u>	<u>2,626</u>	<u>2,668</u>	<u>2,721</u>	<u>2,773</u>	<u>2,837</u>	<u>2,869</u>	<u>2,944</u>
<u>23</u>	<u>2,637</u>	<u>2,659</u>	<u>2,701</u>	<u>2,754</u>	<u>2,807</u>	<u>2,871</u>	<u>2,903</u>	<u>2,978</u>
<u>24</u>	<u>2,670</u>	<u>2,691</u>	<u>2,733</u>	<u>2,786</u>	<u>2,839</u>	<u>2,905</u>	<u>2,936</u>	<u>3,012</u>
<u>25</u>	<u>2,703</u>	<u>2,724</u>	<u>2,766</u>	<u>2,819</u>	<u>2,873</u>	<u>2,937</u>	<u>2,970</u>	<u>3,044</u>
<u>26</u>	<u>2,735</u>	<u>2,757</u>	<u>2,798</u>	<u>2,853</u>	<u>2,907</u>	<u>2,971</u>	<u>3,002</u>	<u>3,078</u>
<u>27</u>	<u>2,768</u>	<u>2,789</u>	<u>2,831</u>	<u>2,885</u>	<u>2,939</u>	<u>3,003</u>	<u>3,036</u>	<u>3,111</u>
<u>28</u>	<u>2,801</u>	<u>2,822</u>	<u>2,865</u>	<u>2,919</u>	<u>2,973</u>	<u>3,037</u>	<u>3,070</u>	<u>3,145</u>
<u>29</u>	<u>2,833</u>	<u>2,856</u>	<u>2,898</u>	<u>2,951</u>	<u>3,006</u>	<u>3,071</u>	<u>3,102</u>	<u>3,179</u>
<u>30</u>	<u>2,867</u>	<u>2,888</u>	<u>2,932</u>	<u>2,985</u>	<u>3,039</u>	<u>3,103</u>	<u>3,136</u>	<u>3,212</u>
<u>31</u>	<u>2,900</u>	<u>2,922</u>	<u>2,966</u>	<u>3,019</u>	<u>3,073</u>	<u>3,137</u>	<u>3,170</u>	<u>3,245</u>
<u>32</u>	<u>2,934</u>	<u>2,955</u>	<u>2,998</u>	<u>3,052</u>	<u>3,105</u>	<u>3,171</u>	<u>3,202</u>	<u>3,279</u>
<u>33</u>	<u>2,968</u>	<u>2,988</u>	<u>3,032</u>	<u>3,086</u>	<u>3,139</u>	<u>3,203</u>	<u>3,236</u>	<u>3,312</u>
<u>34</u>	<u>3,000</u>	<u>3,022</u>	<u>3,066</u>	<u>3,120</u>	<u>3,173</u>	<u>3,237</u>	<u>3,270</u>	<u>3,345</u>
<u>35</u>	<u>3,034</u>	<u>3,056</u>	<u>3,098</u>	<u>3,152</u>	<u>3,205</u>	<u>3,271</u>	<u>3,303</u>	<u>3,379</u>
<u>36</u>	<u>3,068</u>	<u>3,089</u>	<u>3,132</u>	<u>3,186</u>	<u>3,240</u>	<u>3,304</u>	<u>3,337</u>	<u>3,411</u>
<u>37</u>	<u>3,100</u>	<u>3,123</u>	<u>3,166</u>	<u>3,220</u>	<u>3,274</u>	<u>3,338</u>	<u>3,370</u>	<u>3,445</u>
<u>38</u>	<u>3,134</u>	<u>3,155</u>	<u>3,198</u>	<u>3,252</u>	<u>3,306</u>	<u>3,371</u>	<u>3,403</u>	<u>3,479</u>
<u>39</u>	<u>3,168</u>	<u>3,189</u>	<u>3,232</u>	<u>3,286</u>	<u>3,340</u>	<u>3,404</u>	<u>3,437</u>	<u>3,511</u>
<u>40</u>	<u>3,200</u>	<u>3,223</u>	<u>3,265</u>	<u>3,319</u>	<u>3,374</u>	<u>3,438</u>	<u>3,470</u>	<u>3,545</u>

(2) Each service employee shall receive the amount prescribed in the State Minimum Pay Scale Pay Grade in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

**CLASS TITLE PAY GRADE**

Accountant I.....	D
Accountant II.....	E
Accountant III.....	F
Accounts Payable Supervisor.....	G
Aide I.....	A
Aide II.....	B
Aide III.....	C
Aide IV.....	D
Audiovisual Technician.....	C
Auditor.....	G
Autism Mentor.....	F
Braille Specialist.....	E
Bus Operator.....	D
Buyer.....	F
Cabinetmaker.....	G
Cafeteria Manager.....	D
Carpenter I.....	E
Carpenter II.....	F
Chief Mechanic.....	G
Clerk I.....	B
Clerk II.....	C
Computer Operator.....	E
Cook I.....	A
Cook II.....	B
Cook III.....	C
Crew Leader.....	F
Custodian I.....	A
Custodian II.....	B
Custodian III.....	C
Custodian IV.....	D
Director or Coordinator of Services.....	H
Draftsman.....	D
Early Childhood Classroom Assistant Teacher I.....	E
Early Childhood Classroom Assistant Teacher II.....	E
Early Childhood Classroom Assistant Teacher III.....	F
Educational Sign Language Interpreter I.....	F
Educational Sign Language Interpreter II.....	G
Electrician I.....	F
Electrician II.....	G
Electronic Technician I.....	F
Electronic Technician II.....	G
Executive Secretary.....	G



Food Services Supervisor.....	G
Foreman.....	G
General Maintenance.....	C
Glazier.....	D
Graphic Artist.....	D
Groundsman.....	B
Handyman.....	B
Heating and Air Conditioning Mechanic I.....	E
Heating and Air Conditioning Mechanic II.....	G
Heavy Equipment Operator.....	E
Inventory Supervisor.....	D
Key Punch Operator.....	B
Licensed Practical Nurse.....	F
Locksmith.....	G
Lubrication Man.....	C
Machinist.....	F
Mail Clerk.....	D
Maintenance Clerk.....	C
Mason.....	G
Mechanic.....	F
Mechanic Assistant.....	E
Office Equipment Repairman I.....	F
Office Equipment Repairman II.....	G
Painter.....	E
Paraprofessional.....	F
Payroll Supervisor.....	G
Plumber I.....	E
Plumber II.....	G
Printing Operator.....	B
Printing Supervisor.....	D
Programmer.....	H
Roofing/Sheet Metal Mechanic.....	F
Sanitation Plant Operator.....	G
School Bus Supervisor.....	E
Secretary I.....	D
Secretary II.....	E
Secretary III.....	F
Sign Support Specialist.....	E
Supervisor of Maintenance.....	H
Supervisor of Transportation.....	H
Switchboard Operator-Receptionist.....	D
Truck Driver.....	D
Warehouse Clerk.....	C
Watchman.....	B
Welder.....	F
WVEIS Data Entry and Administrative Clerk.....	B

(b) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(c) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds 12 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds 24 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds 36 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds 48 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds 60 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds 72 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds 84 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(d) An additional \$40 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds an associate's degree;

(2) A service person who holds a bachelor's degree;

(3) A service person who holds a master's degree;

(4) A service person who holds a doctorate degree.

(e) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

- (1) A service person who holds a bachelor's degree plus 15 college hours;
- (2) A service person who holds a master's degree plus 15 college hours;
- (3) A service person who holds a master's degree plus 30 college hours;
- (4) A service person who holds a master's degree plus 45 college hours; and
- (5) A service person who holds a master's degree plus 60 college hours.

(f) ~~To meet the objective of salary equity among the counties, e~~Each service person is paid an equity supplement, as set forth in §18A-4-5 of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5b of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person's daily shift of work is performed between the hours of 6:00 p.m. and 5:00 a.m. the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of this code is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: Provided, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: Provided, however, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, "under the direct supervision of a certified professional person" means that certified professional person is present, with and accompanying the aide.

#### **§18A-4-10. Personal leave for illness and other causes; leave banks; substitutes.**

(a) Personal Leave.

(1) At the beginning of the employment term, any full-time employee of a county board is entitled annually to at least one and one-half days personal leave for each employment month or major fraction thereof in the employee's employment term. Unused leave shall be accumulative without limitation and is transferable within the state. A change in job assignment during the school year does not affect the employee's rights or benefits.

(2) A regular full-time employee who is absent from assigned duties due to accident, sickness, death in the immediate family, or life threatening illness of the employee's spouse, parents or child, or other cause authorized or approved by the board, shall be paid the full salary from his or her regular budgeted salary appropriation during the period which the employee is absent, but not to exceed the total amount of leave to which the employee is entitled.

(3) Each employee is permitted to use three days of leave annually without regard to the cause for the absence: [\*Provided, That effective July 1, 2019, each employee is permitted to use four days of leave annually without regard to the cause for the absence.\*](#) Personal leave without cause may not be used on consecutive work days unless authorized or approved by the employee's principal or immediate supervisor, as appropriate. The employee shall give notice of leave without cause to the principal or immediate supervisor at least ~~twenty-four~~<sup>24</sup> hours in advance, except

that in the case of sudden and unexpected circumstances, notice shall be given as soon as reasonably practicable. The principal or immediate supervisor may deny use of the day if, at the time notice is given, either ~~fifteen~~<sup>15</sup> percent of the employees or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, have previously given notice of their intention to use that day for leave. Personal leave may not be used in connection with a concerted work stoppage or strike. Where the cause for leave originated prior to the beginning of the employment term, the employee shall be paid for time lost after the start of the employment term. If an employee uses personal leave which the employee has not yet accumulated on a monthly basis and subsequently leaves the employment, the employee is required to reimburse the board for the salary or wages paid for the unaccumulated leave.

(4) The State Board shall maintain a rule to restrict the payment of personal leave benefits and the charging of personal leave time used to an employee receiving a workers' compensation benefit from a claim filed against and billed to the county board by which the person is employed. If an employee is awarded this benefit, the employee shall receive personal leave compensation only to the extent the compensation is required, when added to the workers' compensation benefit, to equal the amount of compensation regularly paid the employee. If personal leave compensation equal to the employee's regular pay is paid prior to the award of the workers' compensation benefit, the amount which, when added to the benefit, is in excess of the employee's regular pay shall be deducted from the employee's subsequent pay. The employee's accrued personal leave days shall be charged only for such days as equal the amount of personal leave compensation required to compensate the employee at the employee's regular rate of pay.

(5) The county board may establish reasonable rules for reporting and verification of absences for cause. If any error in reporting absences occurs, the county board may make necessary salary adjustments:

(A) In the next pay after the employee has returned to duty; or

(B) In the final pay if the absence occurs during the last month of the employment term.

(b) Leave Banks.

(1) Each county board shall establish a personal leave bank that is available to all school personnel. The board may establish joint or separate banks for professional personnel and school service personnel. Each employee may contribute up to two days of personal leave per school year. An employee may not be coerced or compelled to contribute to a personal leave bank.

(2) The personal leave bank shall be established and operated pursuant to a rule adopted by the county board. The rule:

(A) May limit the maximum number of days used by an employee;

(B) Shall limit the use of leave bank days to an active employee with fewer than five days accumulated personal leave who is absent from work due to accident or illness of the employee; and

(C) Shall prohibit the use of days to:

(i) Qualify for or add to service for any retirement system administered by the state; or

(ii) Extend insurance coverage pursuant to ~~section thirteen, article sixteen, chapter five~~[§5-16-13](#) of this code.

(D) Shall require that each personal leave day contributed:

(i) Is deducted from the number of personal leave days to which the donor employee is entitled by this section;

(ii) Is not deducted from the personal leave days without cause to which a donor employee is entitled if sufficient general personal leave days are otherwise available to the donor employee;

(iii) Is credited to the receiving employee as one full personal leave day;

(iv) May not be credited for more or less than a full day by calculating the value of the leave according to the hourly wage of each employee; and

(v) May be used only for an absence due to the purpose for which the leave was transferred. Any transferred days remaining when the catastrophic medical emergency ends revert back to the leave bank.

(3) The administration, subject to county board approval, may use its discretion as to the need for a substitute where limited absence may prevail, when an allowable absence does not:

(i) Directly affect the instruction of the students; or

(ii) Require a substitute employee because of the nature of the work and the duration of the cause for the absence.

(4) If funds in any fiscal year, including transfers, are insufficient to pay the full cost of substitutes for meeting the provisions of this section, the remainder shall be paid on or before the ~~thirty-first day of~~ August [31](#) from the budget of the next fiscal year.

(5) A county board may supplement the leave provisions in any manner it considers advisable in accordance with applicable rules of the state Board and the provisions of this chapter and chapter 18 of this code.

[\(c\) Effective July 1, 2019, a classroom teacher who has not utilized more than four days of personal leave during the 200-day employment term shall receive a bonus of \\$500 at the end of the school year. If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable classroom teachers, the Department of Education shall request a supplemental appropriation in an amount sufficient to compensate all eligible classroom teachers. This bonus may not be counted as part of the](#)

[final average salary for the purpose of calculating retirement.](#)

## **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

### **ARTICLE 4. UNDERWOOD-SMITH TEACHER SCHOLARSHIP PROGRAM.**

#### **§18C-4-1. ~~Scholarship and loan assistance~~ Underwood-Smith Teaching Scholars Fund created; purposes; funding; [effective date](#).**

(a) It is the purpose of this article and §18C-4A-1 *et seq.* of this [chaptercode](#) to improve the quality of education in the public schools of West Virginia by encouraging and enabling individuals who have demonstrated outstanding academic abilities to pursue teaching careers [in critical shortage fields](#) at the ~~preschool~~, elementary, middle or secondary levels in the public schools of this state. ~~In addition, of those individuals who have demonstrated outstanding academic abilities to pursue teaching careers, for scholarships initially awarded for the fall semester, 2014, and thereafter~~ Particular efforts shall be made in the scholarship selection criteria and procedures to reflect the state's present and projected ~~subject and geographic areas of critical need~~ [critical teacher shortage fields](#)

(b) In consultation with the State Board of Education and the State Superintendent of Schools the commission shall propose legislative rules in accordance with the provisions of ~~article three a, chapter twenty nine a~~ [§29A-3A-1 et seq.](#) of this code. The rules shall provide for the administration of the Underwood-Smith ~~Teacher Scholarship and Loan Assistance programs~~ [Teaching Scholars Program and the Teacher Education Loan Repayment Program](#) by the Vice Chancellor for Administration in furtherance of the purposes of this article, and §18C-4A-1 *et seq.* of this [chaptercode](#), including, but not limited to, the following:

- (1) Establishing scholarship selection criteria and procedures;
- (2) Establishing criteria and procedures for identifying ~~subject areas public schools or geographic areas in critical need of teachers~~ [critical teacher shortage fields](#);
- (3) [Establishing and updating as necessary a list of critical teacher shortage fields in the public schools for which scholarships are available](#);
- (4) [Requiring scholarship recipients to teach in a public school in this state at the elementary, middle or secondary level in a critical teacher shortage field pursuant to the provisions of §18C-4-3 of this code](#);
- (5) Awarding loan [repayment](#) assistance, including establishing conditions under which partial awards may be granted for less than a full year of teaching ~~in an area of critical need~~ [in a critical teacher shortage field](#);
- (4) (6) Determining eligibility for loan [repayment](#) assistance renewal;
- (5) (7) Establishing procedures ensuring that loan [repayment](#) assistance funds are paid directly to the proper lending entity; ~~and~~

~~(6)~~ (8) Establishing criteria for determining participant compliance or noncompliance with terms of the agreement and establishing procedures to address noncompliance including, but not limited to, repayment, deferral and excusal; and

~~(7)~~ (9) Developing model agreements.

(c) The commission and State Board of Education jointly shall ensure that Underwood-Smith Teaching Scholars award recipients receive additional academic support and training from mentors in their academic field beginning with the freshman year and continuing through degree completion and the teaching obligation.

~~(d)~~ There is created in the State Treasury a special revolving fund in the State Treasury to be known as The Underwood-Smith Teacher Scholarship and Loan Assistance Fund is continued in the State Treasury as a special revolving fund and is hereafter to be known as the Underwood-Smith Teaching Scholars Program Fund. The fund shall to be administered by the Vice Chancellor for Administration solely for granting scholarships and loan repayment assistance to teachers and prospective teachers in accordance with this article and §18C-4A-1 *et seq.* of this chaptercode. Any moneys which may be appropriated by the Legislature, or received by the Vice Chancellor for Administration from other sources, for the purposes of this article and §18C-4A-1 *et seq.* of this chaptercode, shall be deposited in the fund. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Any moneys repaid to the Vice Chancellor for Administration by reason of default of a scholarship or loan assistance agreement under this article or §18C-4A-1 *et seq.* of this chaptercode also shall be deposited in the fund. Fund balances shall be invested with the state's consolidated investment fund, and any and all interest earnings on these investments shall be used solely for the purposes for which moneys invested were appropriated or otherwise received.

~~(d)~~ (e) The Vice Chancellor for Administration may accept and expend any gift, grant, contribution, bequest, endowment or other money for the purposes of this article and §18C-4A-1 *et seq.* of this chaptercode and shall make a reasonable effort to encourage external support for the scholarship and loan repayment assistance programs.

~~(e)~~ (f) For the purpose of encouraging support for the scholarship and loan repayment assistance programs from private sources, the Vice Chancellor for Administration may set aside no more than half of the funds appropriated by the Legislature for Underwood-Smith Teacher Scholarships Teaching Scholars Program and loan repayment assistance awards to be used to match two state dollars to each private dollar from a nonstate source contributed on behalf of a specific institution of higher education in this state.

(g) In recognition of the high academic achievement necessary to receive an award under this article, each recipient shall be distinguished as an "Underwood-Smith Teaching Scholar" in a manner befitting the distinction as determined by the commission.

(h) Notwithstanding the provisions of subsection (d) of this section, and §18C-4A-3 of this code:

(1) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to satisfy loan repayment assistance agreements pursuant to §18C-4A-1*et seq.* of this code and



any renewals for which a recipient would be eligible pursuant to the prior enactment of §18C-4A-1 et seq. of this code for any student who is receiving such loan repayment assistance or fulfilling the requirements of an agreement on the effective date of this section;

(2) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to fund Underwood-Smith teacher scholarships, and any renewals for which a recipient would be eligible pursuant to the prior enactment of this article, for those students receiving such scholarship on the effective date of this section; and

(3) The terms, conditions, requirements, and agreements applicable to an Underwood-Smith teacher scholarship or loan repayment recipient prior to the effective date of this section shall continue in effect and are not altered by the reenactment of this section during the 2019 First Extraordinary Session of the Legislature.

(i) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this article existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.

#### **§18C-4-2. Selection criteria and procedures for awarding scholarships.**

(a) The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter to Vice Chancellor for Administration shall appoint a selection panel comprised of individuals representing higher education, public education, and the community at large to select the recipients of Underwood-Smith Teacher Scholarships Teaching Scholars who meet the eligibility criteria set forth in subsection (b) of this section.

(b) Eligibility for an Underwood-Smith Teacher Scholarships Teaching Scholars award shall be limited to students who meet the following criteria:

(1) Have graduated or are graduating from high school and rank in the top ten percent of their graduating class or the top ten percent statewide of those West Virginia students taking the ACT test with a cumulative grade point average of at least 3.25 on a 4.0 scale;

(2) Have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia;

(3) Are public school aides or paraprofessionals as defined in section eight, article four, chapter eighteen a of this code and who have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia; or

(4) Are graduate students at the master's degree level; who have graduated or are graduating in the top ten percent of their college graduating class.

(2) Have met the college algebra ready assessment standards and college readiness English, reading, and writing standards as established by the commission; and

(3) Agree to teach in a critical teacher shortage field at the elementary, middle or secondary level in a public school in the state pursuant to the provisions of §18C-4-3 of this code.

(c) To be eligible for an award, a non-citizen of the United States shall hold a valid Employment Authorization Document (EAD) or work permit, issued by the United State Citizenship and Immigration Services (USCIS).

(d) In accordance with the rules of the commission, the Vice Chancellor for Administration shall develop criteria and procedures for the selection of scholarship recipients. The selection criteria shall reflect the purposes of this article and shall specify the areas in which particular efforts will be made in the selection of scholars as set forth in §18C-4-1 of this code. Selection procedures and criteria also may include, but are not limited to, the grade point average of the applicant, involvement in extracurricular activities, financial need, current academic standing and an expression of interest in teaching as demonstrated by an essay written by the applicant. These criteria and procedures further may require the applicant to furnish letters of recommendation from teachers and others. It is the intent of the Legislature that academic abilities be the primary criteria for selecting scholarship recipients. ~~However, the qualified applicants with the highest academic abilities who intend to pursue teaching careers in areas of critical need and shortage pursuant to section one of this article shall be given priority.~~

~~(d)~~ (e) In developing the selection criteria and procedures to be used by the Higher Education Student Financial Aid Advisory Board selection panel, the Vice Chancellor for Administration shall solicit the views of public and private education agencies and institutions and other interested parties. Input from interested parties shall be solicited by means of written and published selection criteria and procedures in final form for implementation and may be solicited by means of public hearings on the present and projected teacher needs of the state or any other methods the Vice Chancellor for Administration may determine to be appropriate to gather the information.

~~(e)~~ (f) The Vice Chancellor for Administration shall make application forms for Underwood-Smith ~~Teacher Scholarships~~ Teaching Scholars available to public and private high schools in the state and in other locations convenient to applicants, parents and others, and shall make an effort to attract students from low-income backgrounds, ethnic or racial minority students, students with disabilities, and women or minority students who show interest in pursuing teaching careers in mathematics and science and who are under-represented in those fields.

### **§18C-4-3. Scholarship agreement.**

(a) Each recipient of an Underwood-Smith ~~teacher-scholarship~~ Teaching Scholars award shall enter into an agreement with the Vice Chancellor for Administration under which the recipient shall meet the following conditions:

- (1) Provide the commission with evidence of compliance with §18C-4-4(a) of this code;
- (2) Beginning within ~~a ten-year period~~ one year after completing the teacher

education program for which the scholarship was awarded, ~~(A)~~ teach full-time in a critical teacher shortage field at the elementary, middle or secondary level, under contract with a county board of education in a public education program in the state, for a period of not fewer than ~~two~~ five consecutive years for ~~each year~~ the four academic years. ~~for which a scholarship was received; or~~

~~(B) Teach full-time under contract for not less than one year for each year for which a scholarship was received with a county board of education in this state in a teacher shortage area pursuant to section one of this article, in an exceptional children program in this state, in a school having less than average academic results or in a school in an economically disadvantaged area of this state; or~~

~~(C) Within the ten-year period, while seeking and unable to secure a full-time teaching position under contract with a county board of education which satisfies the conditions of paragraph (A) of this subdivision:~~

~~(i) Teach full-time in a private school, parochial or other school approved for the instruction of students of compulsory school age pursuant to section one, article eight, chapter eighteen of this code; or~~

~~(ii) Teach in an institution of higher education in this state as defined in section two, article one, chapter eighteen-b of this code or in a post-secondary vocational education program in this state for a period of not fewer than two years for each year for which a scholarship was received; or~~

~~(iii) Perform alternative service or employment in this state pursuant to rules promulgated by the commission, in federal, state, county or local supported programs with an educational component, including mental or physical health care, or with bona fide tax-exempt charitable organizations dedicated to the above, for a period of not fewer than two years for each year for which a scholarship was received. Any teaching time accrued during the required five-year period as a substitute teacher for a county board of education under paragraph (A) or (B) of this subdivision in a critical teacher shortage field at the elementary, middle or secondary level shall be credited pro rata in accordance with rules promulgated by the commission; or~~

(3) Repay all or part of an Underwood-Smith teacher scholarship Teaching Scholars award received under this article plus interest and, if applicable, reasonable collection fees in accordance with subsection (c), section four of this article, except as provided in subsection (d) of section four of this article §18C-4-4 of this code.

(b) Scholarship agreements shall disclose fully the terms and conditions under which assistance under this article is provided and under which repayment may be required. The agreements shall include the following:

(1) A description of the conditions and procedures to be established under §18C-4-4 of this code; and

(2) A description of the appeals procedure required to be established under §18C-4-4 of this code.

(c) ~~Individuals who were~~ The scholarship terms, conditions, requirements, and agreements applicable to awarded an Underwood-Smith teacher scholarship recipient prior to the effective date of this section ~~may apply the provisions of paragraph (A), (B) or (C), subdivision (2), subsection (a) of this section to teaching or other service performed by them after July 1, 1997 shall continue in effect and are not altered by the reenactment of this section during the 2019 First Extraordinary Session of the Legislature.~~

**§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.**

(a) The recipient of an Underwood-Smith Teachinger Scholarship award is eligible for scholarship renewal only during those periods when the recipient meets the following conditions:

- (1) Is enrolled as a full-time student in an accredited institution of higher education in this state;
- (2) Is pursuing a course program of study leading to teacher certification in a critical teacher shortage field at the preschool, elementary, middle or secondary level in this state;
- (3) Is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending; ~~and~~
- (4) Is maintaining a cumulative grade point average of at least 3.0 on a 4.0 scale; and
- (5) Is complying with such other standards as the commission may establish by rule.

(b) Recipients found to be in noncompliance with the agreement entered into under ~~section three~~§18C-4-3 of this articlecode shall be required to repay the amount of the scholarship awards received, plus interest, and, where applicable, reasonable collection fees, on a schedule and at a rate of interest prescribed in the program guidelines. Guidelines also shall provide for proration of the amount to be repaid by a recipient who teaches for part of the period required under subsection §18C-4-3(a), section three of this articlecode and for appeal procedures under which a recipient may appeal any determination of noncompliance.

(c) A recipient is not in violation of the agreement entered into under ~~section three~~§18C-4-3 of this articlecode during any period in which the recipient is meeting any of the following conditions:

- (1) Pursuing a full-time course of study at an accredited institution of higher education;
- (2) Serving, not in excess of four years, as a member of the armed services of the United States;
- (3) ~~Seeking and unable to find full-time employment in accordance with paragraph (A), subdivision (2), subsection (a), section three of this article and is fulfilling any of the alternatives specified in paragraph (B) or (C) of that subdivision;~~
- (4) Satisfying the provisions of additional any repayment exemptions that may be prescribed by the commission by rule; or

(54) Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician.

(d) The rules adopted by the commission may provide guidelines under which the Vice Chancellor for Administration may extend the time period for beginning or fulfilling the teaching obligation to fifteen years, if extenuating circumstances exist.

#### **§18C-4-5. Amount and duration of scholarship; relation to other assistance.**

(a) ~~Subject to subsection (b) of this section, each recipient of An Underwood-Smith teacher scholarship is eligible to receive assistance of up to \$5,000 for each academic year of higher education. Teaching Scholars award shall be used~~ in preparation for becoming a ~~preschool~~ an elementary, middle or secondary teacher in a critical teacher shortage field in the public schools of this state. ~~No individual may receive scholarship assistance for more than~~ Each award shall be in the amount of \$10,000 annually, and is available for a maximum of four academic years for the completion of a bachelor's degree. ~~and two additional academic years for completion of a master's degree~~

(b) ~~No individual shall~~ An individual may not receive a scholarship award under this article which exceeds the cost of attendance at the institution the individual is attending. The cost of attendance shall be based upon the actual cost of tuition and fees, and reasonable allowances for books, educational supplies, room and board and other expenses necessitated by individual circumstances, in accordance with the program guidelines. For the purposes of establishing an award amount, the ~~senior administrator~~ Vice Chancellor for Administration shall take into account the amount of financial aid assistance the recipient has or will receive from all other sources. If the amount of the Underwood-Smith ~~teacher scholarship assistance~~ Teaching Scholars award and the amount of assistance scholarship and grant awards which the recipient has received from all other sources exceed the cost of attendance, the institution's financial aid officer, in consultation with the scholar, will determine what aid is to be reduced and shall do so in a manner to the best advantage of the scholar.

(c) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for academic years beginning on or after July 1, 2019, and the provisions of this article existing immediately prior to the 2019 first extraordinary session of the Legislature remain in effect for academic years beginning prior to July 1, 2019.

#### **ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE TEACHER EDUCATION LOAN REPAYMENT PROGRAM.**

##### **§18C-4A-1. Selection criteria and procedures for loan assistance; effective date.**

(a) The ~~Governor shall designate the~~ Higher Education Student Financial Aid Advisory Board created by §18C-1-5 of this code ~~to shall~~ select recipients to receive ~~Underwood-Smith Teacher Loan Assistance~~ Teacher Education Loan Repayment Program awards. The advisory board shall make decisions regarding loan repayment awards pursuant to §18C-4-1 of this code and rules of the commission.

(b) To be eligible for a loan repayment award, ~~a teacher shall agree to teach shall agree to teach, or an applicant~~ shall currently be ~~teaching a subject area of critical need or employed in a public school in this state as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level~~ in a school or geographic area of the state identified as an area of critical need ~~for such field. at the preschool elementary, middle or secondary levels. The advisory board shall make decisions regarding loan assistance pursuant to section one, article four of this chapter~~

(c) In accordance with the rule promulgated pursuant to §18C-4-1 of this code, the Vice Chancellor for Administration shall develop additional eligibility criteria and procedures for the administration of the loan repayment program.

(d) The Vice Chancellor for Administration shall make available program application forms to public and private schools in the state via the website of the commission and the State Department of Education and in other locations convenient to potential applicants.

(e) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this article existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.

#### **§18C-4A-2. Teacher Education Loan assistance Repayment agreement.**

(a) Before receiving an loan payment award, each eligible teacher applicant shall enter into an agreement with the Vice Chancellor for Administration and shall meet the following criteria:

(1) Provide the commission with evidence of compliance with §18C-4-4 of this chaptercode;

(2) ~~Teach in a subject area of critical need or in a school or geographic area of critical need~~Agree to be employed full time under contract with a county board of education for a period of two school years ~~as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level in a school or geographic area of critical need for such field~~ for each year for which a loan repayment assistance award is received pursuant to this article. The Vice Chancellor for Administration may grant a partial award to an eligible recipient whose contract term is for less than a full school year pursuant to criteria established by commission rule;

(3) Acknowledge that an award is to be paid to the recipient's student loan institution, not directly to the recipient, and only after the commission determines that the recipient has complied with all terms of the agreement; and

(4) Repay Agree to repay all or part of an award received pursuant to this article if the award is not paid to the student loan institution or if the recipient does not comply with the other terms of the agreement.

(b) Each loan repayment agreement shall disclose fully the terms and conditions under which an award may be granted pursuant to this article and under which repayment

may be required. The agreement also is subject to and shall include the terms and conditions established by §18C-4-5 of this [chaptercode](#).

**§18C-4A-3. Amount and duration of loanassistance repayment awards; limits.**

(a) Each award recipient is eligible to receive loan assistance ~~of up to in an amount determined annually by the commission based upon available funds, but not less than \$3,000 annually in an amount determined annually by the commission based upon available funds, and~~ subject to limits set forth in subsection (b) of this section, if the recipient:

(1) ~~If the recipient has taught~~ Has been employed for a full school year under contract with a county board ~~of education in a subject area of critical need or as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level~~ in a school or geographic area of critical need; and

(2) ~~If the recipient otherwise~~ Otherwise has complied with the terms of the agreement and with applicable provisions of this article and §18C-4-1 et seq. of this code, and any rules promulgated pursuant thereto.

(b) The recipient is eligible for renewal of a loan repayment assistance award only during periods when the recipient complies with other criteria and conditions established by rule, and is under contract with a county board ~~to teach in a subject area of critical need or of education as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level,~~ in a school or geographic area of critical need in such field, and complies with other criteria and conditions established by rule, except that a teacher who is teaching under a contract in a position that no longer meets the definition of critical need under rules established in accordance with section one, article four of this chapter is eligible for renewal of loan assistance until the teacher leaves his or her current position.

~~(c) A recipient may not receive loan assistance pursuant to this article which accumulates in excess of \$15,000.~~

**CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

**ARTICLE 12. STATE INSURANCE.**

**§29-12-5a. Liability insurance for county boards of education, their employees and members, the county superintendent of schools, public charter schools electing to obtain coverage, and for employees and officers of the state Department Division of Corrections and Rehabilitation; written notice of coverage to insureds.**

(a) In accordance with the provisions of this article, the State Board of Risk and Insurance Management shall provide appropriate professional or other liability insurance for all county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools and school board members and for all employees and officers of the State Department Division of Corrections and Rehabilitation:

Provided, That the Board of Risk and Insurance Management is not required to provide insurance for every property, activity or responsibility of county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools and school board members and for all employees and officers of the state [Department Division](#) of Corrections [and Rehabilitation](#).

(b) Insurance provided by the Board of Risk and Insurance Management pursuant to the provisions of subsection (a) of this section shall cover claims, demands, actions, suits or judgments by reason of alleged negligence or other acts resulting in bodily injury or property damage to any person within or without any school building or correctional institution if, at the time of the alleged injury, the teacher, supervisor, administrator, service personnel employee, county superintendent, school board member, or employee or officer of the [Department Division](#) of Corrections [and Rehabilitation](#) was acting in the discharge of his or her duties, within the scope of his or her office, position or employment, under the direction of the [county](#) board of education or Commissioner of Corrections or in an official capacity as a county superintendent or as a school board member or as Commissioner of Corrections.

(c) Insurance coverage provided by the Board of Risk and Insurance Management pursuant to subsection (a) of this section shall be in an amount to be determined by the state Board of Risk and Insurance Management, but in no event less than [\\$1 million](#) [\\$1,250,000](#) for each occurrence. In addition, each county board of education shall purchase, through the Board of Risk and Insurance Management, excess coverage of at least \$5 million for each occurrence. The cost of this excess coverage will be paid by the respective county boards of education. Any insurance purchased under this section shall be obtained from a company licensed to do business in this state.

(d) The insurance policy provided by the Board of Risk and Insurance Management pursuant to subsection (a) of this section shall include comprehensive coverage, personal injury coverage, malpractice coverage, corporal punishment coverage, legal liability coverage as well as a provision for the payment of the cost of attorney's fees in connection with any claim, demand, action, suit or judgment arising from such alleged negligence or other act resulting in bodily injury under the conditions specified in this section.

(e) The county superintendent and other school personnel shall be defended by the county board or an insurer in the case of suit, unless the act or omission shall not have been within the course or scope of employment or official responsibility or was motivated by malicious or criminal intent.

[\(f\) At least annually, beginning with the 2019-2020 school year, county boards shall provide written notice of insurance coverage to each of its insureds, including teachers, supervisors, administrators, service personnel employees, county superintendent, and school board members. The notice shall identify the coverages, monetary limits of insurance, and duty to defend for each occurrence as provided to insureds by the Board of risk and Insurance Management under this section. The written notice may be sent via email, or via first-class mail to the insured's last mailing address known to the county board. The written notice shall also include contact information for the Board of Risk and Insurance Management.](#)



(g) The provisions of this section apply to public charter schools that have been authorized pursuant to §1-5G-1 et seq. of this code and have included in their charter contract entered into pursuant to §18-5G-7 of this code a determination to obtain insurance coverage from the Boards of Risk and Insurance Management pursuant to this section. If a public charter school elects to obtain coverage pursuant to this section.

(1) Any provision in this section applicable to a county board also applies to a charter school governing board;

(2) Any provision in this section applicable to a school board member also applies to a member of a charter school governing board; and

(3) Any provision of this section applicable to teachers, supervisory and administrative staff members, and service personnel employed by a county board also applies to teachers, supervisory or administrative staff members, and service personnel employed by a public charter school.

(h) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for fiscal years beginning on or after July 1, 2019: Provided, That the amendment to subsection (c) of this section during the 2019 First Extraordinary Session of the Legislature shall be effective for fiscal years beginning on or after July 1, 2020.



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West Virginia Superintendent of Schools