

# Legislative & Legal Update: “Ignorance of the Law is No Excuse!”

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## A Word About This Presentation

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- Information we present may at any time become outdated by changes in the school laws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



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## Our Agenda

- Keeping up with the school laws
- Some Bills that DID NOT Pass
- Bills that DID pass
- State Board of Education policy developments
- As time permits, some recent decisions from the courts and the Grievance Board

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

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## *Education Law Updates*



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

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### *Join the Mailing Lists*

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

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SOME BILLS THAT DID NOT  
PASS

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- Senate Bill 152: Displaying official US motto in public schools
  - “In God We Trust” with images of US and WV flags, posted conspicuously, purchased with private funds
- Senate Bill 189: Providing for substantial deference to state school superintendent’s interpretations of school laws
  - Except when a court has already given a contrary interpretation

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- Senate Bill 197: Prohibiting obscene materials in or within 2,500 feet of schools
  - Criminal felony, civil actions
- Senate Bill 468: Requiring course in public schools on human development
  - The “Meet Baby Olivia” video in grades 8 or 10

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- Senate Bill 496: Prohibiting racial discrimination based on certain hair textures and hairstyles
  - The “Crown Act”
- Senate Bill 614: Relating to elementary behavior intervention and safety
  - Teacher removal of dangerous/disruptive K-6 students, followed by behavior intervention program or suspension with alternative learning accommodation, with a provisional return to school

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- Senate Bill 727: Revising process for county boards of education to hire support staff
  - Aide and ECCAT vacancies: Adding principal and faculty senate recommendations to the criteria for selection, double-weighting those factors, requiring the appointment of any candidate recommended by the principal, faculty senate and a service person from the school who participates in the decision
- House Bill 4299: Permit teachers in K-12 schools be authorized to carry concealed firearms as a designated school protection officer
  - Boards would have to honor teachers’ requests to conceal carry in classrooms

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- House Bill 4851: To allow for public and private schools to employ security personnel
  - Hired school security personnel: Training standards, carrying firearms, detaining suspects

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Bills that DID pass

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

15

*1. Governance*

16



## **House Bill 5514**

### **Enhancing training requirements for county boards of education members**

In effect June 6, 2024

17

## Training

- When required orientation training is missed for good cause,
  - elected members must complete it within 30 days of swearing in
  - appointed members within 30 days of appointment
- Annual required training hours are now 12, not 7
  - At State Superintendent's request, State Board may require a county board member to attend additional training to assist in "successfully fulfilling their duties"

18

- A member not seeking re-election is no longer required to satisfy by January 1 the annual training for the final year in office
- Fiscal management: Now included in orientation and annual trainings

19

## Compensation

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

20

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

21

## School Board Associations

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

22

## **Senate Bill 172**

### **Revising requirements of local school improvement councils**

In effect May 26, 2024

23

- No longer required to include a bus operator
- ALL parents (not just PTO/PTA) may vote in selecting 3 parent members
- LSIC meeting minutes are required & must be on school's website
- A report of each annual meeting with interested parties must be published on the school and the county website and detail concerns, suggestions and issues raised

24

- WV Board of Education to provide training to principals, county boards and others and post and publish a pamphlet
- Charter schools have discretion whether to comply with any LSIC requirements

25

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

In effect June 7, 2024

26

## Banned from Serving on County Boards

- Persons convicted of
  - various sex crimes in which the victim was a minor
  - crimes involving pornography and minors
  - child abuse and neglect offenses
  - verbal abuse of a noncommunicative child
  - contributing to the delinquency of a child
- Effective 1/1/25, candidates' certificates of candidacy must certify that the candidate has not been convicted of any of these, except for child abuse

27

## *2. Business*

28

## **Senate Bill 217**

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

In effect March 8, 2024

29

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

30

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

In effect July 1, 2024

31

For school year 2024-2025

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

32



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

In effect May 16, 2024

33

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

34

### *3. Safe Schools*

35

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

In effect May 20, 2024

36

- Repeals the 2019 Sudden Cardiac Arrest Prevention Act
- A plan must be developed by each school that has an athletic department or organized athletic program, to include
  - specific steps to reduce death from cardiac arrest
  - staff training in first-aid, CPR, defibrillator use
- School officials must work with local EMS to integrate the plan into the EMS responder protocols, addressing issues such as defibrillator placement and maintenance, plan dissemination in the school & ongoing plan review
- The WV Board of Education may adopt a policy to ensure compliance with the new law

37

- The school's plan must address, at least:
  - Appropriate use of school personnel responding to cardiac arrest or similar emergencies of people attending or participating in events or practices
  - Pre-season sessions for athletes and parents/guardians about warning signs
  - Parent's/guardian's annual written statement that they received the school plan
  - That no one can coach without first completing annual WVDE-approved cardiac arrest training
  - Restriction on student participation based on certain prior symptoms or episodes until evaluated and cleared for return by a physician, nurse practitioner, certified nurse specialist or physician assistant

38

## **House Bill 4845 To prohibit swatting**

In effect June 4, 2024

39

- Already, reporting a false emergency, knowing it is false, is a misdemeanor crime
  - \$500 fine and/or jail for up to 6 months
- Now it's a felony when it results in bodily injury to another person, or when it's a second offense
  - \$5,000-\$10,000 fine and/or 1-5 years in prison
- Violators may also be made to reimburse emergency service providers for costs incurred responding to the emergency

40

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

In effect June 4, 2024

41

- Adds school resource officers to the list of employees and volunteers who commit a felony if engaged in sexual activity with students of any age
- Exempts from this criminal law secondary school students under age 18 engaged in a wage-earning registered youth apprenticeship program who engage in consensual sexual activity with other students, e.g.,
  - students under 18 participating in the Grow Your Own teacher pathway
  - any CTE school service personnel training program

42

## *4. Attendance*

43

## **Senate Bill 568 Creating multi-tiered system for school absenteeism**

In effect June 7, 2024

44

- If a student does not provide absence documentation within 3 school days after returning from an absence, the absence will not be excused
- Excused absences for a student's/family member's illness are limited to 10 per school year without both the parent's and doctor's written justification
- Clarifies the "meaningful contact" that directors or principals must make with parent of students with 3 or more unexcused absences:
  - "Two-way communication"

45

- Modifies attendance directors' duties to include implementing a State Board System of Support
  - Under the SOS, attendance directors and others will have to make actual periodic contact with a parent to find out why a student is absent, discuss measures the school might employ, and warn about consequences of continued poor attendance

46

## Truancies

- For truancies, it is now OPTIONAL with the prosecutor whether to file a juvenile petition or, as before, refer them to a diversion program and avoid a juvenile petition
- The courts no longer have authority to order parents to accompany truant children to school and remain there throughout the school day

47

## Pregnancy and Parenting

- Goal: The education of pregnant and parenting students
- A new State Board policy will:
  - excuse all student absences due to pregnancy and parenting-related conditions such as labor, delivery, recovery, prenatal and postnatal medical appointments
  - excuse new mothers for at least 8 weeks in connection with birth
  - excuse new fathers for 2 weeks

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- require school boards to provide academic support options to keep the parent on track for graduation, including virtual schoolwork and a homebound instructor
- excuse the absence of parenting students show children are sick (with a doctor's excuse)
- require schools to provide pregnant and parenting students with a list of pregnancy or postpartum assistance organizations

49

## **House Bill 4945**

### **Relating generally to the Hope Scholarship Program**

In effect June 7, 2024

50

- Eliminates the March 1 application deadline. There is no deadline
- If certain conditions are met, recipients need not annually reapply
- Parents must promise to notify the HS Board when a student re-enrolls in public school or graduates
- Charter school governing boards, like county boards, may charge tuition to HS students who enroll to receive services
- The HS Board may request information from county boards if necessary to fulfill its duties

51

- The “Individualized Instruction Program” for which the scholarship may be used is defined:
  - A customized educational experience that takes place either at home or another location
  - Students participating in an IIP are not enrolled in a participating school
  - They are not governed by the compulsory attendance exemption requirements except as the Hope Scholarship law provides

52

- Students who have chosen an IIP must annually complete a nationally normed standardized test in reading, language, math and, in some instances, science and social studies
  - Mean test results must be at or above the 4th stanine or, if below that marker, show improvement from the previous year's results
  - County superintendents must report students' testing results to the HS Board as well as the WVDE
- Hope Scholarship students pursuing an IIP or enrolled in a participating school are entitled to receive diplomas and PROMISE scholarships, and to participate in Advanced Career Education programs

53

- The formula is altered for the WVDE's annual budget request to the Legislature for the Hope
- The HS Board must annually report to the Legislature the results of a survey of HS families who are asked about the compliance of their county board of education and superintendent with HS reporting requirements
- Administrators of secondary education programs at microschoools, learning pods, and IIPs are authorized to issue diplomas to students who complete their programs

54

*5. Instruction*

55

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

In effect June 6, 2024

56

- School principals must allow representatives of certain “patriotic societies” the opportunity, during school hours, to speak with and try to recruit students to join their organizations
- The purpose must be to inform students of how the patriotic society may further their educational interests and civic involvement to better their schools, communities and themselves
  - A society must notify the school board of its intent to speak to students
  - If the board approves, the society must provide notice to the principal
  - The principal must provide approval of the day and time for the event
- Student participation must be voluntary and not interfere with student instruction or learning

57

- The societies are listed in Title 36 of the United States Code. Among them are
  - Big Brothers – Big Sisters of America
  - Boy Scouts of America
  - Boys & Girls Clubs of America
  - Future Farmers of America
  - Girl Scouts of the United States
  - Little League Baseball, Incorporated

58

## **House Bill 5158**

### **Relating to making technical corrections to the special education code**

In effect June 6, 2024

59

- In addition to “technical corrections” to the special education laws, the bill also contains some new rules for the education of exceptional students
  - “LEA” is defined to include not only county boards of education, but also public charter schools
  - The archaic term “handicapped” is removed from the special education statute
  - The duty to provide preschool programs for “severely disabled children” aged 3-5 is replaced with a duty to provide such programs for all students aged 3-5 with disabilities and developmental delays
  - A student’s IEP must now include data supporting a decision to place a student with exceptionalities into an integrated classroom

60

- A general education teacher with an integrated classroom may
  - request an IEP team meeting if, after 45 days in the classroom, data shows that the student is not in the least restrictive environment for academic growth. The IEP team meeting must be held within 21 days of the request
  - initiate “all available Federal and State process and complaint procedures” if they provide documentation within a 45-day grading period showing the student is not placed in the least restrictive environment

61

- A teacher may not be penalized for advocating for their student
  - The teacher may work with the family or guardian to recommend local advocates, share documentation and information, inform the guardians of due process rights, and may call for an IEP meeting to review the information gathered to best address the student’s special education needs
  - State Board of Education on-site reviews of LEA special education programs are no longer random and without prior announcement
    - They will occur cyclically at least once every 4 years

62

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

In effect June 7, 2024

63

A One-Sentence Law!

“No public school board, school superintendent, or school principal may prohibit a public school classroom teacher from responding to student inquiries or answering questions from students about scientific theories of how the universe and/or life came to exist.”

64



## **House Bill 4709**

### **Relating to vocational and technical education programs**

In effect June 4, 2024

65

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

66

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

In effect June 7, 2024

67

**The Youth Apprenticeship Program**

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

68

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

69

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

70

## **House Bill 5540**

### **Relating to fentanyl prevention and awareness education**

In effect May 30, 2024

71

### **“Laken’s Law”**

- To help prevent fentanyl overdose deaths in teens and young adults
- Starting with school year 2024-2025, grades 6-12 students must annually be educated about the dangers of fentanyl, heroin and opioids
- The program must include instruction about
  - fentanyl, heroin, and opioids awareness, prevention, and abuse
  - the life-saving use of FDA-approved opioid reversal agents
  - the prevention of the abuse of and addiction to fentanyl
  - available state and community resources and organizations that work to prevent and reduce youth substance use, and
  - health information covering the issues of substance abuse and youth substance abuse in particular

72

## **Senate Bill 466 Requiring State Board of Education develop Safety While Accessing Technology education program**

In effect June 6, 2024

73

- Beginning with school year 2025-2026, WVDE, in collaboration with law enforcement and organizations with experience in child online safety and preventing human trafficking, must develop the SWAT (“Safety While Accessing Technology”) program for elementary and secondary students about
  - the safe use of the internet, social networking sites, email and other electronic communications technology
  - the legal and mental health risks in sharing sexually suggestive or sexually explicit materials online
- County boards must adopt policies
  - requiring SWAT instruction at last once per school year for grades 3-12 students
  - allowing parent review of SWAT materials
  - permitting parents to opt their children out

74

*6. Personnel*

75

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

In effect June 5, 2024

76

- Unless an exception applies, superintendents cannot
  - bar suspended employees from attending public events on school grounds
  - bar suspended employees who have dependent children, grandchildren, foster children or other dependent family members who attend school from entering school to exercise normal functions of a parent or guardian

77

- Exceptions: If the employee's presence would
  - jeopardize anyone's health, safety or welfare
  - impact the learning environment or the activity
  - prejudice an investigation or disciplinary proceedings involving the employee
  - violate a court order or any law
  - threaten damage to property

78

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

In effect March 1, 2024

79

- Clarifies that Grievance Board decisions are
  - appealable to the Intermediate Court of Appeals
  - enforceable in the circuit court of the county in which the grievant is employed

80



## **House Bill 5662**

### **Relating to adding “person in a position of trust” to certain crimes**

In effect June 5, 2024

81

- Under West Virginia’s criminal laws, a “person in a position of trust in relation to a child” is a person, like many school employees, who is
  - by law or agreement acting in place of a parent and charged with any of a parent’s right or duties concerning a child, or
  - responsible for the general supervision of a child’s welfare, or
  - charged by occupation or position with any duty or responsibility for the health, education, welfare of supervision of a child

82

- Persons in a position of trust in relation to a child are now added to the list of people who may be held liable under criminal laws for various offenses victimizing a child
  - Murder by failure to supply necessities, or by delivery, administration or ingestion of a controlled substance
  - Death by child abuse or neglect
  - Child abuse or neglect resulting in injury or creating risk of injury
  - Female genital mutilation

83

## *7. Professionals*

84

## **House Bill 5262**

### **Relating generally to teacher's bill of rights**

In effect June 7, 2024

85

### **Topic #1: School counselors**

- 11 specific tasks that cannot be assigned to school counselors without their written agreement, e.g.,
  - Administering certain testing programs
  - Routinely covering classes or supervising classrooms or common areas
  - Coordinating IEPs and 504 plans
  - Maintaining student records; keeping clerical records
- PreK-12 counselors must participate in the "School Counselors Conference" at least once every 2 years
- Grades 7-12 counselors must be trained every 2 years in building and trades apprenticeship programs available to students

86

## Topic #2: Special education classroom staffing

- Self-contained and resource classrooms, and special education environments, must not exceed WV BOE student/instructor ratios
- If one does, the county must immediately obtain a 2-week waiver
- During the 2-week waiver the county must
  - try to remediate the violation, even by hiring additional teachers
  - compensate the teacher with overage pay
- If no additional teacher is found, then if the teacher with the overage agrees and the overage is 3 or less students, the county may ask the State Board for a (presumably longer) waiver which, if granted, entitles the teacher to extra pay as provided by county policy

87

## Topic #3: Teachers' supplemental duties

- No later than the 15th day before the first day of the employment term, each classroom teacher, full-time counselor and full-time librarian must be provided with a board-adopted calendar specifying the days each employee is expected to work for that school year
- Any "supplemental duty" exceeding "the eight-hour contracted day" must be
  - by agreement with the employee and preapproved by the superintendent or designee, except in an unanticipated emergency, and
  - paid in accordance with the agreement between the employee & county

88

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

In effect June 2, 2024

89

- Counties are now prohibited from requiring general education teachers to keep daily logs showing that they provided students with accommodations required by students' 504 plans and IEPs
- Instead, at the end of each grading period, general education teachers must acknowledge that each required accommodation has been provided to their students who have 504 plans or IEPs
- If accommodation logs are required by an IEP team or parent, it is now the responsibility of the special education instructor to monitor progress

90

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

In effect May 30, 2024

91

A substitute who, through a posting, fills a vacant teaching position for what the superintendent expects to be at least 30 consecutive days must be provided with information about how to implement IEP and 504 plans for students they will be teaching

92

## **Senate Bill 487**

### **Requiring periodic review of professional development for teachers and education staff**

In effect June 5, 2024

93

- Starting in 2024-2025 and every 5 years thereafter, the State Board of Education must review professional development for teachers and education staff
- The review's purpose is to ensure that professional development requirements and trainings are "necessary and truly essential," with an emphasis on programs that have the minimum amount of required training so that teachers can be better focused on the classroom
- It is not clear whether the State Board is to review the professional development programs of each of the 55 counties or, instead, its own requirements for those programs

94

# **House Bill 4830**

## **To address the professional development of teachers**

In effect June 6, 2024

95

- The schedules of a number of required trainings for both professional and service employees are modified
- These trainings must now be provided upon employment and every 3 years thereafter
  - Suicide prevention
  - Mandatory reporting, prevention and response to suspected child abuse & neglect
  - County policy on harassment, intimidation and bullying
  - Multicultural education
- Training in first aid and blood borne pathogens is now required only upon employment

96



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

In effect June 7, 2024

97

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

98

- In addition to existing requirements, county boards must show how their plans for comprehensive support for improving professional practice
  - will support and supervise teachers who are less than fully certified for their current teaching positions, with emphasis on grade-level content, standards driven instruction, research-based instructional strategies, mentoring support
  - will cooperate with the teacher preparation programs to provide school-based support and assistance to make student teaching and resident teaching a productive experience

99

- Boards must now provide teachers with the results of the comprehensive student assessment for the students they taught the prior school year
- County supplements for teacher leaders for duties related to new teacher induction, improving professional practice and furthering professional practice will no longer be “salary” for purposes of retirement annuity calculations

100

# **House Bill 4951**

## **To facilitate the interstate practice of school psychology in educational or school settings**

In effect June 7, 2024

101

- The Legislature enacted model legislation for the Interstate Compact for School Psychologists
- Once 7 states enact the same statute, the Compact will become effective
- It will allow a licensed school psychologist in any Compact member state to lawfully provide school psychologist services in the other member states if
  - their licensure in another Compact state required passing a qualifying national exam and at least 1200 hours of supervised experience (600 of which must be in a school)
  - they are in good standing in another Compact state
  - they pass a criminal background check in our state & satisfy procedural requirements

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*8. Service employees*

103

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

In effect June 6, 2024

104

A high school diploma, GED certificate or continual enrollment in a GED program are no longer requirements for newly hired bus operators who are at least 21 years old

105

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

In effect June 7, 2024

106

- After July 1, 2024, newly hired Transportation Directors, Assistant Transportation Directors and Coordinators of Transportation must hold a valid CDL *within 1 year of being employed in the position*
- Exceptions: Persons who
  - Are multiclassified service personnel
  - Hold multiple job titles
  - Provide documentation from a physician of a medical diagnosis that makes them physically unqualified to get a CDL

107

- The definitions of the class titles of Cafeteria Manager and Cook III no longer make reference to each other
- The class title of Cook II now includes interpreting menus
- The class titles of Electrician I, Electrical Technician, and HVAC Mechanic I no longer refer to apprenticeships
- The class title of Key Punch Operator is deleted

108

## **House Bill 5056**

### **Relating to substitute service personnel positions**

In effect June 4, 2024

109

- Boards may use regular full-time service employees as day-to-day substitutes unless
  - there is a qualified substitute service employee available to fill the shift, or
  - the shift interferes with the regular employee's job duties or responsibilities, or
  - the regular employee is not properly "certified and trained" for that position

110

*9. State level change*

111

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

In effect June 2, 2024

112



- The Governor must form a 14-member state taskforce on Artificial Intelligence, to include the State Superintendent of Schools
- The taskforce's recommendations are due to the Governor and Legislature by July 1, 2025 on issues such as
  - developing best practices for public sector uses of artificial intelligence in the State
  - recommending model policies for schools to address the use of artificial intelligence by students in the classroom

113

## **Senate Bill 146**

### **Creating adult education task force**

In effect June 7, 2024

114

- The State Superintendent must form a taskforce to explore options for direct funding of adult education learning centers
- The taskforce will first meet no later than July 1, 2024

115

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

In effect June 4, 2024

116

- The State Superintendent must apply for and distribute grants or financial assistant from the federal government and other public and private entities to provide computer science and cybersecurity instruction to adults
- Maximum distribution to any recipient: \$300,000
- Non-profit recipients of the funds, which could include school districts, public charter schools, and career and technical centers, among others, must use all or part of the funds to cover the expense of providing computer science and cybersecurity courses to adults

117

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

In effect June 2, 2024

118

- The State Superintendent's annual report about the work of that office and the finances of each school district will now be sent to the Legislative Oversight Commission on Education Accountability instead of to the Governor
- County boards that fail to provide the State Superintendent with required financial information will be subject to a reduction in state funding

119

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

In effect June 5, 2024

120

- The Legislative Oversight Commission on Education Accountability will no longer receive reports
  - reviewing progress on county boards' progress implementing comprehensive systems of support for teacher and leader induction and professional growth
  - from the WV BOE on innovation zones and their progress

121

- from the WVDE on all aspects of any virtual instruction program for students enrolled in any of grades K-12 after the end of the first year any such program is implemented by a county board or multicounty consortium
- from the WV BOE on proposed revisions to the calculation of the allowance for service personnel under the state funding formula to provide additional funded service personnel positions
- from the WV BOE on a plan to implement and update computer science instruction and learning standards in public schools

122

*10. Miscellaneous*

123

**House Bill 4919**  
**Relating to the Promise Scholarship**

In effect June 5, 2024

124

Addresses how students who lose the PROMISE Scholarship for lack of academic progress may regain it by petitioning their school to reinstate the award after they have attained the required credit hours and overall GPA

125

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

In effect May 13, 2024

126

- Name Change: It is now the West Virginia STEM Scholarship
- Scholarship recipients in the Armed Services in a STEM-related field may meet the in-state work requirement even at a location outside WV as long as they are legal residents of WV
- Community service in a STEM-related field no longer satisfies the post-graduation work requirement
- In addition to public and private high schools, the HEPC is required to provide scholarship information to WV charter schools, home schools, learning pods, microschoools and other secondary programs authorized by the Legislature

127

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

In effect June 2, 2024

128



- The list of WV higher education institutions at which PROMISE funds may be used is modified
  - Alderson-Broaddus is deleted
  - Salem University it added

129

**Senate Bill 507**  
**Relating to the repeal of WV EDGE**

In effect May 20, 2024

130

Based on last year's passage of the dual enrollment pilot program, WV Edge became unnecessary and is repealed

131

**Senate Bill 643**  
**Supplementing and amending appropriations to**  
**Department of Education, School Building**  
**Authority**

In effect March 7, 2024

132

**Senate Bill 653**  
**Supplementing and amending appropriations to**  
**School Building Authority, School Construction**  
**Fund**

In effect March 6, 2024

133

**Senate Bill 701**  
**Supplementing and amending appropriations to**  
**Department of Education, School Construction**  
**Fund**

In effect March 5, 2024

134

**Senate Bill 710**  
**Supplementing and amending appropriations to**  
**State Board of Education, Aid for Exceptional**  
**Children**

In effect March 4, 2024

135

SOME RECENT DECISIONS OF  
THE COURTS AND THE  
GRIEVANCE BOARD

136

*From the West Virginia  
Supreme Court of Appeals*

137

**Board of Education of the County of Wyoming  
v. Dawson (2023)**

- A school board is a corporation created by statute with functions of a public nature expressly given and no other. It can exercise no power not expressly conferred or fairly arising from necessary implication, and in no other mode than that prescribed or authorized by the statute
- A county board is not bound by the legally unauthorized acts of its officers. All persons must take note of the legal limitations on their power and authority

138

Bd of Educ of the County of Cabell v. Cabell County  
Public Library and Greater Huntington Park and  
Recreation District (2024)

- To the extent that Acts of the Legislature require one county board of education to include in its excess levy proposals funding for the public library and a public park district, while the county boards of 53 other counties are free to seek voter approval of excess levy funding without such restriction, the Acts violate the equal protection guarantees of the West Virginia Constitution and are thus unenforceable

139

*From the Public Employees  
Grievance Board*

140

## Latta v. Taylor County Board of Education (2023)

- Occasional assignments beyond normal work hours are considered extra duty work for service personnel, to be distributed among employees in the applicable job classification in seniority order
- Multiclassified employees are only entitled to be placed in rotation for extra duty assignments within the same multiclassified job title

141

## Adams v. Boone County Board of Education (2023)

- Compensation for employees' time spent pursuing a previous grievance is relief that is unavailable from the Grievance Board
- The grievance procedure allows an employee four hours of work time without charge to annual leave to prepare a grievance
- To award compensation beyond that amount would not comply with the statute and would be akin to awarding attorney's fees, which are unavailable.
- Under the statute, any expenses incurred relative to the grievance procedure at levels one, two and three shall be borne by the party incurring the expenses.

142

## Grimmett v. Logan County Board of Education/Department of Education (2024)

- The State Board of Education policy that establishes the maximum number of special education students allowed per teacher and per instructional period does not entitle a special education teacher to additional compensation for each student over ratio
- Instead, under the policy, an overage requires submission of a waiver request to the State Department's Office of Special Education

143

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

And thank you for all you do to keep students safe  
and enable their success

144