



2020 Green Book

*Summary of Public Education Bills
Enacted During the 2020 Regular Session*



**West Virginia Board of Education
2020-2021**

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West Virginia Department of Education

FORWARD

The West Virginia Department of Education (WVDE) is pleased to issue the 2020 Green Book, Summary of Public Education Bills Enacted During the 2020 Regular 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 during the most recent legislative session.

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 2020 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 this document, education legislation not included in this publication, or from past years, please contact Sarah Stewart (sarah.a.stewart@k12.wv.us; 304.558.3667).



W. Clayton Burch
State Superintendent of Schools

Code Changes

Bill Number	Code
HB4414	§16-1-20
HB4773	§16-5AA-1
SB303	§18-10P-1
SB303	§18-10P-2
SB303	§18-10P-3
SB303	§18-10P-4
SB303	§18-10P-5
SB303	§18-10P-6
SB614	§18-20-11
HB4925	§18-2-25
HB4497	§18-2-25c
SB230	§18-2-40
SB723	§18-2-43
SB42	§18-2-7b
HB4790	§18-2-7d
SB750	§18-2-7e
HB4165	§18-2-8b
HB4780	§18-2-9a
SB707	§18-2E-11a
SB842	§18-3-13

Legend for this page:

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

Bill Number	Code
HB4566	§18-4-2
HB4069	§18-33-1
HB4069	§18-33-2
HB4069	§18-33-3
HB4069	§18-33-4
HB4069	§18-33-5
HB4069	§18-33-6
HB4069	§18-33-7
HB4069	§18-33-8
SB614	§18-5-48
HB4804	§18-9A-10
SB241	§18-9A-7a
HB4691	§18A-2-2b
HB4691	§18A-2-3
HB4378	§18A-2-8
SB623	§18A-3-1
SB623	§18A-3-1f
SB691	§18A-3-1j
HB4378	§18A-3-6
HB4804	§18A-3C-3
SB839	§18B-1D-11
HB4166	62-12-26

TABLE OF CONTENTS

Senate Bill 42	1
Permitting Faith-Based Electives in Classroom Drug Prevention Programs	
Senate Bill 230.....	3
Requiring State Board of Education Provide Routine Education in Suicide Prevention	
Senate Bill 241.....	5
Requiring State Board of Education Develop Method for Student Transportation Costs as Stand-alone Consideration	
Senate Bill 303.....	6
Enacting Students' Right to Know Act	
Senate Bill 614.....	9
Changing Method of Allocating Funding from Safe School Funds	
Senate Bill 623.....	14
Allowing Noncitizen of U.S. be Eligible for Teaching Certificate	
Senate Bill 691.....	21
Limiting Programs Adopted by State Board of Education	
Senate Bill 707.....	22
Relating to Nursing Career Pathways	
Senate Bill 723.....	25
Requiring Department of Education Develop Plan Based on Analyzed Data on School Discipline	
Senate Bill 750.....	26
Establishing Extended Learning Opportunities	
Senate Bill 839.....	28
Creating State Advisory Council on Postsecondary Attainment Goals	
Senate Bill 842.....	32
Requiring Superintendent of Schools Establish a Behavior Interventionist Pilot Program in Two School Districts for Five Years	
House Bill 4069.....	35
West Virginia Student Religious Liberties Act	

TABLE OF CONTENTS CONTINUED

House Bill 4165.....	38
West Virginia Remembers Program	
House Bill 4166.....	39
Prohibiting Certain Sex Offenders from Being in a Supervisory Position Over Children	
House Bill 4378.....	43
Relating to Disciplining Teachers	
House Bill 4414.....	47
Relating to the Selection of Language and Development Milestones for the Deaf and Hard-of-Hearing Children	
House Bill 4566.....	53
Relating to Tuberculosis Testing for School Superintendents	
House Bill 4691.....	55
Relating to Employment in Areas of Critical Need in Public Education	
House Bill 4773.....	60
Creating a Workgroup to Investigate and Recommend Screening Protocols for Adverse Childhood Trauma in this State	
House Bill 4780.....	63
Permitting County Board to Offer Elective Courses of Instruction on the Bible	
House Bill 4790.....	65
Relating to Career Technical Education for Middle School Students	
House Bill 4804.....	67
Relating to Comprehensive Systems of Support for Teacher and Leader Induction and Professional Growth	
House Bill 4925.....	74
Requiring the Secondary Schools Athletic Commission to Recognize Preparatory Athletic Programs	
House Bill 4497.....	77
Requiring an External Defibrillator Device at Any Secondary School Athletic Event	

Senate Bill 42: Permitting faith-based electives in classroom drug prevention programs

Effective Date: June 7, 2020

Code Reference: Amends: §18-2-7b

WVDE Contacts: Heather Hutchens, General Counsel,
Office of Legal Services

Joey Wiseman, Director,
Office of Middle & Secondary Learning

Summary: Starting in the 2020-2021 school year, the bill states that schools are permitted to offer faith-based or non-faith-based drug awareness options in grades K-12 so long as such options are constitutionally appropriate.

CHAPTER 18. EDUCATION

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-7b. Programs in drug prevention and violence reduction.

(a) In order for the schools to become healthy learning environments and to provide a strong defense against drug use and violence, the State Board of Education shall prescribe programs within the existing health and physical education program which teach resistance and life include counselors, teachers and staff in full implementation of the program. The board shall also prescribe programs to coordinate violence reduction efforts in schools and between schools and their communities and to train students, teachers, counselors and staff in conflict resolution skills. The program shall be comprehensive, interdisciplinary and shall begin in elementary school.

(b) No later than the start of the 2018-2019 school year, a county board shall implement comprehensive drug awareness and prevention programs for students in grades K through 12 to receive instruction regarding the dangers of substance abuse. The purpose of the drug awareness and prevention program is to:

- (1) Keep students from illegally using alcohol, tobacco or other drugs;
- (2) Reduce or eliminate the incidence and prevalence of student's alcohol, tobacco and other drug abuse;
- (3) Reduce the factors that place students at risk of abusing alcohol, tobacco or other drugs through school and a community based planning processes;
- (4) Contribute to the development of school environments and alternative activities that are alcohol, tobacco and drug-free;

(5) Increase the knowledge and skills of students, staff and community members for avoiding the harmful effects of alcohol, tobacco and drug use, and of blood borne pathogens;

(6) Actively involve staff, students, parents and community members in the development and implementation of the drug awareness and prevention program plans;

(7) Facilitate an understanding and appreciation of the risks to, duties of, and likely actions by law-enforcement officers when conducting investigations; and

(8) Instruct how to respond to an officer during a vehicular or other stop or police interaction, including problematic or dangerous action and behaviors that could result in a person being detained or arrested.

(c) The county board shall coordinate the delivery of instruction to meet the purposes of subsection (b) of this section with educators, drug rehabilitation specialists and law-enforcement agencies to periodically provide age appropriate student education on their experiences with the impacts of illegal alcohol and drug use.

(d) Beginning with the 2018-2019 school year, instruction required pursuant to §18-2-9 ~~section nine of this code article~~ in the subject of health education in any of the grades six through ~~twelve~~ 12 as considered appropriate by the county board shall include at least 60 ~~sixty minutes~~ of instruction for each student on the dangers of opioid use, the additive characteristics of opioids, and safer alternatives to treat pain.

(e) Beginning with the 2020-2021 school year, comprehensive drug awareness and prevention programs for students in grades K through 12 may include faith-based electives, along with nonfaith-based electives, for drug awareness in classrooms. The state board shall promulgate a rule on how the faith-based electives can be offered in a way that is consistent with constitutional requirements.

Bill Sponsors: Senators Maynard and Cline

Senate Bill 230: Requiring state board of education provide routine education in suicide prevention

Effective Date: March 7, 2020
Code Referenced: Amends: §18-2-40
WVDE Contacts: Jan Barth, Assistant Superintendent,
Division of Teaching & Learning
Stephanie Hayes, Coordinator,
Office of Special Education

Summary: This bill is a "clean-up" bill that clarifies all professional educators and service personnel having direct contact with students shall receive annual routine training on signs and resources to assist in suicide prevention. This bill also requires each public middle and high school administrator to provide materials and opportunities to discuss suicide prevention awareness with all middle and high school students.

CHAPTER 18. EDUCATION

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-40. Suicide prevention awareness training; dissemination of information.

(a)(1) Legislative findings. — The Legislature recognizes that the state of West Virginia has one of the highest rates of suicide in the nation, and that suicide serves as one of the leading causes of death in our state. ~~(a) This section, section seven, article one b, chapter eighteen b of this code and section one, article six, chapter twenty seven of this code shall be known as "Jamie's Law".~~

(2) The Legislature further finds that nationwide, suicide rates amongst adolescents and young adults are on the rise. As a result of disrupted families, poverty, and the opioid crises which have severely affected a significant number of families across this state, West Virginia's students face a number of issues which may increase their risk of suicide.

(3) Consequently, the Legislature finds that it is imperative that those in our education system closest to our students receive training to increase their ability to better recognize students who may be exhibiting signs that they are at risk of suicide.

(b) On or before September 1, ~~2015~~ 2020 and each year thereafter, the State Board of Education shall provide for the routine education of all professional educators, including principals and administrators, and those service personnel having direct contact with students on warning signs and resources to assist in suicide prevention under guidelines established by the state board. The education may be accomplished through self-review of suicide prevention

~~materials and resources approved by the state board a public middle and high school administrator shall disseminate and provide opportunities to discuss suicide prevention awareness information to all middle and high school students. The information may be obtained from the Bureau for Behavioral Health and Health Facilities or from a commercially developed suicide prevention training program approved by the State Board of Education in consultation with the bureau to assure the accuracy and appropriateness of the information.~~

(c) On or before September 1, 2020, and each year thereafter, a public middle and high school administrator shall disseminate and provide opportunities to discuss suicide prevention awareness information to all middle and high school students. The information may be obtained from the Bureau for Behavioral Health and Health Facilities or from a commercially developed suicide prevention training program approved by the State Board of Education in consultation with the bureau to assure the accuracy and appropriateness of the information.

(d) The provisions of this section shall be known as Jamie's Law.

Bill Sponsors: Senators Weld, Cline, Baldwin, Lindsay, Roberts, Stollings, Jeffries and Maroney

Senate Bill 241: **Requiring state board of education develop method for student transportation costs as stand-alone consideration**

Effective Date: May 29, 2020

Code Referenced: [New: §18-9A-7a](#)

WVDE Contacts: Amy Willard, School Operations Officer,
Office of School Operations

Summary: The bill sets forth legislative findings on the insufficiency of the present method of calculating the allowance for service personnel under Step 2 of the school aid formula. The bill specifically notes the insufficiency with respect to providing funding to meet the transportation needs of lower population density districts and covering large geographic areas. The bill directs the WVBE to propose revisions to the Step 2 calculation to address this problem.

CHAPTER 18. EDUCATION

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-7a. Report on alternate method for funding student transportation costs required.

(a) The Legislature finds that the present method of calculating the allowance for service personnel in §18-9A-5 may not provide sufficient funding to meet the student transportation needs of lower-population density districts covering a large geographic area.

(b) The State Board of Education shall propose revisions to the calculation of the allowance for service personnel in §18-9A-5 to provide additional funded service personnel positions for the districts described in subsection (a) of this section and shall report the proposal to the Legislature before September 1, 2020.

Bill Sponsors: Senators Baldwin, Roberts, Rucker and Stollings

Senate Bill 303: Enacting Students' Right to Know Act

Effective Date: January 1, 2021

Code Referenced: [New: §18-10P-1, §18-10P-2, §18-10P-3, §18-10P-4, §18-10P-5, §18-10P-6](#)

WVDE Contact: Clinton Burch, Technical Education Officer,
Technical & Adult Education

Derek Lambert, Coordinator,
Office of Middle & Secondary Learning

Summary: This bill, termed the "Students' Right-to-Know Act," was passed with the stated purpose of assisting high school students in making informed decisions about their future. The bill directs that the WVBE, with assistance of the HEPC and CTC, collect and disseminate the following information to the extent the information is available:

- The most in-demand occupations in West Virginia, inclusive of entry wage and necessary degree to enter occupation;
- Average cost of attending each type of institution in West Virginia (2-year and 4-year college, university, vocational school);
- Federal/state scholarship, merit, and need-based aid programs available by each type of institution in West Virginia;
- Average student loan default rate for each type of institution;
- Availability of paid/unpaid internship and externship opportunities for each type of institution in West Virginia;
- Average graduation rate for each type of institution in West Virginia;
- Completion rates for apprenticeship programs, high school credential programs, and CTE programs;
- Percentage of college graduates working in an occupation that does not require a college degree;
- Median annual wages for public college/university graduates by degree level and area;
- Average starting salary of CTE completers;
- Number of first-term military enlistments by branch, inclusive of starting salary;
- Contact information for each of the 2-year and 4-year colleges, universities, and vocational schools in West Virginia; and;

- Any other information the State Board, HEPC or CTC deem appropriate to assist students in weighing the costs and benefits of post-secondary education.

The bill charges the State Superintendent to annually disseminate this information to every public West Virginia high school for distribution to students by school guidance counselors by October 15th. The State Superintendent is also charged with posting the information on the WVDE's website.

The bill also allows the WVBE to enter into MOUs with any department, agency, or division in order to collect the information outlined in the article. Additionally, the bill directs that any department, agency, or division that has information outlined in the article shall provide it to the WVBE.

CHAPTER 18. EDUCATION

ARTICLE 10P. STUDENTS' RIGHT-TO-KNOW ACT.

§18-10P-1. Short title.

This article shall be known and may be cited as the Students' Right-to-Know Act.

§18-10P-2. Purpose.

The purpose of this article is to help high school students make more informed decisions about their futures and ensure they are adequately aware of the costs and benefits of certificate programs, vocational programs, two-year college, four-year college, and other alternative career paths.

§18-10P-3. Career landscape information collection.

The following information, to the extent available, shall be collected and compiled by the State Board of Education, in collaboration with the Higher Education Policy Commission and the Council for Community and Technical College Education, on an annual basis:

(1) The most in-demand occupations in the state, including entry wage and common degree levels (e.g., associate's, bachelor's, or master's) for entering the occupation;

(2) The average cost of two and four-year colleges, universities, and vocational schools in the state by type of institution;

(3) The federal and state scholarship, merit, and need-based aid programs available for attending two and four-year colleges, universities, and vocational schools in the state by type of institution;

(4) The average monthly student loan payment and the average total amount of student loans for individuals who attend all two and four-year colleges, universities, and vocational schools in the state by the type of institution;

(5) The average student loan default rate for two and four-year colleges, universities, and vocational schools in the state by type of institution;

(6) Information relating to the availability of paid internship and externship opportunities for students attending two and four-year colleges, universities, and vocational schools in the state by type of institution;

(7) The average graduation rate for two and four-year colleges, universities, and vocational schools in the state by type of institution;

(8) The completion rates for apprenticeship programs, high school credential programs, and career and technical education programs;

(9) The percentage of college graduates working in an occupation that does not require a college degree for each major;

(10) Median annual wages for public college/university graduates by degree level and degree area;

(11) The average starting salary of career-technical education completers;

(12) The number of military first-term enlistments and each branch's starting salary;

(13) Contact information for each of the two and four-year colleges, universities, and vocational schools in the state, and each branch of the U.S. armed forces, National Guard, and reserves; and

(14) Any other information the State Board of Education, the Higher Education Policy Commission, or the Council for Community and Technical College Education deem appropriate to assist high school students in weighing the costs and benefits of post-high school training and education.

§18-10P-4. Information distribution.

No later than October 15 of each year, the State Superintendent shall distribute the information collected by the State Board of Education in §18-10P-3 of this code:

(1) To every public high school in the state for distribution to students by school guidance counselors; and

(2) To the public by making it readily available through publishing on the Department of Education's website.

§18-10P-5. Data sharing.

The State Board of Education may execute a memorandum of understanding with any department, agency, or division for information required to be collected by this article. Any department, agency, or division that possesses information required to be collected by this article, at least including the Department of Commerce and the Higher Education Policy Commission, shall provide that information to the State Board of Education annually.

§18-10P-6. Effective date.

The requirements of this article are effective on January 1, 2021.

Bill Sponsors: Senators Rucker and Cline

Senate Bill 614: Changing method of allocating funding from safe school funds

Effective Date: March 6, 2020

Code Reference: Amends: §18-5-48, §18-20-11

WVDE Contacts: Amy Willard, School Operations Officer,
Office of School Operations

Summary: This bill cleans-up language in last year's SB632 by providing districts with the flexibility to use funds allocated from the School Safety Fund to install cameras in self-contained special education classrooms. The bill also removes the language that cameras are only to be installed "upon appropriation of funds" and instead directs that money from the School Safety Fund or other available fund may be used to install the cameras.

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: *Provided further, That for any distributions for the 2019-2020 year and continuing until such time that all districts have fully complied with the special education video camera requirements, county boards shall have the flexibility to spend the safe schools allocation at any school within the district requiring cameras in special education classrooms. The West Virginia Department of Education shall first allocate the funding appropriated for the Safe Schools Fund for the 2020-2021 year based on the remaining need for video cameras in each district. After all districts have been provided sufficient funds to meet the special education video camera requirements, the funding distribution shall return to the previously specified method based on the number of public schools.* 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.

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

(a) A county board of education shall ensure placement of video cameras in self-contained classrooms as defined in state board policy. ~~(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, wellbeing, 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 or any other available funds to meet the requirements of this section ~~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.

Bill Sponsors: Senators Rucker, Cline, Roberts and Maynard

Senate Bill 623: Allowing noncitizen of U.S. be eligible for teaching certificate

Effective Date: February 21, 2020

Code Referenced: Amends: §18A-3-1, §18A-3-1f

WVDE Contacts: Robert Hagerman, Director, Office of Certification

Summary: The bill allows non-citizens of the United States who hold a valid permanent resident card, employment authorization document, or work permit to obtain a teaching certificate. Such individuals must meet all educational and other criteria required of other applicants. Presently, such individuals may obtain a one-year teaching permit but not a teaching certificate.

CHAPTER 18A. SCHOOL PERSONNEL

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

§18A-3-1. Teacher preparation programs; program approval and standards; authority to issue teaching certificates.

(a) The education of professional educators in the state is under the general direction and control of the state board. +The education of professional educators in the state includes all programs leading to certification to teach or serve in the public schools. The programs include the following:

- (1) Programs in all institutions of higher education, including student teaching and teacher-in-residence programs as provided in this section;
- (2) Beginning teacher induction programs;
- (3) Granting West Virginia certification to persons who received their preparation to teach outside the boundaries of this state, except as provided in subsection (b) of this section;
- (4) Alternative preparation programs in this state leading to certification, including programs established pursuant to the provisions of §18A-3-1a, §18A-3-1b, §18A-3-1c, §18A-3-1d, §18A-3-1e, §18A-3-1f, §18A-3-1g, §18A-3-1h, and §18A-3-1i of this code and programs which are in effect on the effective date of this section; and
- (5) Continuing professional education, professional development, and in-service training programs for professional educators employed in the public schools in the state.

(b) The state board shall adopt standards for the education of professional educators in the state and for awarding certificates valid in the public schools of this state. The standards include, but are not limited to, the following:

- (1) A provision for the study of the history and philosophical foundations of Western Civilization and the writings of the founders of the United States of America;

(2) A provision for the study of multicultural education. As used in this section, multicultural education means the study of the pluralistic nature of American society including its values, institutions, organizations, groups, status positions, and social roles;

(3) A provision for the study of classroom management techniques, including methods of effective management of disruptive behavior including addressing societal factors and their impact on student behavior; and

(4) A teacher from another state shall be awarded a teaching certificate for a comparable grade level and subject area valid in the public schools of this state, subject to §18A-3-10 of this code if he or she has met the following requirements:

(A) Holds a valid teaching certificate or a certificate of eligibility issued by another state;

(B) Has graduated from an educator preparation program at a regionally accredited institution of higher education or from another educator preparation program;

(C) Possesses the minimum of a bachelor's degree; and

(D) Meets all of the requirements of the state for full certification except employment.

(c) The state board may enter into an agreement with county boards for the use of the public schools in order to give prospective teachers the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the West Virginia public schools.

(d) An agreement established pursuant to subsection (c) of this section shall recognize student teaching as a joint responsibility of the educator preparation institution and the cooperating public schools. The agreement shall include the following items:

(1) The minimum qualifications for the employment of public school teachers selected as supervising teachers, including the requirement that field-based and clinical experiences be supervised by a teacher fully certified in the state in which that teacher is supervising;

(2) The remuneration to be paid to public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers;

(3) Minimum standards to guarantee the adequacy of the facilities and program of the public school selected for student teaching;

(4) Assurance that the student teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher;

(5) A provision requiring any higher education institution with an educator preparation program to document that the student teacher's field-based and clinical experiences include participation and instruction with multicultural, at-risk, and exceptional children at each programmatic level for which the student teacher seeks certification; and

(6) A provision authorizing a school or school district that has implemented a comprehensive beginning teacher induction program; to enter into an agreement that provides for the training and supervision of student teachers consistent with the educational objectives of this subsection by using an alternate structure implemented for the support,

supervision, and mentoring of beginning teachers. The agreement is in lieu of any specific provisions of this subsection and is subject to the approval of the state board.

(e) Teacher-in-residence programs. —

(1) In lieu of the provisions of subsections (c) and (d) of this section and subject to approval of the state board, an institution of higher education with a program for the education of professional educators approved by the state board may enter into an agreement with county boards for the use of teacher-in-residence programs in the public schools.

(2) A “teacher-in-residence program” means an intensively supervised and mentored residency program for prospective teachers during their senior year that refines their professional practice skills and helps them gain the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the West Virginia public schools.

(3) The authorization for the higher education institution and the county board to implement a teacher-in-residence program is subject to state board approval. The provisions of the agreement include, but are not limited to, the following items:

(A) A requirement that the prospective teacher in a teacher-in-residence program has completed all other preparation courses and has passed the appropriate basic skills and subject matter test or tests required by the state board for teachers to become certified in the area for which licensure is sought;

(B) A requirement that the teacher-in-residence serve only in a teaching position in the county which has been posted and for which no other teacher fully certified for the position has been employed;

(C) Specifics regarding the program of instruction for the teacher-in-residence setting forth the responsibilities for supervision and mentoring by the higher education institution’s educator preparation program, the school principal, and peer teachers and mentors, and the responsibilities for the formal instruction or professional development necessary for the teacher-in-residence to perfect his or her professional practice skills. The program also may include other instructional items as considered appropriate;

(D) A requirement that the teacher-in-residence hold a teacher-in-residence permit qualifying the individual to teach in his or her assigned position as the teacher of record;

(E) A requirement that the salary and benefit costs for the position to which the teacher-in-residence is assigned shall be used only for program support and to pay a stipend to the teacher-in-residence as specified in the agreement, subject to the following:

(i) The teacher-in-residence is a student enrolled in the teacher preparation program of the institution of higher education and is not a regularly employed employee of the county board;

(ii) The teacher-in-residence is included on the certified list of employees of the county eligible for state aid funding the same as an employee of the county at the appropriate level based on their permit and level of experience;

(iii) All state aid funding due to the county board for the teacher-in-residence shall be used only in accordance with the agreement with the institution of higher education for

support of the program as provided in the agreement, including costs associated with instruction and supervision as set forth in paragraph (C) of this subdivision;

(iv) The teacher-in-residence is provided the same liability insurance coverage as other employees; and

(v) All state aid funding due to the county for the teacher-in-residence and not required for support of the program shall be paid as a stipend to the teacher-in-residence: *Provided*, That the stipend paid to the teacher-in-residence shall be no less than ~~sixty-five~~ 65 percent of all state aid funding due the county for the teacher-in-residence;

(F) Other provisions that may be required by the state board.

(f) In lieu of the student teaching experience in a public school setting required by this section, an institution of higher education may provide an alternate student teaching experience in a nonpublic school setting if the institution of higher education meets the following criteria:

(1) Complies with the provisions of this section;

(2) Has a state board-approved educator preparation program; and

(3) Enters into an agreement pursuant to subdivisions (g) and (h) of this section.

(g) At the discretion of the higher education institution, an agreement for an alternate student teaching experience between an institution of higher education and a nonpublic school shall require one of the following:

(1) The student teacher shall complete at least one-half of the clinical experience in a public school; or

(2) The educator preparation program shall include a requirement that any student performing student teaching in a nonpublic school shall complete the following:

(A) At least 200 clock hours of field-based training in a public school; and

(B) A course, which is a component of the institution's state board-approved educator preparation program, that provides information to prospective teachers equivalent to the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the public schools in West Virginia. The course also shall include instruction on at least the following elements:

(i) State board policy and provisions of this code governing public education;

(ii) Requirements for federal and state accountability, including the mandatory reporting of child abuse;

(iii) Federal and state mandated curriculum and assessment requirements, including multicultural education, safe schools, and student code of conduct;

(iv) Federal and state regulations for the instruction of exceptional students as defined by the Individuals with Disabilities Education Act, 20 U.S.C. §1400 *et seq.*; and

(v) Varied approaches for effective instruction for students who are at-risk.

(h) In addition to the requirements set forth in subsection (g) of this section, an agreement for an alternate student teaching experience between an institution of higher education and a nonpublic school shall include the following:

(1) A requirement that the higher education institution with an educator preparation program shall document that the student teacher's field-based and clinical experiences include participation and instruction with multicultural, at-risk, and exceptional children at each programmatic level for which the student teacher seeks certification; and

(2) The minimum qualifications for the employment of school teachers selected as supervising teachers, including the requirement that field-based and clinical experiences be supervised by a teacher fully certified in the state in which that teacher is supervising.

(i) The state superintendent may issue certificates as provided in §18A-3-2a of this code to graduates of educator preparation programs and alternative educator preparation programs approved by the state board. The certificates are issued in accordance with this section and rules adopted by the state board.

(1) A certificate to teach may be granted only to a person who meets the following criteria:

(A) Is a citizen of the United States, except as provided in subdivision (2) or (3) of this subsection;

(B) Is of good moral character;

(C) Is physically, mentally, and emotionally qualified to perform the duties of a teacher; and

(D) Is at least 18 years of age on or before October 1 of the year in which his or her certificate is issued.

(2) A permit to teach in the public schools of this state may be granted to a person who is an exchange teacher from a foreign country or an alien person who meets the requirements to teach.

(3) A certificate to teach may be granted to a noncitizen of the United States who holds a valid Permanent Resident Card, Employment Authorization Document (EAD), or work permit issued by the United States Citizenship and Immigration Services (USCIS).

(j) Institutions of higher education approved for educator preparation may cooperate with each other and with one or more county boards to organize and operate centers to provide selected phases of the educator preparation program. The phases include, but are not limited to, the following:

(1) Student teaching and teacher-in-residence programs;

(2) Beginning teacher induction programs;

(3) Instruction in methodology; and

(4) Seminar programs for college students, teachers with provisional certification, professional support team members, and supervising teachers.

By mutual agreement, the institutions of higher education and county boards may budget and expend funds to operate the centers through payments to the appropriate fiscal office of the participating institutions and the county boards.

(k) The provisions of this section do not require discontinuation of an existing student teacher training center or school which meets the standards of the state board.

(l) All institutions of higher education approved for educator preparation in the 1962-63 school year continue to hold that distinction so long as they meet the minimum standards for educator preparation. Nothing in this section infringes upon the rights granted to any institution by charter given according to law previous to the adoption of this code.

(m) Definitions. — For the purposes of this section, the following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) “Nonpublic school” means a private school, parochial school, church school, school operated by a religious order, or other nonpublic school that elects to meet the following conditions:

(A) Comply with the provisions of §18-28-1 *et seq.* of this code;

(B) Participate on a voluntary basis in a state-operated or state-sponsored program provided to this type school pursuant to this section; and

(C) Comply with the provisions of this section;

(2) “At-risk” means a student who has the potential for academic failure, including, but not limited to, the risk of dropping out of school, involvement in delinquent activity, or poverty as indicated by free or reduced lunch status; and

(3) “Exceptional child” or “exceptional children” has the meaning ascribed to these terms pursuant to §18-20-1 of this code; but, as used in this section, the terms do not include gifted students.

§18A-3-1f. Alternative program participation; eligibility for alternative program certificate; contract renewals; hiring preference.

(a) *Alternative program participation.* — A person may not participate in an alternative program unless he or she holds an alternative program teacher certificate issued by the state superintendent for the alternative program position in which he or she will be teaching. An alternative program teacher certificate is the same as a professional teaching certificate for the purpose of issuing a continuing contract.

(b) *Eligibility for alternative program teacher certificate.* — To be eligible for an alternative program teacher certificate, a person shall:

(1) Possess at least a bachelor's degree from a regionally accredited institution of higher education;

(2) Pass the same basic skills and subject matter test or tests required by the state board for traditional program candidates to become certified in the area for which he or she is seeking licensure;

(3) Hold United States citizenship or, if a noncitizen of the United States, hold a valid Permanent Resident Card, Employment Authorization Document (EAD), or work permit issued by the United States Citizenship and Immigration Services (USCIS);

(4) Be of good moral character;

(5) Be physically, mentally, and emotionally qualified to perform the duties of a teacher;

(6) Attain the age of ~~eighteen~~ 18 years on or before October 1 of the year in which the alternative program teacher certificate is issued;

(7) Receive from a county superintendent a formal offer of employment in an area of critical need and shortage and by a school or school district that is a member of an approved educational provider;

(8) Have relevant academic or occupational qualifications that reasonably indicate that the person will be competent to fill the teaching position in which he or she would be employed. For the purposes of this section, “reasonably indicate” means an academic major or occupational area the same as or similar to the subject matter to which the alternative program teacher is being hired to teach; and

(9) Qualify for employment after a criminal history check made pursuant to §18A-3-10 of this code.

(c) Eligibility for alternative program certificate: American Sign Language. — If a person seeks certification to teach American Sign Language, in lieu of subdivisions (1) and (2), subsection (b) of this section, he or she shall pass one or more appropriate state board-approved tests demonstrating his or her proficiency in American Sign Language.

(d) *Eligibility for alternative program certificate: selected vocational and technical areas.* — If a person seeks certification to teach in selected vocational and technical areas, in lieu of subdivisions (1) and (2), subsection (b) of this section, he or she shall pass one or more appropriate state board-approved tests demonstrating his or her proficiency in the basic skills and occupational content areas.

(e) *Contract renewals.* —

(1) A county board shall renew an alternative program teacher’s contract from year to year as long as he or she makes satisfactory progress in the applicable alternative education program and until he or she completes the alternative program, except as provided in subdivision (2) of this subsection.

(2) If the school or school district that employs the alternative program teacher reduces its overall number of teachers, the alternative program teacher is subject to the same force reduction rules and procedures as any other employee, except those that relate to seniority. In no event will an alternative program teacher displace a professional educator as defined in §18A-1-1 of this code.

Bill Sponsors: Senators Rucker, Plymale, Roberts and Cline

Senate Bill 69I: **Limiting programs adopted by state board of education**

Effective Date: May 5, 2020

Code Referenced: New: §18A-3-1j

WVDE Contacts: Jan Barth, Assistant Superintendent,
Division of Teaching and Learning

Summary: The bill allows the WVBE to establish/adopt alternative teacher preparation programs that are separate and apart from the alternative certification programs that have been implemented by county boards of education pursuant to the authority granted in §18A-3-1b, 18A-3-1g, and 18A-3-1h. Individuals must have a bachelor's degree from an accredited institution of higher education in order to participate in an alternative teacher preparation program established/adopted by the WVBE.

CHAPTER 18A. SCHOOL PERSONNEL

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

§18A-3-1j. Additional alternative preparation programs administered by the Department of Education.

(a) Additional alternative programs to prepare teachers established or adopted solely by the State Board of Education are separate from the programs established under §18A-3-1b, §18A-3-1g, and §18A-3-1h of this code, do not required any partner, and are applicable only to persons who hold a bachelor's degree from an accredited institution of higher education.

(b) These programs are subject to other provisions of this article only to the extent specifically provided in state board rules.

(c) These programs may be an alternative to the standard college and university programs for the education of teacher and also may address the content area preparation of these persons.

Bill Sponsors: Senators Rucker, Cline and Roberts

Senate Bill 707: Relating to nursing career pathways

Effective Date: March 7, 2020

Code Reference: New: §18-2E-11a

WVDE Contact: Ashley Torres, Coordinator,
Office of Career & Technical Education

Summary: The bill makes findings regarding the nursing shortage and the importance of ensuring there is a seamless pathway from secondary to postsecondary education for students wanting to enter the nursing profession. The bill directs the State Superintendent, the HEPC Chancellor, and the CTC Chancellor to convene the West Virginia Nursing Career Pathway Workgroup consisting of the following members:

- Health care provider representatives from groups that need nurses and could potentially provide clinical space including, but not limited to, the West Virginia Health Care Association and the West Virginia Hospital Association;
- Representative from WVDE;
- Representative from HEPC;
- Representative from CTC;
- Representatives from WV higher education institutions;
- Representative from RN Board;
- Representative from LPN Board; and
- Any other person the State Superintendent, the HEPC Chancellor, and the CTC Chancellor determine would be beneficial.

The purpose of the West Virginia Nursing Career Pathway Workgroup is to develop a career pathway starting in high school and progressing to postsecondary settings. The pathway must be affordable and is to include opportunities with industry partners and workforce exit/re-entry points. The State Superintendent, the HEPC Chancellor, and the CTC Chancellor are to report to LOCEA progress on implementing the pathway annually and as otherwise requested. The bill states the pathway is to be available to students starting in the 2021-2022 school year.

CHAPTER 18. EDUCATION

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-11a. Nursing career pathway.

(a) The Legislature finds that:

(1) There are numerous reports relating that the nursing shortage is causing currently employed nurses to be overworked and that hospitals are bringing in travel nurses from other states;

(2) While the recent passage of the Advance Career Education and West Virginia Invests Grant programs legislation would address nursing shortages along with addressing other shortage areas, having a sufficient number of qualified nurses is of such importance to the health of the citizens of the state that additional efforts should be made to ensure that there is an adequate number of nurses to meet the state's health care needs as soon as possible; and

(3) Providing a seamless process for students pursuing careers in nursing from high school through attainment of a nursing credential or degree would assist in ensuring an adequate nursing workforce.

(b) The State Superintendent of Schools, the Chancellor for the Higher Education Policy Commission, and the Chancellor for the Community and Technical College System shall convene the West Virginia Nursing Career Pathway Workgroup consisting of:

(1) Representatives of health care providers that need nurses and could potentially provide clinical space. Due to the importance of health care providers providing clinical space, as many representatives of health care providers as possible, especially the largest health care providers, shall be invited to be members of the workgroup, provide input, and be encouraged to provide clinical space. Invitations to join the workgroup at least shall be extended to the West Virginia Health Care Association and the West Virginia Hospital Association;

(2) A representative of the West Virginia Department of Education;

(3) A representative of the Higher Education Policy Commission;

(4) A representative of the Council for Community and Technical College Education;

(5) Representatives of institutions of higher education in West Virginia;

(6) A representative of the Board for Registered Professional Nurses;

(7) A representative of the Board of Examiners for Licensed Practical Nurses; and

(8) Any other persons that the State Superintendent, the Chancellor for Higher Education, and the Chancellor for Community and Technical College Education determine beneficial.

(c) The West Virginia Nursing Career Pathway Workgroup shall be charged with developing a career pathway to address the unmet need for nursing assistants, licensed practical nurses, registered nurses, and registered nurses with a bachelor's degree in nursing.

The nursing program of study will begin in high school and progress through college, providing employment opportunity with industry partners and pathway re-entry at specified student attainment points: Nursing assistant certification, licensed practical nurse diploma and licensure, registered nurse associate degree and licensure, and bachelor of science in nursing completion. The career pathway shall align affordable, effective, and sustainable secondary to post-secondary nursing programs to increase credential attainment for a broad and diverse student population.

(1) The career pathway shall include participating high school students enrolling in a specified curriculum of college preparatory, career and technical health science courses, or dual college-high school credit courses, as well as participating in career experiences through a health care provider or a work-based learning clinical experience.

(2) Students shall have the opportunity to apply for admission to a practical nursing program at a community and technical college or career and technical education center.

(3) Upon completion of a practical nursing program, students shall have the opportunity to apply for admission to a licensed practical nursing to registered nurse associate degree program.

(4) Upon completion of a licensed practical nursing to registered nurse associate degree program, students then shall have the opportunity to apply for admission to a registered nurse to bachelor of science in nursing program.

(5) The career pathway shall be made available to students statewide beginning with the cohort of students entering ninth grade during the 2021-2022 school year.

(d) The State Superintendent, the Chancellor for Higher Education, the Chancellor for Community and Technical College Education, or any combination thereof, shall report to the Legislative Oversight Commission on Education Accountability, as requested, but at least annually, on the progress in implementing the career pathway up until such time as the career pathway is fully implemented statewide.

(e) In establishing the nursing career pathway, the State Superintendent, the Chancellor for Higher Education, the Chancellor of Community and Technical College Education, and the workgroup created pursuant to subsection (c) of this section shall consider the following:

(1) If the career pathway is difficult to implement due to nursing programs being at full capacity, the workgroup shall explore the use of online programs currently in existence or the creation of new online programs in overcoming any lack of capacity in the current nursing programs and to make programs more accessible to students; and

(2) The nursing career pathway shall include the use of any available financial assistance in order to minimize, or if possible, eliminate tuition costs for students and their families. This assistance can include, if a student is eligible, the Federal Pell Grant Program, the Higher Education Grant Program, the PROMISE Scholarship Program, the West Virginia Invests Grant Program, and any other grants or scholarships that might be available. Health care providers in need of nurses also shall be encouraged to establish scholarship programs to help cover tuition costs.

Bill Sponsors: Senators Rucker, Cline, Maroney, Plymale, Takubo and Stollings

Senate Bill 723: **Requiring Department of Education develop a plan based on analyzed data on school discipline**

Effective Date: March 7, 2020
Code Referenced: [New: §18-2-43](#)
WVDE Contacts: Drew McClanahan, Manager
Office of Leadership & System Support

Summary: The bill requires the WVDE to analyze statewide discipline data and, based on such analysis, develop a statewide program to address the number of disciplinary actions taken against students. The analysis will pay particular attention to disciplinary action taken per sub-group. County boards of education are directed to implement the program developed by the WVDE. The WVDE is directed to submit a report to LOCEA on disciplinary data, progress on statewide program, and progress on any local disciplinary programs making a positive impact every two years starting in 2022.

CHAPTER 18. EDUCATION

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-43. Addressing disciplinary action in West Virginia schools.

(a) The Department of Education shall analyze statewide data collected on school disciplinary action and, based on the findings of this data, develop a statewide program intended to address the number of disciplinary actions taken by school personnel and county school boards against students enrolled in grades K-12. This program will include information by subgroup, including, but not limited to, race, gender, and disability.

(b) County boards of education shall implement the program outlined in subsection (a) of this section with the ultimate goal of improving disciplinary outcomes.

(c) The Department of Education shall prepare a report on the findings of statewide disciplinary data and, in addition to these findings, provide a summary of the progress of the statewide program and individual county programs, evaluating the extent to which the programs have successfully led to making a positive impact in disciplinary actions in West Virginia school systems. The Department of Education shall present these findings to the Legislative Oversight Commission on Education Accountability every two years starting in the year 2022.

Bill Sponsors: Senators Rucker, Cline, Stollings and Roberts

Senate Bill 750: Establishing extended learning opportunities

Effective Date: June 6, 2020

Code Referenced: New: §18-2-7e

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

Joey Wiseman, Director,
Office of Middle & Secondary Learning

Summary: This bill makes findings with respect to the value of learning opportunities and programs outside the traditional classroom. Accordingly, the bill directs that the State Board adopt a policy requiring county boards of education to adopt policies allowing for learning opportunities outside the traditional classroom that can be used to earn elective course credit.

CHAPTER 18. EDUCATION

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-7e. Alternative educational opportunities for elective course credit.

(a) The Legislature finds and declares that:

(1) Programs outside of the traditional classroom have educational value;

(2) Many entities, including, but not limited to, nonprofit organizations, afterschool programs, businesses, and trade associations, may have an interest in offering programs outside of the traditional classroom that are attractive to students and contain educational value;

(3) Learning opportunities that are designed to address the interests and aptitudes of the individual student will enable students to discover, develop, and apply their individual talents to realize their full potential;

(4) Policies that allow for educational opportunities outside of the traditional classroom exist in other states;

(5) Providing credit for alternative educational opportunities will enrich the learning environment of students and develop well-rounded individuals ready for a life of learning, productive work, and community involvement.

(b) The State Board of Education shall promulgate a rule requiring county boards of education to develop an alternative educational opportunities policy that provides students involved in educational opportunities outside of the traditional classroom to receive elective course credit.

(c) The county boards of education shall adopt an alternative educational opportunities policy that recognizes learning opportunities outside of the traditional classroom and grants elective course credit. The policy shall:

(1) Provide for an application process for entities to submit proposals for alternative educational programs that will qualify for elective course credit;

(2) Define which entities are eligible to submit applications for alternative educational programs: Provided, That entities which are deemed eligible shall be broadly defined and shall include, but not be limited to:

(A) Nonprofit organizations;

(B) Businesses with established locations in the state;

(C) Trade associations;

(D) Parents of students involved in programs that may otherwise qualify as an alternative educational program;

(E) Teachers involved in programs outside of the traditional classroom; and

(F) School personnel involved in programs outside of the traditional classroom;

(3) Provide for the criteria to be used to evaluate the alternative educational program;

(4) Describe any communication and collaboration needed between the local school, county board, or State Board of Education to implement alternative educational opportunities;

(5) Place requirements on the entity, such as background checks for key personnel, and minimum accountability standards; and

(6) Provide a process for student credit transfer.

(d) The county boards of education shall have the authority to approve or deny an application for an alternative educational program: Provided, That if the application is denied, the county board shall provide a detailed explanation of the reasons for its denial and suggest ways to improve the application that will assist its more favorable view by the county board.

(e) The county boards of education shall have the authority to audit approved alternative educational programs at any time. If the audit results in findings that an approved program is not meeting the provisions of this section or the policy outlined in subsection (c) of this section, then the county board may disqualify the program immediately.

(f) The Department of Education shall prepare a report of data analysis and an overview of the alternative learning opportunities to the Legislative Oversight Commission on Education Accountability after three years of implementation.

Bill Sponsors: Senators Rucker and Cline

Senate Bill 839: **Creating state advisory council on postsecondary attainment goals**

Effective Date: June 7, 2020

Code Referenced: New: §18B-1D-11

WVDE Contacts: Michele Blatt, Deputy Superintendent of Schools

Summary: This bill creates a state advisory council to study and report on the goal of having 60% of West Virginians between the ages of 25 and 64 hold a degree, certificate, or other postsecondary workforce credential of value by 2030. The State Superintendent or designee will be a member of the Council, which will be chaired by the HEPC Chancellor. The bill directs that the Council shall consult with and advise the Legislature on matters relating to the progress towards achieving the attainment goal and shall make recommendations to the Legislature as appropriate. The Council is to report its findings to LOCEA starting December 31, 2020, and annually thereafter until the Council's statutory termination date of December 31, 2023.

Additionally, the Council is directed to provide leadership, strategic direction, and evaluation of the state's investments in, and progress toward, implementing high-quality CTE programs in high-demand areas. The Council is to accomplish these tasks by performing an annual review of CTE offerings and aligning existing offerings with employer demand.

CHAPTER 18B. HIGHER EDUCATION

ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.

§18B-1D-11. State Advisory Council on Postsecondary Attainment Goals.

(a) There is hereby created the State Advisory Council on Postsecondary Attainment Goals. The council's purpose is to ensure that students are provided opportunities to learn and earn the most relevant industry-demanded knowledge, skills, and credentials to prepare students for the challenges of college, careers, and life, while helping the state and its employers attain economic growth through collaboration with K-12 education leaders, employers and industry leaders, state agency leaders, the Higher Education Policy Commission, and the Council for Community and Technical College Education to identify high-value and in-demand postsecondary credentials, and to develop a plan to assist the state in achieving its postsecondary attainment goal of having 60 percent of West Virginians between the ages of 25 and 64 hold a degree, certificate, or other postsecondary workforce credential of value in the workplace by 2030.

(b) The State Advisory Council on Postsecondary Attainment Goals shall consist of the following members:

(1) The Chancellor of the Higher Education Policy Commission, or his or her designee;

(2) The State Superintendent of Schools, or his or her designee;

(3) The Secretary of the Department of Commerce, or his or her designee;

(4) The Director of WorkForce West Virginia, or his or her designee;

(5) Two presidents representing the state's four-year institutions of higher education, at least one of which shall be the president of a regional institution, appointed jointly by the President of the Senate and the Speaker of the House of Delegates;

(6) Two presidents representing the state's community and technical colleges appointed jointly by the President of the Senate and the Speaker of the House of Delegates;

(7) Representatives from at least two employers, industry associations, or chambers of commerce, appointed jointly by the President of the Senate and the Speaker of the House of Delegates;

(8) Representatives from at least two regional economic development and workforce investment boards, appointed jointly by the President of the Senate and the Speaker of the House of Delegates;

(9) The chair of the Senate Committee on Education as an ex officio nonvoting member;

(10) The chair of the House Committee on Education as an ex officio nonvoting member; and

(11) Any other individuals deemed appropriate and appointed jointly by the President of the Senate and the Speaker of the House Delegates.

(c) The council shall be chaired by the Chancellor of the Higher Education Policy Commission. The council shall meet at least quarterly and at the call of the chair. Quorum shall be a simple majority of the council. The administrative functions of the council are the responsibility of the joint staff of the Higher Education Policy Commission and the Council for Community and Technical Education.

(d) The council shall consult with and advise the Legislature on matters related to the progress toward achieving the state's postsecondary attainment goal as established in subsection (a) of this section, including identifying high-value and in-demand postsecondary credentials. The council may:

(1) Make recommendations to the Legislature as required by this section;

(2) Provide guidance to the Legislature on potential statutory solutions relative to achievement of the state's postsecondary attainment goal;

(3) Establish workgroups or subcommittees as the council considers necessary to address pertinent issues related to achievement of the state's postsecondary attainment goal, and to provide consistency in the development of further regulation, if further regulation is determined to be necessary by the council;

(4) Consult with entities and persons with expertise in the areas being studied by the council as the council considers necessary in the fulfillment of its duties, including public and private sector partnerships; and

(5) Provide a forum for a full and fair discussion of issues relating to achievement of the state's postsecondary attainment goal.

(e) The council shall provide leadership, strategic direction, and evaluation of the state's investments in, and progress toward, implementing high-quality career and technical education programs that are accessible to all students and improves the career readiness of the state's workforce by conducting an annual review of career and technical education offerings in K-12 and the state's community college and technical education system to determine the alignment of existing offerings with employer demand, postsecondary degree or certificate programs, and professional industry certifications. The review shall identify career and technical education offerings that are linked to occupations that are in high-demand by employers, require high-level skills, and provide middle- and high-level wages. The review shall include analyses of:

(1) Participating students and their outcomes, including the following:

(A) Academic achievement;

(B) Attainment of industry certifications;

(C) Program completion;

(D) Applied learning experiences;

(E) College credit attainment through the career and technical education program, including dual enrollment or articulation;

(F) Postsecondary enrollment and credential attainment, including enrollment in four-year degree programs for state college system students; and

(G) Employment outcomes, including wages;

(2) Demographics of participating students by pathway and credential attainment;

(3) Educational settings of the courses;

(4) Alignment with high-growth, high-demand, and high-wage employment opportunities;

(5) Current and projected economic, labor, and wage data on the needs of the state, regional, and global economy and workforce;

(6) Alignment with certificate or degree programs offered at the postsecondary level or professional industry certifications;

(7) Employment outcomes, including wages, by career and technical education program offerings;

(8) Apprenticeship and pre-apprenticeship offerings;

(9) Qualifications and specialized knowledge and expertise of instructors and the opportunities for these educators to upskill in the latest in-demand skills of employers; and

(10) Extent to which federal, state, and local funding is used to foster career and technical education program success and program efficiency.

(f) The council shall report its findings to the Legislative Oversight Commission on Education Accountability and the Joint Committee on Government and Finance by December 31, 2020, and annually thereafter until the council terminates, pursuant to the provisions of this section. The report shall include, at a minimum, the following:

(1) Conclusions and recommendations about the means to achieve the state's postsecondary attainment goal;

(2) Recommendations for statutory and regulatory modifications, if the council determines that such modifications are necessary;

(3) Identification of any action that the Legislature may take to better foster awareness of the actions being taken to achieve the state's postsecondary attainment goal; and

(4) Any other ancillary issues relative to achievement of the state's postsecondary attainment goal.

(g) The State Board of Education, the Superintendent of Schools, the Department of Commerce, WorkForce West Virginia, the presidents of the state's public institutions of higher education, and all other entities of state government shall cooperate with the council in the exchange of data, information, and expertise, if so requested by the council, including, but not limited to:

(1) Providing the entity's plans to assist in achievement of the state's postsecondary attainment goal;

(2) Identifying equity gaps among certain high-risk populations, including, but not limited to, returning adults, academically underprepared students, the economically disadvantaged, and underrepresented racial or ethnic minorities;

(3) Sharing information on the economic impact of achievement of the state's postsecondary goal on the State of West Virginia;

(4) Providing an assessment of the benefits of implemented programs and activities aimed at achieving the state's postsecondary attainment goal;

(5) Assisting in the development or revision of detailed action plans to achieve the state's postsecondary attainment goal; and

(6) Providing resources required to implement the plan to achieve the state's postsecondary attainment goal.

(h) The council and all provisions of this section shall terminate and no longer be in effect on December 31, 2023.

Bill Sponsors: Senators Roberts, Weld, Baldwin, Boley, Jeffries, Rucker, Smith, Stollings and Tarr

Senate Bill 842: Requiring superintendent of schools establish a behavior interventionist pilot program in two school districts for five years

Effective Date: March 6, 2020

Code Referenced: New: §18-3-13

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

Summary: The bill requires the State Superintendent to establish a Behavior Interventionist Pilot Program to be implemented for two (2) to ten (10) counties for a period of five (5) years. The legislation outlines specific criteria to be considered in the selection of counties for the pilot program. The counties that are designated for participation have the option to create a position of "behavior interventionist," which is a school-based position that specializes in addressing behavior issues at a school. Each county is required to convene an advisory committee of designated individuals to advise the county superintendent on qualifications and hiring. The county board of education will determine if the position will be a professional or service position, and the legislation specifies pay grade (D), at a minimum, if the county chooses to make the position a service position. The bill requires county boards of education participating in the program submit an annual report to LOCEA for the duration of the pilot program.

CHAPTER 18. EDUCATION

ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.

§18-3-13. Behavior Interventionist Pilot Program.

(a) The Legislature finds that:

(1) Behavior problems of special education students can be better addressed by personnel who specialize in addressing student behavior issues;

(2) With the advent of the opioid crisis in recent years in West Virginia, behavior problems in the state's elementary and secondary education system have increased significantly;

(3) Behavior problems impact not just the student who is misbehaving, but also other students at the school;

(4) The state should explore various ways to address this issue;

(5) One such method of successfully addressing behavioral problems could be through the use of behavior interventionists; and

(6) A behavior interventionist who is trained to address student behavior issues at a school could free classroom teachers from having to address behavior issues and allow them to focus exclusively on teaching students which could result in academic achievement increases for other students in the classroom.

(b) The state superintendent shall immediately establish a Behavior Interventionist Pilot Program to be implemented in not less than two nor more than 10 county school districts for the duration of three years. In selecting the county school districts, the state superintendent shall select districts meeting the following criteria:

(1) The districts shall have among the highest number in the state of students with an individual education program;

(2) The districts designated by the state superintendent for the pilot program shall have schools that have a significant number of students enrolled with behavior issues; and

(3) The districts shall have the resources to hire and train personnel who specialize in addressing students with behavior issues.

(c) The county school districts designated for the pilot programs pursuant to this section may immediately create a new employment position, entitled "behavior interventionist", which is a school-based position that specializes in addressing behavior issues at a school. Once the counties are chosen, the county superintendent shall convene an advisory committee consisting of principals, teachers, classroom aides, and the education organizations to advise the county superintendent and county board on qualifications and hiring. Behavior interventionists shall be designated by the county board as either a professional person or a service person. If the behavior interventionist is designated as a service person, he or she shall be assigned a pay grade D, at a minimum, for the purpose of the salary schedule set forth in §18A-4-8a of this code. The county school districts designated for the pilot programs shall establish the qualifications for personnel employed in the behavior interventionist position and shall establish the initial and continuing training requirements for the personnel employed in the position.

(d) Annually, for the duration of the pilot programs and once after the conclusion of the pilot programs, the county superintendents of the county school districts designated for the pilot programs shall report to the Legislative Oversight Commission on Education Accountability on:

(1) Progress toward and methods of implementation of the pilot programs, including the required qualifications and training for personnel employed in the behavior interventionist position;

(2) Indicators of the success of the pilot programs, which may include reductions in disciplinary actions and increases in student achievement at the schools in which the behavior interventionists are assigned;

(3) Their recommendation on whether the pilot programs should continue beyond the current duration of the pilot programs; and

(4) Their recommendation on whether the pilot programs should be replicated in other school districts that have a high percentage of students with an individual education program, that have schools with significant student behavior problems, or both, and if so, how the pilot programs could best be replicated based on the experience and knowledge gained from the pilot programs established pursuant to this section.

Bill Sponsors: Senators Azinger, Baldwin, Boley, Cline, Pitsenbarger, Plymale, Roberts, Romano, Stollings, Trump, Unger, Weld and Rucker

House Bill 4069: West Virginia student religious liberties act

Effective Date: June 7, 2020

Code Referenced: New: §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6; §18-33-7, §18-33-8

WVDE Contacts: Heather Hutchens, General Counsel, Office of Legal Services

Summary: The bill codifies federal law with respect to prayer in school and religious expression. Specifically, the bill states that schools shall not discriminate against students or parents on the basis of religious viewpoints or religious expression, and such expression shall be treated in the same manner as a voluntary expression of a secular or other viewpoint. Students are to be permitted to pray or engage in religious activities before, during, and after the school day in the same manner and to the same extent students may engage in nonreligious activities or expression. Notwithstanding, the bill states that this Act is not to be construed to limit a school's ability to maintain order and discipline on the campus or protect the safety of students, employees and visitors.

CHAPTER 18. EDUCATION

ARTICLE 33. STUDENT RELIGIOUS LIBERTIES.

§18-33-1. West Virginia Student Religious Liberties Act.

This article shall be known and may be cited as the “West Virginia Student Religious Liberties Act.”

§18-33-2. Student expression.

A public school district shall not discriminate against students or parents on the basis of a religious viewpoint or religious expression. A school district shall treat a student’s voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student’s voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

§18-33-3. Religious expression in class assignments.

As more fully set forth in §18-33-5(b) of this code, students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination and may not be penalized or rewarded on account of the religious content of their work: Provided, That a student may express disagreement and offer opposing views regarding any issue based on religious beliefs, but may not be excused from answering a test

question or other assignment correctly because the answer to that question that was provided in course content is counter to the religious beliefs of the student.

§18-33-4. Freedom to organize and advertise religious groups and activities.

As more fully set forth in §18-33-5(c) and §18-33-5(d) of this code, students in public schools may pray or engage in religious activities or religious expression before, during, and after the school day in the same manner and to the same extent that students may engage in nonreligious activities or expression.

§18-33-5. Student expression of religious viewpoints; religious expression in class assignments; freedom to organize and advertise religious groups and activities; displaying religious messages or symbols.

(a) Student expression of religious viewpoints. — The school district shall treat a student’s voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student’s voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

(b) Religious expression in class assignments. — Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of the students’ submissions. Homework and classroom work shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Students may not be penalized or rewarded on account of religious content. If a teacher’s assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards, including literary quality, and not penalized or rewarded on account of its religious content.

(c) Freedom to organize and advertise religious groups and activities. — Students may organize prayer groups, religious clubs, “see you at the pole” gatherings, and other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups must be given the same access to school facilities for assembling as is given to other noncurricular groups, without discrimination based on the religious content of the group’s expression. If student groups that meet for nonreligious activities are permitted to advertise or announce the groups’ meetings, for example, by advertising in a student newspaper, putting up posters, making announcements on a student activities bulletin board or public address system, religious groups must also be permitted to advertise or announce group meetings.

(d) Displaying religious messages or symbols. — Students in public schools may wear clothing, accessories, and jewelry that display religious messages or religious symbols in the same manner and to the same extent that other types of clothing, accessories, and jewelry that display messages or symbols are permitted.

§18-33-6. Certain acts restricted.

This act may not be construed to authorize this state or any of its political subdivisions to do either of the following:

(1) Require any person to participate in prayer or in any other religious activity; or

(2) Violate the constitutional rights of any person.

§18-33-7. Certain authority may not be limited.

This act shall not be construed to limit the authority of any public school to do any of the following:

(1) Maintain order and discipline on the campus of the public school in a content- and viewpoint-neutral manner;

(2) Protect the safety of students, employees, and visitors of the public school; and

(3) Adopt and enforce policies and procedures regarding student speech at school, provided that the policies and procedures do not violate the rights of students as guaranteed by the United States and West Virginia constitutions and laws.

§18-33-8. First school year affected.

This act shall be in force beginning with the 2020-2021 school year.

Bill Sponsors: Delegates Howell, D. Kelly, Sypolt, Pack, Atkinson, Hill, Butler, Boggs, Rowan and Summers

House Bill 4165: West Virginia Remembers Program

Effective Date: June 5, 2020
Code Referenced: New: §18-2-8b
WVDE Contacts: Jan Barth, Assistant Superintendent,
Division of Teaching & Learning
Joey Wiseman, Director,
Office of Middle & Secondary Learning

Summary: The bill establishes the "West Virginia Remembers Program" to promote public school students learning about military service, patriotism, and courage in the defense of our country. Teacher and student participation in the program is voluntary. Discretionary rulemaking authority is provided to the WVBE to implement the bill with respect to solicitation of speakers from veteran's groups and maintenance of lists by county boards of education of available speakers.

CHAPTER 18. EDUCATION

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-8b. West Virginia Remembers Program; rulemaking.

(a) There is hereby created the "West Virginia Remembers Program" whereby children in the public schools may learn about military service, patriotism and courage in the defense of our country from veterans who volunteer to share their experiences in the educational setting. Participation in the program by classroom teachers is voluntary and may not be considered a course requirement or mandatory in any other way.

(b) The state board may promulgate a rule in accordance with §29A-3B-1 et seq. of this code to implement this section with regard to solicitation of speakers from veterans' groups and maintenance of lists by county boards of available speakers.

Bill Sponsors: Delegates, Hanna, Higginbotham, Jennings, Bibby and Waxman

House Bill 4166: Prohibiting certain sex offenders from being in a supervisory position over children

Effective Date: May 17, 2020
Code Referenced: Amends: §62-12-26
WVDE Contacts: Heather Hutchens, General Counsel,
Office of Legal Services

Summary: This bill makes clear that certain individuals are prohibited from acting in a supervisory role over children. Specifically, individuals found guilty of sexual assault in the first degree or sexual abuse in the first degree may not supervise or be responsible for supervising groups of children, including but not limited to religious organizations, Boy Scouts, Girl Scouts, 4H organizations, sporting and scholastic teams, music, sporting, theatre groups and camps, and summer day camps.

CHAPTER 62. CRIMINAL PROCEDURE

ARTICLE 12. PROBATION AND PAROLE.

§62-12-26. Extended supervision for certain sex offenders; sentencing; conditions; supervision provisions; supervision fee.

(a) Notwithstanding any other provision of this code to the contrary, any defendant convicted after the effective date of this section of a violation of ~~section twelve, article eight, chapter sixty one of this code~~ §61-8-12 of this code or a felony violation of the provisions of ~~article eight b, eight c or eight d of said chapter~~ §61-8B-1 et seq., §61-8C-1 et seq., and §61-8D-1 et seq. of this code shall, as part of the sentence imposed at final disposition, be required to serve, in addition to any other penalty or condition imposed by the court, a period of supervised release of up to ~~fifty~~ 50 years: Provided, That the period of supervised release imposed by the court pursuant to this section for a defendant convicted after the effective date of this section as amended and reenacted during the first extraordinary session of the Legislature, 2006, of a violation of ~~section three or seven, article eight b, chapter sixty one~~ §61-8B-3 or §61-8B-7 of this code and sentenced pursuant to §62-12-9 (a) of this code ~~section nine-a of said article~~, shall be no less than ten years: Provided, however, That a defendant designated after the effective date of this section as amended and reenacted during the first extraordinary session of the Legislature, 2006, as a sexually violent predator pursuant to the provisions of §15-12-2a ~~section two-a, article twelve, chapter fifteen~~ of this code shall be subject, in addition to any other penalty or condition imposed by the court, to supervised release for life: Provided further, That pursuant to the provisions of §62-12-269(h) ~~subsection (g) of this section~~, a court may modify, terminate or revoke any term of supervised release imposed pursuant to §62-12-26(a) of this code ~~subsection (a) of this section~~.

(b) Any person required to be on supervised release between the minimum term of 10 ~~ten~~ years and life pursuant to the provisos of §62-12-26(a) of this code ~~subsection (a) of this section~~ also shall be further prohibited from:

(1) Establishing a residence or accepting employment within 1,000 ~~one thousand~~ feet of a school or child care facility or within 1,000 ~~one thousand~~ feet of the residence of a victim or victims of any sexually violent offenses for which the person was convicted;

(2) Loitering within one thousand feet of a school or child care facility or within one thousand feet of the residence of a victim or victims of any sexually violent offenses for which the person was convicted: Provided, That the imposition of this prohibition shall apply to a defendant convicted after the effective date of this section as amended and reenacted during the regular session of the Legislature, 2015: Provided, however, That as used herein "loitering" means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose: Provided further, That nothing in this subdivision shall be construed to prohibit or limit a person's presence within one thousand feet of a location or facility referenced in this subdivision if the person is present for the purposes of supervision, counseling or other activity in which the person is directed to participate as a condition of supervision or where the person has the express permission of his supervising officer to be present;

(3) Establishing a residence or any other living accommodation in a household in which a child under 16 ~~sixteen~~ resides if the person has been convicted of a sexually violent offense against a child, unless the person is one of the following:

(i) The child's parent;

(ii) The child's grandparent; or

(iii) The child's stepparent and the person was the stepparent of the child prior to being convicted of a sexually violent offense, the person's parental rights to any children in the home have not been terminated, the child is not a victim of a sexually violent offense perpetrated by the person, and the court determines that the person is not likely to cause harm to the child or children with whom such person will reside: Provided, That nothing in this subsection shall preclude a court from imposing residency or employment restrictions as a condition of supervised release on defendants other than those subject to the provision of this subsection.

(c) In addition to any other prohibitions, any person found guilty of violating the provisions of §61-8B-3 or §61-8B-7 of this code is also prohibited from being in a supervisory position, playing a supervisory role or being responsible for groups of children, including, but not limited to, religious organizations, Boy Scouts, Girl Scouts, 4H organizations, sporting and scholastic teams, music, sporting, and theatre groups and camps, and summer day camps.

(d) ~~(e)~~ The period of supervised release imposed by the provisions of this section shall begin upon the expiration of any period of probation, the expiration of any sentence of incarceration or the expiration of any period of parole supervision imposed or required of the person so convicted, whichever expires later.

(e) ~~(d)~~ Any person sentenced to a period of supervised release pursuant to the provisions of this section shall be supervised by a multijudicial circuit probation officer, if available. Until such time as a multijudicial circuit probation officer is available, the offender

shall be supervised by the probation office of the sentencing court or of the circuit in which he or she resides.

~~(f)~~ ~~(e)~~ A defendant sentenced to a period of supervised release shall be subject to any or all of the conditions applicable to a person placed upon probation pursuant to the provisions of [§62-12-9 of this code](#) ~~section nine of this article~~: Provided, That any defendant sentenced to a period of supervised release pursuant to this section shall be required to participate in appropriate offender treatment programs or counseling during the period of supervised release unless the court deems the offender treatment programs or counseling to no longer be appropriate or necessary and makes express findings in support thereof.

Within ninety days of the effective date of this section as amended and reenacted during the first extraordinary session of the Legislature, 2006, the Secretary of the Department of Health and Human Resources shall propose rules and emergency rules for legislative approval in accordance with the provisions of [§29A-3-1](#) ~~article three, chapter twenty nine~~ ~~a~~ of this code establishing qualifications for sex offender treatment programs and counselors based on accepted treatment protocols among licensed mental health professionals.

~~(g)~~ ~~(f)~~ The sentencing court may, based upon defendant's ability to pay, impose a supervision fee to offset the cost of supervision. Said fee shall not exceed \$50 per month. Said fee may be modified periodically based upon the defendant's ability to pay.

~~(h)~~ ~~(g)~~ Modification of conditions or revocation. -- The court may:

(1) Terminate a term of supervised release and discharge the defendant released at any time after the expiration of two years of supervised release, pursuant to the provisions of the West Virginia Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interests of justice;

(2) Extend a period of supervised release if less than the maximum authorized period was previously imposed or modify, reduce or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, consistent with the provisions of the West Virginia Rules of Criminal Procedure relating to the modification of probation and the provisions applicable to the initial setting of the terms and conditions of post-release supervision;

(3) Revoke a term of supervised release and require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on supervised release if the court, pursuant to the West Virginia Rules of Criminal Procedure applicable to revocation of probation, finds by clear and convincing evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this subdivision may not be required to serve more than the period of supervised release;

(4) Order the defendant to remain at his or her place of residence during nonworking hours and, if the court so directs, to have compliance monitored by telephone or electronic signaling devices, except that an order under this paragraph may be imposed only as an alternative to incarceration.

~~(i)~~ ~~(h)~~ Written statement of conditions. -- The court shall direct that the probation officer provide the defendant with a written statement at the defendant's sentencing hearing

that sets forth all the conditions to which the term of supervised release is subject and that it is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

(j) ~~(i)~~ Supervised release following revocation. -- When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of supervised release authorized under §62-12-26(a) of this code, ~~subsection (a) of this section~~, the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such term of supervised release shall not exceed the term of supervised release authorized by this section less any term of imprisonment that was imposed upon revocation of supervised release.

(k) ~~(j)~~ Delayed revocation. -- The power of the court to revoke a term of supervised release for violation of a condition of supervised release and to order the defendant to serve a term of imprisonment and, subject to the limitations in §62-12-26(j) of this code ~~subsection (i) of this section~~, a further term of supervised release extends beyond the expiration of the term of supervised release for any period necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.

Bill Sponsors: Delegates Foster, Phillips, Bibby, Steele, Butler, Waxman, Espinosa, Porterfield, Kessinger, Lovejoy and Bartlett

House Bill 4378: Relating to disciplining teachers

Effective Date: June 6, 2020

Code Reference: Amends: §18A-2-8, §18A-3-6

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

Summary: The bill mandates that county boards shall complete investigations of employees involving evidence that the employee engaged in conduct that jeopardized the health, safety, or welfare of a student, notwithstanding the fact that the employee resigns prior to the conclusion of the investigation. The bill places a seven-day time limit for county superintendents to report to the state superintendent action to suspend or dismiss an employee, or when an employee resigns during the course of an investigation. The bill also expands the licensure actions the State Superintendent can take against teachers. In addition to current permissible actions including revocation, the bill codifies the right to suspend, issue letters of admonishment, or enter consent agreements requiring specific training. The State Superintendent is extended subpoena power to aid in licensure investigations. The bill addresses grooming and inappropriate relationships between teachers and students, both in and out of the classroom. It precludes inappropriate relationships with individuals who have been the teacher's student within the preceding 12 months. Following a hearing, teachers who are found to have groomed students or participated in an inappropriate relationship with a student will have their licenses revoked for a minimum of five years. The bill mandates that the State Superintendent maintain a public-facing database of all teachers who have had their licenses revoked and are therefore not eligible for employment in the public-school system. Finally, the bill clarifies that its provisions also apply to public charter school teachers.

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 plea 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 code. 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. A county board shall complete an investigation of an employee that involves evidence that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of students despite the employee's resignation from employment prior to completion of the investigation.

(e) It shall be the duty of any county superintendent to report any employee suspended or dismissed or resigned during the course of an investigation 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.

§18A-3-6. Ground for revocation of certificates; recalling certificates for correction.

(a) The state superintendent may, after 10 days notice and upon proper evidence, revoke or suspend 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 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. The State Superintendent may issue subpoenas and

subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person subject to licensure by the State Superintendent.

~~(b) 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 any criminal offense which has as an element delivery or distribution of a controlled substance, or pleads guilty to or is convicted under the provisions of §61-2-1 of this code or has been so convicted under any law of the United States or any other state for an offense which has the same elements as those offenses described in §61-2-1, shall have his or her certificate or license automatically revoked. Should the conviction resulting in automatic revocation pursuant to this section be overturned by any Court of this State or the United States, the teacher's certification shall be reinstated unless otherwise prohibited by law.~~

~~(b) 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 shall report 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 may recall the certificate and make such corrections as will conform to the requirements of law and the state board.~~

(c) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding a license granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship with all students at all times, both in and out of the classroom. Following a hearing as provided in subsection (a) of this section, any teacher found to have committed any act of sexual abuse of a student or minor or to have engaged in inappropriate sexual conduct with a student or minor; committed an act of cruelty to children or an act of child endangerment or solicited, encouraged, engaged in or consummated an inappropriate relationship with any student, minor, or individual; exploited a student by engaging in any of the aforementioned illegal or inappropriate conduct which then escalated into a relationship with the exploited student within 12 months of that student's graduation; or engaged in grooming a student or minor shall have his or her license revoked for a period of time not less than five years. For the purposes of this subsection, "grooming a student or minor" means befriending and establishing an emotional connection with a student or minor, which may include the family of the student or minor, to lower the student's or minor's inhibitions with the objective of committing sexual abuse, child trafficking, child prostitution, the production of child pornography, or any other offense for which a license shall be revoked under this subsection.

(d) Any county superintendent, public school principal, or public charter school administrator who knows of any acts on the part of any teacher for which a certificate may be revoked or for which other action may be taken in accordance with this section shall report 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.

(e) 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 the state board.

(f) The state superintendent shall maintain a public database of individuals who have had adverse action taken against their teaching certificate by the state superintendent. Individuals whose certificate has been revoked by the state superintendent are not eligible to be employed by a county board unless the individual's certificate is subsequently reinstated by the state superintendent.

(g) This section applies to all public school teachers whether employed by a county board or the governing board of a public charter school.

(h) The state superintendent shall periodically ensure that county boards are acting in compliance with this section.

(i) The state board may propose legislative rules pursuant to §29A-3B-1 et seq. of this code that are necessary to implement the provisions of this section.

Bill Sponsors: Delegates Hill, Pack, Kessinger, Hanna, Ellington, Higginbotham, Foster, P. Martin and Worrell

House Bill 4414: Relating to the selection of language and development milestones for the deaf and hard-of-hearing children

Effective Date: June 5, 2020

Code Referenced: New: §16-1-20

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

Monica DellaMea, Director,
Office of Early & Elementary Learning

Summary: The bill creates a new code section relating to the development of a family-friendly resource for families of children who are deaf or hard-of-hearing. This bill requires that WVDE and DHHR work together to develop this resource, and that the two departments prepare a list of valid and reliable tools or assessments that can be used to determine the receptive and expressive language and literacy development of deaf and hard of hearing children. To assist the two departments with development of the family-friendly resource, the bill directs that an advisory committee shall be established to solicit input from stakeholders. This also requires an aggregated data report annually from WVDE based on West Virginia Universal Pre-K children whose primary exceptionality is deaf and hard-of-hearing. The bill includes a provision that no child's personally identifiable information will be shared in the implementation of the bill.

CHAPTER 16. PUBLIC HEALTH

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-20. Definitions and purpose.

(a) For the purpose of this code:

“English” means and includes spoken English, written English, or English with the use of visual supplements;

“Language developmental milestones” means milestones of development aligned with the existing state instrument used to meet the requirements of federal law for the assessment of children from birth to five years of age, inclusive; and “Language” includes American Sign Language (ASL) and English. (b) For the purposes of developing and using language for a child who is deaf or hard-of-hearing, the following modes of communication may be used as a means for acquiring language:

American Sign Language (ASL) services, spoken language services, dual language services, cued speech and tactile, or a combination thereof.

(c) This section shall apply only to children from birth to five years of age, inclusive.

(d) Implementation of this code is subject to an appropriation by the legislature.

(e) Federal regulations for children age birth through two do not require reporting of measures specific to language and literacy. However, this data is reported for children age three to five and the West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall make this report available to the advisory committee, and available to others upon request.

(f) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education through their agencies that serve children ages birth to five and their families shall jointly select language developmental milestones from existing standardized norms, to develop a family resource for use by families, providers, early interventionists, speech pathologists, educators, and other service providers to understand and monitor deaf and hard-of-hearing children's receptive and expressive language acquisition and progress toward English literacy development. This family resource shall include:

(1) Language that provides comprehensive and neutral, unbiased information regarding different modes used to learn and access language (e.g., English, American Sign Language (ASL), or both) and services and programs designed to meet the needs of children who are deaf or hard-of-hearing;

(2) Language developmental milestones selected pursuant to the process specified in this section;

(3) Language appropriate for use, in both content and administration, with deaf and hard-of-hearing children from birth to five years of age, inclusive, who use both or one of the languages of American Sign Language (ASL) or English;

(4) Developmental milestones in terms of typical development of all children, by age range;

(5) Language written for clarity and ease of use by families;

(6) Language that is aligned with the West Virginia Department of Health and Human Resources' and the West Virginia Department of Education's existing infant, toddler, and preschool guidelines, the existing instrument used to assess the development of children with disabilities pursuant to federal law, and state standards in language and literacy;

(7) Clarification that the parent(s) have the right to select which language (American Sign Language (ASL), English, or both) for their child's language(s) acquisition and developmental milestones;

(8) Clarification that the family resource is not a formal assessment of language and literacy development, and that a family's observations of their children may differ from formal assessment data presented at an individualized family service plan (IFSP) or individual education program (IEP) meeting; and

(9) Clarification that the family resource may be used during an individualized family service plan (IFSP) or individual education program (IEP) meeting for purposes of sharing the family's observations about their child's development.

(g) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall also prepare a list of valid and reliable existing tools or assessments for providers, early interventionists, speech pathologists, educators, and other service providers that can be used periodically to determine the receptive and expressive language and literacy development of deaf and hard-of-hearing children. These educator tools and assessments:

(1) Shall be in a format that shows stages of language development;

(2) Shall be used by providers, early interventionists, speech pathologists, educators, and other service providers to determine the progressing development of deaf and hard-of-hearing children's receptive and expressive language acquisition and developmental stages toward English literacy;

(3) Shall be selected from existing instruments or assessments used to assess the development of all deaf and hard-of-hearing children from birth to five years of age, inclusive;

(4) Shall be appropriate, in both content and administration, for use with children who are deaf and hard-of-hearing;

(5) May be used, in addition to the assessment required by federal law, by the individualized family service plan (IFSP) team and individual education program (IEP) team, as applicable, to track deaf and hard-of-hearing children's progress, and to establish or modify individualized family service plans (IFSPs) and individual education programs (IEPs); and

(6) May reflect the recommendations of the advisory committee established pursuant to §16-1-20(e) of this code.

(h) To promote the intent of this code, the West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall:

(1) Disseminate the family resource developed to families of deaf and hard-of-hearing children, as well as providers, early interventionists, speech pathologists, educators, and related service personnel; and

(2) Disseminate the educator tools and assessments selected to local educational agencies for use in the development and modification of individualized family service plans (IFSPs) and individual education programs (IEPs);

(3) Provide informational materials on the use of the resources, tools, and assessments to assist deaf and hard-of-hearing children in becoming linguistically ready for formal school entry (either itinerant services, West Virginia Universal PreK/PreK Special Needs, or Kindergarten) using the mode(s) of communication and language(s) chosen by the parents.

(i) If a deaf or hard-of-hearing child does not demonstrate progress in receptive and expressive language skills, as measured by one of the educator tools or assessments, or by the existing instrument used to assess the development of children with disabilities pursuant to federal law, as applicable, the child's individualized family service plan (IFSP) team and individual education program (IEP) team shall, as part of the process required by federal law,

explain in detail the reasons why the child is not meeting the language developmental milestones or progressing towards them, and shall recommend specific strategies, services, and programs that shall be provided to assist the child's success toward English literacy development.

(j) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall establish an advisory committee to solicit input from stakeholders identified herein on the selection of language developmental milestones for children who are deaf or hard-of-hearing that are equivalent to those for children who are not deaf or hard-of-hearing, for inclusion in the family resource developed pursuant to this section.

(k) The advisory committee shall be comprised of volunteer individuals representing all known modes of communication, specifically including the following:

(1) One parent of a child who is hard-of-hearing who uses the dual languages of American Sign Language (ASL) and English;

(2) One parent of a child who is deaf or hard-of-hearing who uses assistive technology to communicate with spoken English;

(3) Two or three credentialed providers, early interventionists, speech pathologists, educators, or other service providers of deaf or hard-of-hearing children who are knowledgeable in the use of the dual languages of English and American Sign Language (ASL);

(4) Two or three credentialed providers, early interventionists, speech pathologists, educators, or other service provider of deaf or hard-of-hearing children who are knowledgeable in the use of assistive technology to communicate with spoken English;

(5) One expert who researches or is knowledgeable in the research regarding language outcomes for deaf and hard-of-hearing children using American Sign Language (ASL) or English;

(6) One expert who researches or is knowledgeable in the research regarding language outcomes for deaf and hard-of-hearing children using assistive technology to communicate with spoken English;

(7) One credentialed educator of deaf and hard-of-hearing children whose expertise is in curriculum and instruction in American Sign Language (ASL) and English;

(8) One credentialed educator of deaf and hard-of-hearing children whose expertise is in curriculum and instruction in assistive technology to communicate with spoken English;

(9) One advocate for the teaching and use of the dual languages of American Sign Language (ASL) and English;

(10) One advocate for the teaching and use of instruction in assistive technology to communicate with spoken English; and,

(11) One educational audiologist who can address the issues of aural habilitation and assistive technology to advocate for children using spoken language in mainstream environments.

(l) The advisory committee may also advise the West Virginia Department of Health and Human Resources and the West Virginia Department of Education on the content and administration of the existing instrument used to assess the development of children with disabilities pursuant to federal law, as used to assess deaf and hard-of-hearing children's language and literacy development to ensure the appropriate use of that instrument with those children, and make recommendations regarding future research to improve the measurement of progress of deaf and hard-of-hearing children in language and literacy.

(m) The West Virginia Department of Health and Human Resources and the West Virginia Department of Education shall provide the advisory committee with a list of existing language developmental milestones from existing standardized norms, along with any relevant information held by the departments regarding those language developmental milestones for possible inclusion in the family resource developed pursuant to this section.

(n) After reviewing, the advisory committee shall recommend to the West Virginia Department of Health and Human Resources and the West Virginia Department of Education language developmental milestones for selection.

(o) Commencing on or before July 31, 2021, and on or before each July 31 thereafter, the West Virginia Department of Education shall annually produce an aggregated report, using existing data reported in compliance with the federally required state performance plan on children with disabilities, that is specific to language and literacy development of children whose primary exceptionality is deaf and hard-of-hearing from birth to five years of age, inclusive, including those who are deaf or hard-of-hearing and have other disabilities, relative to their peers who are not deaf or hard-of-hearing. The departments shall make this report available to the advisory committee, the Legislative Oversight Commission on Education Accountability, the Legislative Oversight Commission on Health and Human Resources Accountability, and available to others upon request.

(p) All activities of the West Virginia Department of Health and Human Resources and the West Virginia Department of Education in implementing this code shall be consistent with federal law regarding the education of children with disabilities and federal law regarding the privacy of student information.

Bill Sponsors: Delegates Rowan, Campbell, Rohrbach, Estep, P- Burton, Pyles, C. Martin, Boggs, Toney, Mandt, Lovejoy and Hanna

House Bill 4497: Requiring an external defibrillator device at any secondary school athlete event

Effective Date: June 7, 2020

Code Referenced: New: §18-2-25c

WVDE Contacts: Sarah Stewart, Governmental Affairs Counsel,
Office of Legal Services

Summary: The bill establishes "The Alex Miller Law" in memory of the Roane County football player that died during a high school football game. The bill directs that the SSAC require that an AED (automated external defibrillator) and posted emergency action plan be present on the school or event grounds during all events and practices under SSAC control. Appropriate school sports personnel are required to be trained on use of the AED. Rulemaking authority is provided to the SSAC to implement the provisions of the bill.

CHAPTER 18. EDUCATION

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25c. Defibrillator required at certain events.

(a) In memory of Alex Miller, a Roane County football player who collapsed and died during a school football game, this law shall be known as The Alex Miller Law.

(b) By the 2021-2022 school year, the West Virginia Secondary School Activities Commission shall require that an automated external defibrillator device, as well as a posted emergency action plan, be present on the school or event grounds during the duration of all athletic events and practices under the control, supervision, and regulation of the commission, and that appropriate school sports personnel be trained in the use of the device.

(c) The commission shall propose rules for promulgation by the State Board in accordance with §29A-3B-1 et seq. of this code to implement the provisions of this section including proximity.

(d) No individual, school, county board of education, or other entity shall be held liable for civil damages when such individual, school, county board of education, or other entity in good faith attempted to comply with the requirements of this section or rules promulgated pursuant thereto.

Bill Sponsors: Delegates Mandt, Atkinson, Criss, Hill, Lovejoy, Miller, Linville, Worrell, Hornbuckle, Rohrbach and Ellington

House Bill 4566: Relating to Tuberculosis testing for school superintendents

Effective Date: June 2, 2020

Code Referenced: Amends: §18-4-2

WVDE Contacts: Michele Blatt, Deputy Superintendent

Summary: This bill removes the mandate that county superintendents undergo a tuberculosis test every two years. In lieu of this requirement, the Bureau of Public Health Commissioner may require selective testing when there is reason to believe that a county superintendent may have been exposed to the tuberculosis organism or exhibit symptoms of the tuberculosis disease. County superintendents are encouraged to contact their local health department if they have reason to suspect they have been exposed to tuberculosis or have symptoms of the tuberculosis disease.

CHAPTER 18. EDUCATION

ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

§18-4-2. Qualifications; health certificate; disability; acting superintendent.

(a) Each county superintendent shall hold a professional administrative certificate endorsed for superintendent, or a first class permit endorsed for superintendent, subject to the following:

(1) A superintendent who holds a first class permit may be appointed for one year only, and may be reappointed two times for an additional year each upon an annual evaluation by the county board and a determination of satisfactory performance and reasonable progress toward completion of the requirements for a professional administrative certificate endorsed for superintendent;

(2) Any candidate for superintendent, assistant superintendent or associate superintendent, who possesses an earned doctorate from an accredited institution of higher education and either has completed three successful years of teaching in public education or has the equivalent of three years of experience in management or supervision as defined by state board rule, after employment by the county board shall be granted a permanent administrative certificate and shall be a licensed county superintendent;

(3) The state board shall promulgate a legislative rule in accordance with [§29A-3B-1 et seq.](#) ~~article three b, chapter twenty nine a~~ of this code, to address those cases where a county board finds that course work needed by the county superintendent who holds a first class permit is not available or is not scheduled at state institutions of higher education in a manner which will enable the county superintendent to complete normal requirements for a

professional administrative certificate within the three-year period allowed under the permit; and

(4) Any person employed as assistant superintendent or educational administrator prior to June 27, 1988, and who was previously employed as superintendent is not required to hold the professional administrative certificate endorsed for superintendent.

(b) In addition to other requirements set forth in this section, a county superintendent shall meet the following health-related conditions of employment:

(1) Before entering upon the discharge of his or her duties, file with the president of the county board a certificate from a licensed physician certifying the following:

(A) A tuberculin skin test, of the type Mantoux test (PPD skin test), approved by the Director of the Division of Health, has been made within four months prior to the beginning of the term of the county superintendent; and

(B) The county superintendent does not have tuberculosis in a communicable state based upon the test results and any further study;

~~(2) After completion of the initial test, the county superintendent shall have an approved tuberculin skin test once every two years or more frequently if medically indicated. Positive reactors to the skin test are to be referred immediately to a physician for evaluation and indicated treatment or further studies.~~ The commissioner may require selective testing of superintendents for tuberculosis when there is reason to believe that they may have been exposed to the tuberculosis organism or they have signs and symptoms indicative of the disease. The county superintendent should contact the local health department in instances where they have reason to suspect that they have been exposed to tuberculosis or have symptoms indicative of the disease. Positive reactors to the skin test are to be referred immediately to licensed health care practitioner for evaluation and indicated treatment or further studies;

(3) A county superintendent who is certified by a licensed health care practitioner ~~physician~~ to have tuberculosis in a communicable stage shall have his or her employment discontinued or suspended until the disease has been arrested and is no longer communicable; and

(4) A county superintendent who fails to complete required follow-up examinations as set forth in this subsection shall be suspended from employment until a report of examination is confirmed.

Bill Sponsors: Delegates Atkinson, Bartlett, Cooper, Dean, Ellington, Evans, J. Kelly, Lavender-Bowe, Westfall and Higginbotham

House Bill 469I: Relating to employment in areas of critical need in public education

Effective Date: March 4, 2020

Code Referenced: New: §18A-2-2b
Amends: §18A-2-3

WVDE Contacts: Heather Hutchens, General Counsel,
Office of Legal Services

Joey Wiseman, Director,
Office of Middle & Secondary Learning

Summary: This bill moves the section allowing counties to employ prospective teachers and other professional personnel from 18A-2-3 to its own section of code (18A-2-2b). These professionals will be eligible to become regular employees in the next school year. This bill also renews the provision that allows retired teachers to substitute in areas of critical need and shortage beyond the 140-day limit established by the Consolidated Public Retirement Board (CPRB). The bill clarifies that school counselors are permitted to utilize this provision, consistent with the current statutory definition of "teacher."

CHAPTER 18A. SCHOOL PERSONNEL

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-2b. Employment of prospective teachers and other professional personnel for next ensuing school year; and payment of financial incentive for recruitment.

(a) Notwithstanding any other provision of this code to the contrary, the county superintendent, subject to approval of the county board, may employ prospective teachers and other professional personnel each year who will be placed in positions and begin regular employment in the next ensuing school year. The intent of this section is to enable school systems to recruit and employ prospective teachers and other professional personnel during the prime recruiting season for new graduates in positions in which the county board has a critical need. The employment of prospective teachers and other professional personnel is subject to the following:

(1) The county board adopts a policy authorizing the employment of prospective teachers and other professional personnel to address areas of critical need;

(2) The county board posts a notice of the critical need positions in the county in which the county intends to employ the prospective teachers and other professional personnel. The notice is posted in a conspicuous place in each school or on the county board website for at least ten working days prior to making offers of employment to prospective teachers and other professional personnel;

(3) No qualified applicants currently employed by the county are available and willing to fill the critical need position in the next ensuing school year;

(4) The prospective teachers and other professional personnel may only be employed from candidates who will graduate or have graduated from an institution of higher education during the current school year and will commence employment in the next ensuing school year;

(5) When necessary to facilitate the employment of prospective teachers and other professional personnel who have not yet attained certification, the contract may be signed upon the condition that the certificate is issued to the employee prior to the beginning of the employment term in which the employee enters upon his or her duties;

(6) The number of prospective teachers and other professional personnel employed is limited to the number required to fill the critical need positions posted in accordance with subdivision (2) of this subsection;

(7) For the purpose of recruiting teachers and other professional personnel in critical needs areas and to attract teachers and other professional personnel in a critical need areas, the county board may from local funds pay prospective teachers and other professional personnel a one-time financial incentive such as, but not limited to, a signing bonus or moving expenses, after a contract of employment has been signed;

(8) The prospective teachers and other professional personnel are initially employed on a reserve list at the county level and placed into a school-specific critical need position if the job has been posted at least once resulting in no qualified applicants; and

(9) Regular employment status for prospective teachers and other professional personnel may be obtained only upon recommendation by the superintendent and approval by the county board following consideration of the qualifications of the candidate in accordance with the applicable provisions of §18A-4-7a of this code;

(b) Nothing in this section prevents a county board from filling a posted vacancy in an established, existing or newly created position at any time in accordance with the other provisions of this chapter.

§18A-2-3. Employment of substitute teachers; and employment of retired teachers as substitutes in areas of critical need and shortage.

(a) The county superintendent, subject to approval of the county board, may employ and assign substitute teachers to any of the following duties:

(1) Fill the temporary absence of any teacher or an unexpired school term made vacant by resignation, death, suspension or dismissal;

(2) Fill a teaching position of a regular teacher on leave of absence; and

(3) Perform the instructional services of any teacher who is authorized by law to be absent from class without loss of pay, providing the absence is approved by the board of education in accordance with the law.

The substitute shall be a duly certified teacher.

(b) Notwithstanding any other provision of this code to the contrary, a substitute teacher who has been assigned as a classroom teacher in the same classroom continuously for more than one half of a grading period and whose assignment remains in effect two weeks prior to the end of the grading period, shall remain in the assignment until the grading period has ended, unless the principal of the school certifies that the regularly employed teacher has communicated with and assisted the substitute with the preparation of lesson plans and monitoring student progress or has been approved to return to work by his or her physician. For the purposes of this section, teacher and substitute teacher, in the singular or plural, mean professional educator as defined in section one, article one of this chapter.

(c) (1) The Legislature hereby finds and declares that due to a shortage of qualified substitute teachers, a compelling state interest exists in expanding the use of retired teachers to provide service as substitute teachers in areas of critical need and shortage. The Legislature further finds that diverse circumstances exist among the counties for the expanded use of retired teachers as substitutes.

(2) For the purposes of this subsection:

(A) "Area of critical need and shortage for substitute teachers" means an area of certification and training in which the number of available substitute teachers in the county who hold certification and training in that area and who are not retired is insufficient to meet the projected need for substitute teachers; and

(B) "Teacher or substitute teacher" includes speech pathologists, school nurses and school counselors.

(3) A person receiving retirement benefits under article seven-a, chapter eighteen of this code or who is entitled to retirement benefits during the fiscal year in which that person retired may accept employment as a critical needs substitute teacher for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled if the following conditions are satisfied:

(A) The county board adopts a policy recommended by the superintendent to address areas of critical need and shortage for substitute teachers;

(B) The policy sets forth the areas of critical need and shortage for substitute teachers in the county in accordance with the definition of area of critical need and shortage for substitute teachers set forth in subdivision (2) of this subsection;

(C) The policy provides for the employment of retired teachers as critical needs substitute teachers during the school year on an expanded basis in areas of critical need and shortage for substitute teachers as provided in this subsection;

(D) The policy provides that a retired teacher may be employed as a substitute teacher in an area of critical need and shortage for substitute teachers on an expanded basis as provided in this subsection only when no other teacher who holds certification and training in the area and who is not retired is available and accepts the substitute assignment;

(E) The policy is effective for one school year only and is subject to annual renewal by the county board;

(F) The state board approves the policy and the use of retired teachers as substitute teachers on an expanded basis in areas of critical need and shortage for substitute teachers as provided in this subsection; and

(G) Prior to employment of a retired teacher as a critical needs substitute teacher beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the superintendent of the affected county submits to the state board in a form approved by the Consolidated Public Retirement Board and the state board, an affidavit signed by the superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, the name or names of the person or persons to be employed as a critical needs substitute pursuant to the policy, the critical need and shortage area position filled by each person, the date that the person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement. Upon verification of compliance with this section and the eligibility of the critical needs substitute teacher for employment beyond the post-retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement Board.

(4) Any person who retires and begins work as a critical needs substitute teacher within the same fiscal year in which that person retired shall lose those retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retiree critical needs substitute teacher in that fiscal year and ending with the month following the date the retiree ceases to perform service as a critical needs substitute teacher.

(5) Retired teachers employed to perform expanded substitute service pursuant to this subsection are considered day-to-day, temporary, part-time employees. The substitutes are not eligible for additional pension or other benefits paid to regularly employed employees and may not accrue seniority.

(6) A retired teacher is eligible to be employed as a critical needs substitute teacher to fill a vacant position without any loss of retirement benefits attributed to the annuity reserve only if the retired teacher's retirement became effective before the first day of July preceding at least the fiscal year during which he or she is employed as a critical needs substitute teacher.

(7) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the county board shall continue to post the vacant position until it is filled with a regularly employed teacher who is fully certified or permitted for the position.

(8) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the position vacancy shall be posted electronically and easily accessible to prospective employees as determined by the state board.

(9) Until this subsection is expired pursuant to subdivision (10) of this subsection, the state board shall report to the Joint Committee on Government and Finance, prior to February 1 of each year, information indicating the effectiveness of the provisions of this subsection on reducing the critical need and shortage of substitute teachers including, but not limited to, the number of retired teachers, by critical need and shortage area position filled and by county, employed beyond the post-retirement employment limit established by the Consolidated Public Retirement Board, the date that each person gave notice to the county board of the

person's intent to retire, and the effective date of the person's retirement. A copy of the report shall also be provided to the Legislative Oversight Commission on Education Accountability.

(10) The provisions of this subsection shall expire on June 30, 2025.

~~(d) (1) Notwithstanding any other provision of this code to the contrary, each year a county superintendent may employ prospective employable professional personnel on a reserve list at the county level subject to the following conditions:~~

~~(A) The county board adopts a policy authorizing the employment of prospective employable professional personnel to address areas of critical need and shortage;~~

~~(B) The county board posts a notice of the critical need and shortage area positions in the county in a conspicuous place in each school or on the county website for at least ten working days prior to making offers of employment to prospective candidates; and~~

~~(C) There are not any potentially qualified applicants available and willing to fill the position.~~

~~(2) Prospective employable professional personnel may only be employed from candidates at a job fair who have or will graduate from college in the current school year and will commence employment at the next employment term.~~

~~(3) The number of prospective employable professional personnel employed is limited to the number required to fill the critical need and shortage area positions posted in accordance with subdivision (1) of this subsection.~~

~~(4) Prospective employable professional personnel shall be granted benefits at a cost to the county board and as a condition of the employment contract as approved by the county board.~~

~~(5) Regular employment status for prospective employable professional personnel may be obtained only upon recommendation by the superintendent and approval by the county board following consideration of the qualifications of the candidate in accordance with the applicable provisions of section seven a, article four of this chapter. Upon board approval, prospective employable professional personnel may be placed into a critical needs position if the job has been posted at least once in accordance with paragraph (B), subdivision (1) of this subsection resulting in no qualified applicants. Employment of the prospective employable professional personnel pursuant to this subsection may occur without the need for additional postings and without the need for additional faculty senate involvement other than the initial faculty senate involvement required in the case of a classroom teaching position pursuant to section seven a, article four of this chapter.~~

~~(6) Nothing in this subsection prevents a county board from filling a posted vacancy in an established, existing or newly created position at any time in accordance with the other provisions of this chapter.~~

~~(7) For the purpose of recruiting professional personnel in critical needs areas and to attract professional personnel in a critical need or shortage area, county boards of education may from local funds pay prospective employable professional personnel a one time financial incentive such as, but not limited to, a signing bonus or moving expenses, after a contract of employment has been signed.~~

Bill Sponsors: Delegates Ellington, Dean, Espinosa, Cooper, Hannah, Atkinson, Evans, Hornbuckle and Campbell

House Bill 4773: **Creating a workgroup to investigate and recommend screening protocols for adverse childhood trauma in this state**

Effective Date: June 4, 2020

Code Referenced: New: §16-5AA-1

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

Susan Beck, Director,
Office of Special Education

Summary: The bill authorizes the Bureau for Public Health Commissioner to assemble a workgroup to study adverse childhood trauma and its impact on the people of West Virginia. The State Superintendent (or designee) is one of the statutory listed members of the workgroup. The workgroup is charged with developing recommended protocols regarding screening for adverse childhood trauma. The bill contemplates the workgroup holding public meetings in each of the three congressional districts with respect to such protocols and submitting a final report to the Joint Committee no later than June 30, 2021.

CHAPTER 16. PUBLIC HEALTH

ARTICLE 5AA. SCREENING PROTOCOLS FOR ADVERSE CHILDHOOD EXPERIENCES.

§16-5AA-1. Development of Screening Protocols for Adverse Childhood Experiences.

(a) The Commissioner of the Bureau for Public Health may form a workgroup to conduct a study of adverse childhood experiences and their impact on the people of West Virginia. The workgroup may be comprised of the following members:

(1) The Commissioner of the Bureau of Children and Families, or his or her designee;

(2) The Dean of the West Virginia University School of Medicine, or his or her designee;

(3) The Dean of the Marshall University Joan C. Edwards School of Medicine, or his or her designee;

(4) The Dean of the West Virginia School of Osteopathic Medicine, or his or her designee;

(5) The Executive Director of the West Virginia Herbert Henderson Office of Minority Affairs, or his or her designee;

(6) The Director of the Office of Maternal, Child and Family Health, or his or her designee;

(7) Up to three representatives of primary care providers chosen by the West Virginia Primary Care Association;

(8) Up to three representatives of behavioral healthcare providers chosen by the West Virginia Behavioral Healthcare Providers Association;

(9) Up to two members chosen by the Adverse Childhood Experiences Coalition of West Virginia;

(10) One member chosen by the West Virginia Rural Health Association;

(11) One member chosen by the West Virginia Hospital Association;

(12) One member chosen by the West Virginia Nurses Association;

(13) One member chosen by the West Virginia Chapter of the American Academy of Pediatrics;

(14) One member chosen by the West Virginia State Medical Association;

(15) One member chosen by the West Virginia Osteopathic Medical Association;

(16) One member chosen by the West Virginia Academy of Family Physicians;

(17) One member chosen by the West Virginia Association of Physician Assistants;

(18) One member chosen by the West Virginia Association of School Nurses;

(19) One member representing parents chosen by the West Virginia Circle of Parents Network;

(20) One member chosen by the West Virginia Foster, Adoptive and Kinship Network;

(21) The Commissioner of the Bureau for Behavioral Health, or his or her designee;

(22) One representative of the West Virginia Defending Childhood Initiative, commonly referred to as "Handle With Care," chosen by the West Virginia Children's Justice Task Force;

(23) One member chosen by the West Virginia Chapter of the National Association for the Advancement of Colored People; and

(24) The West Virginia State Superintendent of Schools, or his or her designee.

(b) The Commissioner of the Bureau for Public Health may designate additional persons who may participate in the meetings of the workgroup: *Provided*, That any such person must be the administrative head of the office or division whose functions necessitate his or her inclusion in this process.

(c) The workgroup may develop recommended guidance, tools, and protocols for primary health care practitioners to undertake the following:

(1) Provide information to patients regarding the impact of adverse and positive childhood experiences on physical and mental health, and the risks and benefits of screening patients for adverse child experiences;

(2) Screen patients for adverse child experiences, childhood trauma, and positive childhood experiences that may impact a patient's physical or mental health or the provision of health care services to the patient; and

(3) Within the context of a comprehensive systems approach, provide clinical response that medical providers should follow after screening, such as:

(A) Applying principles of trauma-informed care;

(B) Identification and treatment of adverse childhood experiences and associated health conditions;

(C) Patient education about toxic stress and buffering interventions, including supportive relationships, mental health treatment, exercise, sleep hygiene, healthy nutrition, and mindfulness and meditation practices;

(D) Validation of existing strengths and protective factors;

(E) Referral to patient resources which may include, but are not limited to, counseling and treatment programs, community-based medical and non-medical resources, and family support programs; and

(F) Follow-up as necessary.

(d) The workgroup may develop recommendations for education and training requirements to be completed for administering the screening process, trauma-informed care, and clinical response as described in this section.

(e) The Bureau for Public Health may provide staff for the workgroup. The workgroup may schedule one public hearing in each of the congressional districts in West Virginia as it relates to the screening protocols for adverse childhood experiences. The workgroup may develop and approve a final report by June 30, 2021, and a copy may be submitted to the Joint Committee on Government and Finance of the Legislature and the Governor. The workgroup will sunset on March 31, 2022.

(f) The Bureau for Public Health may develop screening protocols for adverse childhood experiences and make recommendations in a report to be submitted to the Governor no later than December 31, 2021: *Provided*, That prior to submission, the bureau may present its proposed screening protocols for adverse childhood experiences to the Legislative Oversight Committee on Health and Human Resources within 90 days after development of the drafts and prior to submission of the final protocols to the Governor. The Legislative Oversight Committee on Health and Human Resources shall have 90 days to review the standards and provide input to the bureau, which shall consider such input when developing the final standards for submission to the Governor. Upon submission to the Governor, the report may be distributed to all health care provider organizations in the state for consideration for adoption.

(g) Any screening protocols for adverse childhood experiences drafted pursuant to this section shall not become effective until on or after March 31, 2021.

Bill Sponsors: Delegates Zukoff, Rowan, Ellington, Staggers, Rohrbach, Lavender-Bowe, Estep-Burton, Pyles, Pushkin and Lovejoy

House Bill 4780: Permitting county boards to offer elective courses of instruction on the bible

Effective Date: June 4, 2020

Code Referenced: New: §18-2-9a

WVDE Contacts: Heather Hutchens, General Counsel,
Office of Legal Services

Summary: The bill states that county boards may offer to students in grades 9-12 elective social studies courses on the following topics: (1) Hebrew Scriptures, Old Testament of the Bible, (2) New Testament of the Bible; and (3) Hebrew Scriptures and the New Testament of the Bible. Students choosing to participate in such electives cannot be required to use a specific translation of the Bible. Any course offered under the terms of the bill must not violate either the U.S. or West Virginia constitution, and the WVBE is to provide guidance to county boards on complying with the bill.

CHAPTER 18. EDUCATION

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-9a. Elective courses of instruction on the Bible.

(a) County boards of education may offer to students in grade nine or above:

(1) An elective social studies course on the Hebrew Scriptures, Old Testament of the Bible;

(2) An elective social studies course on the New Testament of the Bible; or

(3) An elective social studies course on the Hebrew Scriptures and the New Testament of the Bible.

(b) The purpose of a course under this section is to:

(1) Teach students knowledge of biblical content, characters, poetry, and narratives that are prerequisites to understanding the development of American society and culture, including literature, art, music, mores, oratory, and public policy; and

(2) Familiarize students with, as applicable:

(A) The contents of the Hebrew Scriptures or New Testament;

(B) The history of the Hebrew Scriptures or New Testament;

(C) The literary style and structure of the Hebrew Scriptures or New Testament; and

(D) The influence of the Hebrew Scriptures or New Testament on law, history, government, literature, art, music, customs, morals, values, and culture.

(c) A student may not be required to use a specific translation as the sole text of the Hebrew Scriptures or New Testament and may use as the basic textbook a different translation of the Hebrew Scriptures or New Testament from that chosen by the county board or school.

(d) The county board of education shall submit to the West Virginia Department of Education the course standards for any elective to be offered pursuant to subsection (a), of this section including the teacher qualifications and required professional development.

(e) A course offered under this section shall follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious views, traditions, and perspectives of students in the school. A course under this section may not endorse, favor, promote, disfavor, or show hostility toward, any particular religion or nonreligious faith or religious perspective. Any county board offering a course under this section, shall not violate any provision of the United States Constitution or federal law, the West Virginia Constitution or any state law, any administrative regulations of the United States Department of Education, or any rule of the state board. The state board shall provide guidance to the county boards on complying with the requirements of this subsection.

Bill Sponsors: Delegates, Bartlett, D. Jeffries, Fast, P. Martin, Dean, C. Martin, Porterfield, Waxman, Foster, Butler and Rodighiero

House Bill 4790: Relating to career technical education for middle school students

Effective Date: June 4, 2020

Code Referenced: Amends: §18-2-7d

WVDE Contacts: Clinton Burch, Senior Officer,
Technical & Adult Education

Summary: The bill modifies current language regarding the State Board's policy on general workforce and career preparedness. Specifically, the policy must include career exploration and CTE foundational courses at the middle school level. The bill directs that starting in the 2022-2023 school year, county boards of education must provide elective CTE courses to middle school students. These courses may include, but are not limited to, foundational CTE courses or CTE courses with a specialized focus on (1) high-need occupational areas within the area/region, (2) agriculture, (3) industrial arts, or (4) family/consumer sciences.

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.~~ the knowledge, college and career skills and life characteristics needed for success in occupations and entrepreneurship in the changing world of work. At the middle school level, the program may be integrated with comprehensive career exploration which also may include, but is not limited to, Career Technical Education foundational courses, stand-alone Career Exploration courses and mini courses, field trips, guest speakers, and career mentors as provided in the state board rule.

(c) Beginning with the school year 2022 – 2023, county boards of education shall provide elective Career Technical Education courses for middle school students that may include, but are not limited to, foundational Career Technical Education courses, Career Technical Education courses developed with a focus on high need occupational areas within the area or region, agriculture, industrial arts and family and consumer sciences.

Bill Sponsors: Delegates Ellington, Higginbotham, Atkinson, Hanna, Toney, Waxman, Hornbuckle, Campbell, Lavender-Bowe, R. Thompson and Zukoff

House Bill 4804: Relating to comprehensive systems of support for teacher and leader induction and professional growth

Effective Date: June 7, 2020

Code Referenced: Amends: §18-9A-10, §18A-3C-3

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

Amy Willard, School Operations Officer,
Office School Operations

Summary: The bill instructs the WVDE to establish guidelines and provide support to districts for teacher induction and teacher-leader programs funded via Step 7d of the school aid formula. The WVDE is authorized to form networks among schools and school systems for design and implementation of teacher-leader frameworks. The WVDE is to retain \$100,000 for the next five years of Step 7d funding with the goal of putting in place an effective teacher-leader framework. As part of the teacher-leader framework, the bill authorizes county boards of education to provide additional compensation to teachers who, in addition to teaching duties, are assigned other duties for new teacher induction, improving professional practices and further professional growth among teachers.

CHAPTER 18. EDUCATION

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10. Foundation allowance to improve instructional programs, instructional technology, and teacher and leader induction and professional growth.

(a) The total allowance to improve instructional programs and instructional technology is the sum of the following:

(1) For instructional improvement, in accordance with county and school electronic strategic improvement plans required by §18-2E-5 of this code, an amount equal to 10 percent ~~ten percent~~ of the increase in the local share amount for the next school year shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as follows:

(A) One hundred fifty thousand dollars shall be allocated to each county; and

(B) Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

Moneys allocated by this subdivision shall be used to improve instructional programs according to the county and school strategic improvement plans required by §18-2E-5 of this code and approved by the state board.

Up to 50 percent ~~fifty percent~~ of this allocation for the improvement of instructional programs may be used to employ professional educators and service personnel in the county.

Prior to the use of any funds from this subdivision for personnel costs, the county board must receive authorization from the State Superintendent. The State Superintendent shall require the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties in the use of the total local district board budget; and (4) employment of technology integration specialists to meet the needs for implementation of the West Virginia Strategic Technology Learning Plan. County boards shall make application for the use of funds for personnel for the next fiscal year by May 1 of each year. On or before June 1, the State Superintendent shall review all applications and notify applying county boards of the approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The State Superintendent shall require the county board to demonstrate the need for an allocation for personnel based upon the county's inability to meet the requirements of state law or state board policy.

The funds available for personnel under this subdivision may not be used to increase the total number of professional noninstructional personnel in the central office beyond four.

The plan shall be made available for distribution to the public at the office of each affected county board; plus

(2) For the purposes of improving instructional technology, an amount equal to 20 percent ~~twenty percent~~ of the increase in the local share amount for the next school year shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as follows:

(A) Thirty thousand dollars shall be allocated to each county; and

(B) Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

Moneys allocated by this subdivision shall be used to improve instructional technology programs according to the county board's strategic technology learning plan.

This allocation for the improvement of instructional technology programs may also be used for the employment of technology system specialists essential for the technology systems of the schools of the county to be fully functional and readily available when needed by classroom teachers. The amount of this allocation used for the employment of technology system specialists shall be included and justified in the county board's strategic technology learning plan; plus

(3) One percent of the state average per pupil state aid multiplied by the number of students enrolled in dual credit, advanced placement and international baccalaureate courses, as defined by the state board, distributed to the counties proportionate to enrollment in these courses in each county; plus

(4) For the purpose of supporting county-level implementation of the comprehensive systems for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this code, an amount equal to 20 percent ~~twenty percent~~ of the increase in the local share amount for the next school year shall be added to the amount of the appropriation for this purpose for the immediately preceding school year.

The sum of these amounts shall be allocated to the counties in a manner established by the state board which takes into account the following factors:

(A) The number of full-time-equivalent teachers employed by the county with zero years of experience;

(B) The total number of full-time-equivalent teachers employed by the county with one year of experience, with two years of experience and with three years of experience;

(C) The number of full-time-equivalent principals, assistant principals and vocational administrators employed by the county who are in their first or second year of employment as a principal, assistant principal or vocational administrator;

(D) The number of full-time-equivalent principals, assistant principals and vocational administrators employed by the county who are in their first year in an assignment at a school with a programmatic level in which they have not previously served as a principal, assistant principal or vocational administrator; and

(E) Needs identified in the strategic plans for continuous improvement of schools and school systems including those identified through the performance evaluations of professional personnel.

Notwithstanding any provision of this subsection to the contrary, no county may receive an allocation for the purposes of this subdivision which is less than the county's total 2016-2017 allocation from the Teacher Mentor and Principals Mentorship appropriations to the Department of Education. Moneys allocated by this subdivision shall be used for implementation of the comprehensive systems for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this code; plus, Notwithstanding any provision of this subsection to the contrary, for each of the five school years beginning with the school year 2020 – 2021 and ending after the school year 2024 – 2025, from funds to be allocated under this subdivision, \$100,000 shall be retained by the Department of Education to assist county boards with the design and implementation of a teacher leader framework to accomplish the teacher induction and professional growth aspects of their comprehensive systems of support for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this code; plus

(5) An amount not less than the amount required to meet debt service requirements on any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1, 1994, shall be paid by the Department of Education in accordance with the expenditure schedule approved by the state budget office into the School Building Capital Improvements Fund created by §18-9D-6 of this code and shall be used solely for the purposes of that article. The School Building Capital Improvements Fund shall not be utilized to meet the debt services requirement on any revenue bonds or revenue refunding bonds for which moneys contained within the School Building Debt Service Fund have been pledged for repayment pursuant to that section.

(b) Notwithstanding the restrictions on the use of funds pursuant to subdivisions (1) and (2), subsection (a) of this section, a county board may:

(1) Utilize up to 25 percent ~~twenty-five percent~~ of the allocation for the improvement of instructional programs in any school year for school facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used for any of these purposes shall be included and justified in the county and school strategic improvement plans or amendments thereto; and

(2) Utilize up to 50 percent ~~fifty percent~~ of the allocation for improving instructional technology in any school year for school facility and equipment repair, maintenance, and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used for any of these purposes shall be included and justified in the county board's strategic technology learning plan or amendments thereto.

(c) When the school improvement bonds secured by funds from the School Building Capital Improvements Fund mature, the State Board of Education shall annually deposit an amount equal to \$24 million ~~\$24,000,000~~ from the funds allocated in this section into the School Construction Fund created pursuant to the provisions of §18-9D-6 of this code to continue funding school facility construction and improvements.

(d) Any project funded by the School Building Authority shall be in accordance with a comprehensive educational facility plan which must be approved by the state board and the School Building Authority.

§18A-3C-3. Comprehensive system for teacher and leader induction and professional growth.

(a) The intent of the Legislature is to allow for local-level implementation of comprehensive systems of support for building professional practice consistent with sound educational practices and resources available. In this regard, it is the intent of the Legislature that the comprehensive systems of support shall incorporate support for improved professional performance that begins with meaningful assistance for beginning teachers and leaders and also is targeted on deficiencies identified through the educator personnel evaluation process and other professional development needs identified in the strategic plans for continuous improvement of schools and school systems ~~that is targeted on deficiencies identified through the educator personnel evaluation process and other professional development needs identified in the strategic plans for continuous improvement of schools and school systems~~. Further, because of significant variability among the counties, not only in the size of their teaching force, distribution of facilities and available resources, but also because of their varying needs, the Legislature intends for the implementation of this section to be accomplished in a manner that provides adequate flexibility to the counties to design and implement a comprehensive system of support for improving professional performance that best achieves the goals of this section within the county. Finally, because of the critical importance of ensuring that all teachers perform at the accomplished level or higher in the delivery of instruction that at least meets the West Virginia Professional Teaching Standards and because achieving this objective at a minimum entails providing assistance to address the needs as indicated by the data informed results of annual performance evaluations, including the self-assessed needs of the teachers themselves, the Legislature expects the highest priority for county and state professional development will be on meeting these needs and that the comprehensive systems of support for improving professional practice will reflect

substantial redirection of existing professional development resources toward this highest priority.

(b) On or before July 1, 2018, the state board shall publish guidelines on the design and implementation of a county-level comprehensive system of support for improving professional practice. The purpose of the guidelines is to assist the county board with the design and implementation of a system that best achieves the goals of this section within the county.

The guidelines may include examples of best practices and resources available to county boards to assist them with the design and implementation of a comprehensive system: of support and may include guidelines for the design and implementation of a teacher leader framework committed to improving the quality of instruction.

(c) Effective for the school year beginning July 1, 2018, and thereafter, a county board is not eligible to receive state funding appropriated for the purposes of this section or any other provision of law related to beginning teacher and principal internships and mentor teachers and principals unless it has adopted a plan for implementation of a comprehensive system of support for improving professional practice, the plan has been verified by the state board as meeting the requirements of this section and the county is implementing the plan. The plan shall address the following:

(1) The manner in which the county will provide the strong school-based support and supervision that will assist beginning teachers in developing instructional and management strategies, procedural and policy expertise, and other professional practices they need to be successful in the classroom and perform at the accomplished level. Nothing in this subdivision prohibits a school or school system that was granted an exception or waiver from §18A-3-2c of this code prior to the effective date of this section from continuing implementation of the program in accordance with the exception or waiver;

(2) The manner in which the county will provide the strong support and supervision that will assist beginning principals in developing instructional leadership, supervisory, and management strategies, procedural and policy expertise, and other professional practices they need to be successful in leading continuous school improvement and performing at the accomplished level or above;

(3) The manner in which the county in cooperation with the teacher preparation programs in this state will provide strong school-based support and assistance necessary to make student teaching a productive learning experience;

(4) The manner in which the county will use the data from the educator performance evaluation system to serve as the basis for providing professional development specifically targeted on the area or areas identified through the evaluation process as needing improvement. If possible, this targeted professional development should be delivered at the school site using collaborative processes, mentoring or coaching or other approaches that maximize use of the instructional setting;

(5) The manner in which the county will use the data from the educator performance evaluation system to serve as the basis for establishing priorities for the provision of county-level professional development when aggregate evaluation data from the county's schools indicates an area or areas of needed improvement;

(6) If a county uses master teachers, mentors, academic coaches, or any other approaches using individual employees to provide support, supervision, or other professional development or training to other employees for the purpose of improving their professional practice, the manner in which the county will select each of these individual employees based upon demonstrated superior performance and competence as well as the manner in which the county will coordinate support for these employees. If the duties of the position are to provide mentoring to an individual teacher at only one school, then priority shall be given to applicants employed at the school at which those duties will be performed;

(7) The manner in which the county will use local resources available, including, but not limited to, funds for professional development and academic coaches, to focus on the priority professional development goals of this section;

(8) The manner in which the county will adjust its scheduling, use of substitutes, collaborative planning time, calendar, or other measures as may be necessary to provide sufficient time for professional personnel to accomplish the goals of this section as set forth in the county's plan; and

(9) The manner in which the county will monitor and evaluate the effectiveness of implementation and outcomes of the county system of support for improving professional practice.

(d) Effective the school year beginning ~~July 1, 2020, July 1, 2018,~~ and thereafter, appropriations for supporting county level implementation of the comprehensive systems of support for teacher and leader induction and professional growth pursuant to §18-9A-10 of this code and any new appropriation which may be made for the purposes of this section shall be expended by county boards only to accomplish the activities as set forth in their county plan pursuant to this section. Effective the school year beginning July 1, 2020, and thereafter, any employee service or employment as a mentor is not subject to the provisions of this code governing extra duty contracts. A county board may adopt a teacher leader framework designed to accomplish the purposes of this section related to teacher induction and professional growth and, if the county board adopts a county salary supplement pursuant to §18A-4-5a of this code to provide additional compensation to teachers who, in addition to teaching duties, are assigned other duties for new teacher induction, improving professional practice and furthering professional growth among teachers as set forth in the county's comprehensive system of support, then appropriations made for supporting the purposes of this section may be applied to that salary supplement and other associated costs which may include a reduction in the teaching load of the teacher leader. ~~for beginning teacher and principal mentors and internships and any new appropriation which may be made for the purposes of this section shall be expended by county boards only to accomplish the activities as set forth in their county plan pursuant to this section. Effective the school year beginning July 1, 2018, and thereafter, no specific level of compensation is guaranteed for any employee service or employment as a mentor and such service or employment is not subject to the provisions of this code governing extra duty contracts.~~

~~(e) The Legislative Oversight Commission on Education Accountability shall review the progress of the implementation of this article and may make any recommendations it considers necessary to the Legislature during the 2019 regular legislative session.~~ (e) The Department of Education shall assist county boards with the design and implementation of a teacher leader framework to accomplish the teacher induction and professional growth

aspects of their comprehensive systems of support pursuant to this section. The goals of a teacher leader framework are to achieve:

(1) Increased student achievement and growth through the development of a shared leadership structure at the school level;

(2) Broader dissemination and use of effective teacher strategies through an increase in teacher collaboration; and

(3) Stronger and more positive school and district culture through the development and retention of highly effective teachers.

(f) The Department of Education may form networks among schools or school systems, or both, of comparable size and interests for the design and implementation of teacher leader frameworks that are:

(A) Driven by varying district and school needs;

(B) Related to existing state and district initiatives;

(C) Designed to improve student achievement and growth; and

(D) Designed to fit district size, current culture for collaboration, and funding capacity.

(g) A teacher leader framework adopted by a county board must:

(1) Create specific roles and responsibilities, eligibility requirements, and compensation plans for each teacher leader position, and clearly communicate these to teacher leaders, administrators, and other stakeholders;

(2) Provide regular, targeted professional learning opportunities for teacher leaders, and encourage redelivery within their respective schools;

(3) Provide time and opportunities for teacher leaders to collaborate with administrators, curriculum staff, other teacher leaders, and teachers;

(4) Monitor and evaluate the effectiveness of the teacher leader program through surveys from school administrators and school faculty; and

(5) Include teacher leaders in the school improvement planning process.

(h) The Legislative Oversight Commission on Education Accountability shall review the progress of the implementation of the comprehensive systems of support for teacher and leader induction and professional growth and may make any recommendations it considers necessary to the Legislature during the next regular legislative session.

Bill Sponsors: Delegates Ellington, Espinosa, Cowles, Householder, Atkinson, Hardy, Higginbotham, Bibby and C. Thompson

House Bill 4925: Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs

Effective Date: June 4, 2020

Code Referenced: Amends: §18-2-25

WVDE Contacts: Sarah Stewart, Governmental Affairs Counsel,
Office of Legal Services

Summary: The bill allows home school students meeting the following criteria to be eligible to participate in SSAC sanctioned activities: (1) provide evidence of academic progress (score within 4th stanine) for one year on a nationally recognized standardized test; (2) enrolls in at least one virtual course per semester; (3) has not reached the age of 19 by August 1 of the current school year; (4) is an amateur receiving no compensation; (5) complies with all SSAC disciplinary rules; (6) complies with all county board disciplinary rules; and (7) obeys all SSAC rules governing awards, all-star games, parental consents, physical exams, and vaccinations. Eligibility is limited to the school attendance zone in which the student lives. SSAC transfer rules apply to home school students and such students may be charged only those fees also imposed upon public school students.

CHAPTER 18. EDUCATION

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students.

(a) The county boards of education shall exercise the control, supervision, and regulation of all interscholastic athletic events, and other extracurricular activities of the students in public secondary schools, and of those schools of their respective counties. ~~The county boards of education are hereby granted and shall exercise the control, supervision and regulation of all interscholastic athletic events, and other extracurricular activities of the students in public secondary schools, and of said schools of their respective counties. The county board of education may delegate such control, supervision and regulation of interscholastic athletic events and band activities to the "West Virginia Secondary School Activities Commission," which is hereby established.~~

(b) The West Virginia Secondary School Activities Commission shall be composed of the principals, or their representatives, of those secondary schools whose county boards of education have certified in writing to the State Superintendent of Schools that they have elected to delegate the control, supervision, and regulation of their interscholastic athletic

events and band activities of the students in the public secondary schools in their respective counties to ~~the said~~ commission. The West Virginia Secondary School Activities Commission is hereby empowered to exercise the control, supervision and regulation of interscholastic athletic events and band activities of secondary schools, delegated to it pursuant to this section. The rules ~~and regulations~~ of the West Virginia Secondary School Activities Commission shall contain a provision for a proper review procedure and review board and be promulgated in accordance with the provisions of chapter ~~29A twenty-nine-a~~ of this code, but shall, in all instances be subject to the prior approval of the State board. The West Virginia Secondary School Activities Commission, may, with the consent of the State Board of Education, incorporate under the name of "West Virginia Secondary School Activities Commission, Inc.," as a nonprofit, nonstock corporation under the provisions of chapter ~~31 thirty-one~~ of this code. County boards of education are hereby authorized to expend moneys for and pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to such commission, as well as moneys derived from any contest or other event sponsored by said commission, shall be quasi-public funds as the same are defined in §18-5-1 et seq. of this code article five, chapter eighteen, and such funds of the commission shall be subject to an annual audit by the State Tax Commissioner.

(c) The West Virginia secondary school activities commission shall promulgate reasonable rules and regulations providing for the control, supervision and regulation of the interscholastic athletic events and other extracurricular activities of such private and parochial secondary schools as elect to delegate to such commission such control, supervision and regulation, upon the same terms and conditions, subject to the same regulations and requirements and upon the payment of the same fees and charges as those provided for public secondary schools. Any such private or parochial secondary school shall receive any monetary or other benefits in the same manner and in the same proportion as any public secondary school.

(d) Notwithstanding any other provision of this section, or the commission's rules, the commission shall consider eligible for participation in interscholastic athletic events and other extracurricular activities of secondary schools a student who is receiving home instruction pursuant to §18-8-1(c) of this code and who:

(1) Has demonstrated satisfactory evidence of academic progress for one year in compliance with the provisions of that subsection: Provided, That the student's average test results are within or above the fourth stanine in all subject areas;

(2) Is enrolled in at least one virtual instructional course per semester, consistent with the applicable virtual instruction policy of the county board in which the home-schooled student lives and the State Board;

(3) Has not reached the age of 19 by August 1 of the current school year;

(4) Is an amateur who receives no compensation but participates solely for the educational, physical, mental and social benefits of the activity;

(5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School Activities Commission and the county board in which the home-schooled student lives; and

(6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission governing awards, all-star games, parental consents, physical examinations, and vaccinations applicable to all high school athletes.

Eligibility is limited to participation in interscholastic athletic events and other extracurricular activities at the public secondary school serving the attendance zone in which the student lives: Provided, That home-schooled students who leave a member school during the school year are subject to the same transfer protocols that apply to member-to-member transfers. Reasonable fees may be charged to the student to cover the costs of participation in interscholastic athletic events and other extracurricular activities.

(e) The West Virginia Secondary School Activities Commission shall recognize preparatory athletic programs, whose participants attend a secondary school in West Virginia for academic instruction, as nonparticipating members of the commission solely for the purpose of competing on the national level: Provided, That the preparatory athletic program shall pay the same fees as member schools. Such recognition does not entitle the preparatory athletic program to compete against a member school during the regular season or in any commission state championship events. The commission may promulgate an emergency rule pursuant to subsection (b) of this section, if necessary, to carry out the intent of this subsection.

Bill Sponsors: Delegates Kessinger, Hornbuckle, Maynard and Campbell

House Bill 4497: Requiring an external defibrillator device at any secondary school athlete event

Effective Date: June 7, 2020

Code Referenced: New: §18-2-25c

WVDE Contacts: Sarah Stewart, Governmental Affairs Counsel,
Office of Legal Services

Summary: The bill establishes "The Alex Miller Law" in memory of the Roane County football player that died during a high school football game. The bill directs that the SSAC require that an AED (automated external defibrillator) and posted emergency action plan be present on the school or event grounds during all events and practices under SSAC control. Appropriate school sports personnel are required to be trained on use of the AED. Rulemaking authority is provided to the SSAC to implement the provisions of the bill.

CHAPTER 18. EDUCATION

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25c. Defibrillator required at certain events.

(a) In memory of Alex Miller, a Roane County football player who collapsed and died during a school football game, this law shall be known as The Alex Miller Law.

(b) By the 2021-2022 school year, the West Virginia Secondary School Activities Commission shall require that an automated external defibrillator device, as well as a posted emergency action plan, be present on the school or event grounds during the duration of all athletic events and practices under the control, supervision, and regulation of the commission, and that appropriate school sports personnel be trained in the use of the device.

(c) The commission shall propose rules for promulgation by the State Board in accordance with §29A-3B-1 et seq. of this code to implement the provisions of this section including proximity.

(d) No individual, school, county board of education, or other entity shall be held liable for civil damages when such individual, school, county board of education, or other entity in good faith attempted to comply with the requirements of this section or rules promulgated pursuant thereto.

Bill Sponsors: Delegates Mandt, Atkinson, Criss, Hill, Lovejoy, Miller, Linville, Worrell, Hornbuckle, Rohrbach and Ellington



W. Clayton Burch
West Virginia Superintendent of Schools